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BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

RIVERSIDE HOME PARK, LLC,  
*Petitioner,*

vs.

CITY OF JOHN DAY,  
*Respondent.*

LUBA No. 2020-056

ORDER

15 On June 2, 2020, petitioner filed the Notice of Intent to Appeal (NITA)  
16 Ordinance No. 20-180-01, “[a]n ordinance amending the John Day Development  
17 Code to strengthen and clarify enforcement provisions within the code.” On June  
18 19, 2020, the city filed a Notice of Withdrawal for Reconsideration (Notice).  
19 Pursuant to OAR 661-010-00021(1), “[a] copy of the decision on reconsideration  
20 shall be filed with the Board within 90 days after the filing of the notice of  
21 withdrawal or within such other time as the Board may allow.” The city states in  
22 its Notice that it

23 “intends to issue a decision on reconsideration within 90 days of this  
24 notice, but requests that the Board allow for 150 days as the  
25 challenged decision is an ordinance and not a land use entitlement  
26 on which Petitioner or any other party is waiting.” Notice 1.

27 No party objects to the city’s request that the decision on reconsideration be due  
28 150 days after the filing of the Notice. A copy of the decision on reconsideration

1 shall be filed with the Board and served on all parties within 7 days after the city  
2 issues the decision, and no later than November 16, 2020.

3 Dated this 28th day of October 2020.

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Michelle Gates Rudd

Board Chair

## Certificate of Mailing

I hereby certify that I served the foregoing Order for LUBA No. 2020-056 on October 28, 2020, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:


Garrett Chrostek  
Bryant, Lovlien & Jarvis, PC  
591 SW Mill View Way  
Bend, OR 97702

J. Kenneth Kataroff  
Schwabe, Williamson & Wyatt, P.C.  
1420 5th Ave, Suite 3400  
Seattle, WA 98101

Dated this 28th day of October, 2020.

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Caleb Huegel  
Staff Attorney



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Vanessa Steele  
Executive Support Specialist

**RESOLUTION NO. 20-848-21**  
**A RESOLUTION OF CITY OF JOHN DAY ON RECONSIDERATION OF CHALLENGED LAND USE**  
**REGULATIONS ADOPTED UNDER ORDINANCE NO. 20-180-01.**

WHEREAS, City of John Day ("City") approved certain amendments to the City's land use regulations under Ordinance No. 20-180-01; and

WHEREAS, the proposed amendments to the City's land use regulations were appealed to the Oregon Land Use Board of Appeals under LUBA No. 2020-056; and

WHEREAS, City filed a "Notice of Withdrawal for Reconsideration" with LUBA; and

WHEREAS, upon reconsideration, the John Day City Council voted to not adopt the challenged land use regulations.

NOW, THEREFORE, BE IT RESOLVED that City of John Day resolves as follows:

1. Findings. The above-stated findings contained in this Resolution No. 20-848-21 (this "Resolution") are hereby adopted.

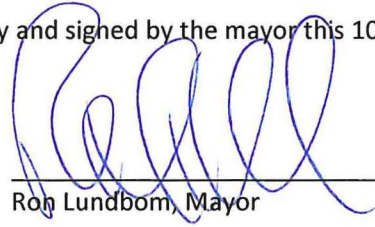
2. Decision on Reconsideration. Upon reconsideration, City will not adopt the challenged land use regulations and will repeal Ordinance No. 20-180-01.

3. Authorization. The Council authorizes, approves, and directs the city manager, and his or her designee, to take such actions as may be necessary or prudent to carry out the intent of this Resolution.

4. Miscellaneous. All pronouns contained in this Resolution and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The provisions of this Resolution are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution. This Resolution may be corrected by order of the Council to cure editorial and/or clerical errors.

[signatures on next page]

ADOPTED by the City Council of City of John Day and signed by the mayor this 10<sup>th</sup> day of November, 2020.



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Ron Lundbom, Mayor

ATTEST:



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Nicholas Green, City Manager