



# TOWN OF JEROME

POST OFFICE BOX 335, JEROME, ARIZONA (928) 634-7943

## Regular Meeting of the Planning and Zoning Commission

Wednesday, September 16, 2020, 6:00 pm

### MINUTES

#### 6:03 (0:09) Item 1: Call to order

Chair Jessamyn Ludwig called the meeting to order at 6:03 p.m.

Roll call was taken by Rosa Cays, Deputy Clerk. Commissioners present were Lance Schall, Chuck Romberger, and Henry Vincent. Also present were John Knight, Zoning Administrator, and Vice Mayor Sage Harvey.

#### 6:04 (0:48) Item 2: Petitions from the public

Jerome resident Margie Hardie said that she had recently learned that other local municipalities had ordinances for community gardens, so perhaps Jerome should have one. Mr. Knight asked Ms. Hardie if she would forward copies of the ordinances if she had them.

#### 6:05 (2:40) Item 3: Approval of Minutes: Minutes of the meeting of August 5, 2020

##### Motion to Approve the Minutes of August 5, 2020

Commissioner	Moved	Second	Aye	Nay	Absent	Abstain
Ludwig			X			
Romberger		X	X			
Schall	X		X			
Vincent			X			

#### Old (continued) Business:

#### 6:07 (4:23) Item 4: Work session on code amendments to residential lodging

Applicant: Town of Jerome

Updates to the Jerome Zoning Ordinance related to residential lodging. Updates may include but are not limited to the definitions for *boardinghouse*, *rooming house*, *bed and breakfast*, *hotel* and *motel*. Amendments may also include modifications to the permitting process for each type of residential lodging.

##### **Discussion/Table to next P&Z Meeting**

Mr. Knight read from his staff report and went through the definitions. He remembered a previous discussion about modifying the number of allowable rooms for a B&B from three to five and wasn't sure if there was consensus. He said boarding/rooming house ought to be removed from the list of definitions as they are antiquated terms. He said Windy Jones and Josh Lindner were on the call and that their project at the old Cuban Queen site would be the only one affected by this change; their project would then simply be considered a small hotel. Mr. Knight said that motel could simply be encompassed in the hotel definition.

Mr. Knight moved on to the permitting process. He said that a B&B is considered a conditional use, which is not enforceable per state law (included in the agenda packet), so the commission may want to change this. Mr. Knight said as a planner he does not want something in the code that is not enforceable. He said for the C-1 zone, he modified the definition of hotel/motel; he added B&B as a permitted use and modified the use of a residential building. Mr. Knight said the commission may want to look at B&Bs differently in the C-1 district than in the residential districts and perhaps get rid of the B&B definition altogether and simply consider it transient lodging, or a small hotel. In residential districts, Mr. Knight made B&Bs a permitted use to make it consistent with the state law requirement. He said it was up to the commission to take this on, or not, at this time.

Mr. Knight returned to his questions about the number of rooms for a B&B, and how B&Bs should be considered in the C-1 zone versus residential? Chair Ludwig recalled setting the number of rooms in a B&B to five so as not to go against what already exists (i.e., the Surgeon's House).

Mr. Knight said that was what he remembered but that both three and five rooms were discussed, and that Mr. Schall also had input in the last discussion. Mr. Knight again suggested taking the B&B definition out of the C-1 altogether.

Mr. Schall said he didn't want to make an existing B&B alter their number of rooms to go along with the code amendment. He said he agreed with the idea of eliminating B&Bs in the commercial zone (C-1) and to limit the number of B&B rooms in the residential zones to three or four. He pointed out that the Surgeon's House is in the C-1 and that currently, no B&Bs in residential areas have more than four rooms for rent.

Mr. Knight said that it varies from three to five rooms in other nearby jurisdictions, although it's a moot point because of the current state law. Discussion ensued about the B&B on East Avenue [Jerome Keep] and how many rooms they rent out. Mr. Schall said they're likely within the four-room limit.

Mr. Knight also brought up that the ordinance currently states that at a B&B, no more than one family can be lodged per day, which is unlikely now, so he removed it from the definition. Mr. Schall agreed, as did Chair Ludwig. Mr. Romberger said he believes it was meant to be one family per room to prevent unmarried couples from lodging together. Mr. Knight said he did not find this sort of restriction in other jurisdictions.

Mr. Vincent asked what would happen if someone wanted a B&B in the C-1 district.

