



TOWN OF JEROME
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Regular Meeting of the Planning and Zoning Commission
Wednesday, October 21, 2020, 6:00 pm
MINUTES

6:02 (0:13) Item 1: Call to order

Chair