Mr. Knight said it would be considered a small hotel, whether they serve breakfast or not. He said the definition of hotel may need to be expanded. (14:48) Jerome businessowners Windy Jones and Josh Lindner joined the discussion. Ms. Jones asked if the transient lodging definition had been determined.

Mr. Knight said they were getting close. He read the definition from another town's ordinance: "a building in which lodging is provided and offered to the public for compensation and which is open to transient guests." He said as it's currently written in the town ordinance, a B&B is not included in this definition, but if it is decided a B&B is basically a small hotel, they would have to remove that component from the definition.

Jerome resident Margie Hardie said what she understood was that Mr. Knight would classify B&Bs as a permitted use in the R-1 zone. Mr. Knight said it was proposed and brought up to P&Z at the last meeting but that it was open to discussion.

Ms. Hardie said that if B&Bs are moved from conditional to permitted use, the town will lose any oversight. She referred to a decision made in the past about the number of B&Bs being limited within a certain area to avoid oversaturation, and a conditional use permit (CUP) would help with this, but she wasn't sure of the legalities. She said when it comes to transient lodging, the town wants oversight of safety, managerial, and health/hygiene, and with permitted use, the town would not have this type of control. She presented a scenario and stated that parking would likely also become an issue. She urged the commissioners to consider this and keep B&Bs as a conditional use in residential areas.

Vice Mayor Sage Harvey suggested two commissioners should probably be recusing themselves from the discussion.

Jerome homeowner Suzy Mound said she agreed with Margie 100 percent that a B&B should remain a conditional use in residential areas. She said she doesn't want to lose the local feel within the neighborhoods or for B&Bs to become a free-for-all. She said if B&Bs are lumped in with transient lodging, then it just becomes a hotel in a residential area. She said a B&B is different in that the homeowner lives in the B&B and maintains and respects the neighborhood feel.

Mr. Schall said he agreed 100 percent with Ms. Mound, and that a B&B will always have an owner/host by the town's definition. The only B&B that would become a "hotel" would be in the C-1 zone. In residential zones, a B&B will always be just that, with an owner/host, an important aspect of keeping the feel and sense of place in Jerome neighborhoods. As for Margie's concerns, he understood and said control is good so "things don't go off the rails." He said vacation rentals are the issue and that it is preferred to have B&Bs in residential areas. The intention behind making B&Bs a permitted use is to make it more attractive to have one rather than a vacation rental. If a homeowner wants to monetize their home, the town has little control over them having a vacation rental or a B&B, but the preference is a B&B.

Mr. Knight said one thing determined before he became the zoning administrator is that all B&Bs, short-term rentals, etc., are all treated the same under state law. His goal was to bring the town code in compliance with state law, but if the state changes and gives control back to the towns, it may be easier just to keep B&Bs as a CUP. He said Sedona is requiring B&Bs and other short-term rentals to have communication/contact information on file and to be reachable 24/7. He said Jerome could probably do this, and he also made it clear that a CUP is not currently required for a B&B [due to state law].

Ms. Hardie brought up Proposition 207 [2006]. She said if the town were to lighten up restrictions, it would have a hard time returning to the restrictions in place now. She said she understands we can't regulate short-term rentals but doesn't think people look at our ordinance because of what the governor says and say they don't have to follow it. She also said she didn't agree with Mr. Schall about making it easier to set up a B&B, that it already is easy. Ms. Hardie said she sees no harm in keeping our ordinance the way it is, that it is valid. As examples, she said Ms. Jones and Mr. Lindner followed the town ordinance and got a CUP, as did another property owner in town within the last year, with no complaints. She said safety issues are what we need to worry about, especially if B&Bs are switched to permitted use. She said established B&Bs are not a concern; safety and control are her main concerns.

Mr. Schall said he could be convinced to leave the CUP process as it is and wasn't sure it could be improved or revised to align with state law. He pondered if the town will see an onslaught of B&Bs or vacation rentals and thought probably not.

Mr. Knight said if someone called him who wanted to set up a B&B and asked about a CUP, he would not "hide the ball" and go against state law.

Ms. Jones asked how town attorney Bill Sims feel about this.

Mr. Knight said he has discussed it with Mr. Sims that day, who agreed a CUP cannot be required for short-term rentals or B&Bs under current state law.

Jerome resident Suzy Mound said it was important for the town to remember that this "looming thing of Prop 207" is that once you have rules about your ordinances, you can't then adopt something that is more stringent. She shared an example of how this could happen. Ms. Mound said that if Jerome changes its ordinance, then the state changes their statute, then Jerome may not be able to return to its previous control and oversight pertaining to that ordinance.

Ms. Hardie agreed with Ms. Mound about Prop 207. She said she called Camp Verde's Planning Department, which has not been advised to change their ordinance (Bill Sims is also their town attorney, she added), regarding the use of B&Bs in the R-1 zone. She said if Mr. Sims isn't advising them to change their ordinance, why should Jerome?

Mr. Vincent asked Mr. Knight if Jerome's existing ordinance regarding B&Bs as CUPs in the R-1 zone is inconsistent with the state law.

Mr. Knight confirmed this, but also said that a good point was brought up about Prop 207. He said if the state law changes regarding short-term rentals, Jerome would have a difficult time adding restrictions if the ordinance is changed.

Mr. Vincent asked if the commission should confer with Mr. Sims about changing the ordinance to comply with state law.

Mr. Knight replied that he did have a discussion with Mr. Sims about it and that it's more a political issue than a zoning issue, but that if it's something the commission and Council want to keep in place (CUP), then the ordinance can stand as is. He said Mr. Schall brought up a good point: Why does a B&B require a CUP in the R-1 district but not a vacation rental?

Mr. Knight returned to his three questions for direction: 1) the maximum number of rooms for B&B; 2) does the commission want to change B&Bs in the R-1 zone from a CUP to a permitted use; and 3) how does the commission want to treat B&Bs in the C-1 district?

Mr. Schall said make the maximum number of B&B rooms four, that this is reasonable for houses in Jerome; leave the CUP in place for B&Bs in the R-1 zone; and in the commercial district just call it a hotel and get rid of the term B&B.

Mr. Vincent asked if someone wants a B&B in C-1, is it a permitted use?

Mr. Knight said he hasn't run into this in C-1 but said yes, it would be treated as a permitted use.

Mr. Vincent asked if this was enough information to move on to the next item. Mr. Knight said it ideally it would be nice to have a motion.

Mr. Schall stated a motion.

Ms. Hardie called out a point of order and said the agenda does not indicate action but simply discussion.

Mr. Schall changed his motion to direction to staff.

#### **6:47 (43:50) Item 5: Work session on code amendments related to temporary signs**

Applicant: Town of Jerome

Updates to the Jerome Zoning Ordinance related to temporary signs. Amendments may include but are not limited to the following types of temporary signs: real estate signs, contractor signs, political signs, temporary banners, and A-frame signs. Amendments may also include modifications to the permitting process for each type of sign.

#### **Discussion/Table to next P&Z Meeting**

Chair Ludwig clarified that this item was up for discussion and no action.

Mr. Knight said this was to address temporary signs and remove references to content in the ordinance. He mentioned the Federal Supreme Court case in Gilbert. He said all temporary signs need to be treated the same. He went over the maximum size criteria for this type of sign in the residential (6 sq. ft.) and commercial/industrial zones (8 sq. ft.). Mr. Knight also removed the definition for campaign/political signs and added a section addressing flags, verbiage he copied from the Gilbert code. He asked the commissioners to weigh in on sign walkers or wiggly inflatable guys (like at car sales lots).

Ms. Mound said Jerome cannot be compared to Gilbert and that we cannot have 6-foot signs in Jerome. She said they would be more like billboards in Jerome. She asked that they not be allowed in the residential zone.

Mr. Knight clarified that it is 6 square feet, not 6 feet. He referred to the 2-by-3-foot BLM flag on Clark Street.

Mr. Schall said the reason Gilbert came up is because of the recent federal court case. He said the town should prohibit sign walkers or inflatable signs; that flags should be added to the ordinance and limited to 6 square feet. He thought the number of signs should also be limited, but that limiting the total square footage to 6 feet would take care of that.

Ms. Hardie said one of the best things to do would be to look at Arizona revised statutes, and that it is the latest, best information. She agreed with Ms. Mound and said she was against "6-foot signs" and that her concern is getting good regulation on political signs. She said the commission could mimic the ARS except for the size, which would be her recommendation to keep Jerome on track.

Mr. Knight said the whole point was to remove any reference to content in the ordinance due to what happened in Gilbert. He also clarified that the size limit is 6 square feet, not six feet, and that the ARS Ms. Hardie referred to applies to political signs on public property, not on private property.

Mr. Knight clarified that the discussion was about regulating signage on private property.

Ms. Mound asked if people are putting up a sign, political or not, does it have to be on their own property? Can it be in the right of way (ROW) or on town property? She said she was concerned about signs in the ROW. She restated that what is being said is that signs on private property can be no larger than six square feet.

Mr. Knight said yes, what is being proposed is limiting the size of signs on private property.

Ms. Mound then asked if Jerome had rules in place regarding signs in or near the public ROW.

Mr. Knight said the sign cannot be a safety hazard; that political signs can be in the public ROW, per state law, but not if they are a safety hazard.

Mr. Knight read from the ARS that it is a Class II misdemeanor to "alter, remove, or deface" a political sign. Under state law, the town cannot remove a sign in the public ROW, and it can be up to 16 square feet in size, unless it is a safety hazard. Mr. Knight said he was not sure if this applied to 89A and that he would have to research this.

Ms. Mound then brought up flags in the residential area and the possibility of view obstruction or sound nuisance (i.e., flag fluttering in the wind) for people with hearing issues, and if flagpoles are allowed, the flag itself could block the view for residents who live above it. She said hanging a sign in front of the porch or in a window is fine and suggested eliminating flagpoles altogether; that blocking someone else's view would not be "neighborly."

Mr. Knight said flagpoles can be restricted by height and setback (like in other jurisdictions).

Mr. Schall said he agreed in large part with Ms. Mound. He suggested that the ordinance say that flags cannot be any taller than the owner's house.

Ms. Mound said she thought ten feet would be plenty high. Discussion ensued.

Chair Ludwig said she did not want sign walkers or inflatable signs.

Mr. Knight said he had enough to move forward and that he would need to schedule a neighborhood workshop.

**7:11 (1:08:04) Item 6: Initiate code amendments to allow mixed use in C-1 Zone**

Applicant: Town of Jerome

Initiate updates to the Jerome Zoning Ordinance related to mixed use in the C-1 Zone. This could include but is not limited to horizontal and vertical mixed use and live-work units.

**Discussion and possible direction to staff – P&Z Reso. 2020-16**

Mr. Knight said what initiated this discussion was a property owner who has a true, mixed-use building in the C-1 district (i.e., not a home occupation in a residential area). He said right now it is handled with a CUP, but mixed use is appropriate in commercial districts so perhaps it should be a permitted use. Mr. Knight then brought up possible restrictions, like percentage of mixed use, or prohibiting residential use at the street level. He asked if the industrial district should be included? Mr. Knight said he has been approached by the high school whose tenants/artists want to live/work there. He said live/work is a bit different than mixed use; that live/work is usually one person with a shop in front, home in back, for example. He said there are two types of mixed use: horizontal and vertical. He referred to Milltown in Flagstaff, a new mixed-use development.

Mr. Schall said mixed use in the industrial zone is acceptable and that mixed use in the commercial district is also acceptable. He asked if there was a resolution in the agenda packet and if it was time to make a motion.

Ms. Hardie declared point of order and that there is no action indicated on the agenda so no motion could be made.

Mr. Vincent said he supported mixed use in the commercial and industrial zones.

Mr. Knight asked if mixed use should be permitted or conditional in the C-1 zone. He said currently residential requires a CUP. Discussion ensued.

Mr. Knight asked a few more questions about allowable mixed use and live/work situations.

Mr. Schall said it would be hard to regulate diverse scenarios differently. Mr. Vincent pointed out there are already plenty of mixed-use examples in our community. Discussion continued and several examples of mixed use were listed (Turquoise Spider, Lola's House of Joy).

Mr. Knight said he would look at other jurisdictions and see how they handle it and define it.

Mr. Romberger said what "bad thing" would someone do who works/lives in the same place? He said he didn't know what restrictions would make it better or worse. Mr. Knight said perhaps it is not worth separating mixed use and live/work.

Ms. Jones suggested regulating the ordinance by saying "owner" or "operator." She liked the idea of mixed use in Jerome; that it was fitting and would keep artisans in the community. She asked what if a handicapped person owned a building and wanted a street-level residence? That perhaps conditional use should be part of the ordinance for this situation.

Chair Ludwig pointed out that if they could not make it upstairs to live, they would be hard pressed to make it upstairs to run their business.

Ms. Jones acknowledged this. She said their project (Cuban Queen) will have an ADA room on the street level, the second floor of the building.

Mr. Knight said the lodging and mixed-use ordinance amendments could affect the Cuban Queen project.

Ms. Hardie said Jerome has an abundance of mixed use. She said she was confused by the difference between live/work, mixed use, and what's already occurring. She said if the commission develops a specific use called live/work, it could affect parking in the commercial district. She gave an example of parking requirements for live/work. She said to please not ignore any CUPs on any level for any situation when it comes to live/work. She said the town wants to keep control of oversight, parking, and safety. Ms. Hardie asked what is changing about mixed use considering it is already in existence.

Mr. Knight said he would do more research, come back with definitions, and be better positioned to answer Ms. Hardie's questions. As for parking, in most jurisdictions, mixed-use developments are given a reduction in parking requirements. He said this would need to be considered as well.

Mr. Vincent said Jerome embraces mixed use in C-1 and doesn't necessarily need to be codified. He said the current ordinance would cover parking.

Mr. Knight said it seemed the commission wanted to go ahead, and he would come back with more information.

**7:32 (1:29:17) Item 7: Community Garden Design Update**

Applicant: Town of Jerome

Address: Middle Park

Zone: C-1

Owner of record: Town of Jerome

APN: 401-06-015

Update on the status of the Community Garden and various design features.

**Discussion/Possible Action**

Mr. Knight thanked Jerome resident Wendy Irving-Mills for her design of the community garden. He said most of the beds have been built and leveled and waterlines are going in, and that the beds will be filled in the next couple of weeks. He reminded everyone that the code does not require public projects to go through DRB/P&Z, but as a courtesy, they are presented to the boards to include them in the discussion.

Chair Ludwig thanked Ms. Irving-Mills for her design work.

Ms. Irving-Mills made comments about the fluidity of the plans, that beds can be moved or adjusted. For the shed, she said she is including translucent panels so natural light can shine in and electricity won't be needed. She said the door on the north elevation of the shed is a 4-foot door but that it can be changed to make room for shelving or storage on both sides of the door.

Praise and appreciation were exchanged about the work done on the garden.

Discussion moved to fencing and protecting the garden from javelina and deer.

Ms. Jones said Mr. Lindner would be bringing information to the next garden meeting about a natural product from Canada that protects and ages wood. Mr. Knight thanked them for their contributions to the garden and said the product was called Rugged Wood.

Ms. Hardie asked what the long-term administration of the garden will be.

Mr. Knight said the hope is to get the volunteers to take over and he would like to get a committee to take it on.

Ms. Hardie said she was curious about guidelines and an ordinance and responsibility and said the project was wonderful.

**New Business:** none

**Informational Items (Current Event Summaries):**

**7:42 (1:39:32) Item 8: Updates of recent and upcoming meetings – John Knight, Zoning Administrator**

- a. **August 31, 2020 DRB Meeting** – new sign for Wrenwood and Hawthorn (formerly Threads on Main) and SHPO discussion
- b. **Sept. 8, 2020 Council Meeting** – direction to pursue Certified Local Government (CLG) grant to prepare design guidelines
- c. **Special Council Meeting (date TBD)** – direction and discussion regarding stair setbacks, building setbacks, and the appeals process

Mr. Knight said the SHPO work session went well; that a CLG grant was discussed and approved to pursue by the Council and was submitted that day. He said a special council meeting on Sept. 21 at 10 a.m. will discuss setbacks and the appeals process. He said a recent appeal of the Worth project on Center Avenue revealed that the zoning ordinance was lacking in areas. He said Council will discuss this, then it will likely come back to P&Z for details and "heavy lifting."

Mr. Vincent asked about the appeal that Ms. Hardie had filed after the P&Z decision on the Worth project.

Mr. Knight said that Ms. Hardie had withdrawn the appeal; Mr. Vincent asked why.

Mr. Knight said Mr. Vincent would need to ask Ms. Hardie. Mr. Vincent asked if it pertained to the upcoming code amendments being proposed.

Mr. Knight said it was related, but the issue or concern was really about the appeals process.

**7:45 (1:42:44) Item 9: Potential items for Wednesday, October 21, 2020: Possible code amendments for stair setbacks, building setbacks, appeals process, residential lodging, temporary signs, and mixed use.**

**Discussion/Possible Direction to Staff**

Mr. Knight said many of the items discussed this evening will likely be on the upcoming agenda, along with whatever Council decides regarding code amendments about setbacks and the appeals process, which needs work.

Mr. Vincent asked if there were any projects in the works; Mr. Knight informed him no.


**Item 10: Adjourn**

**Motion to Adjourn at 7:47 p.m.**

Commissioner	Moved	Second	Aye	Nay	Absent	Abstain
Ludwig	X		X			
Romberger			X			
Schall		X	X			
Vincent			X			

Approved:   
Jessamyn Ludwig, Planning & Zoning Commission Chair

Date: 11-12-20

Attest:   
Rosa Cays, Deputy Clerk

Date: 11-12-2020

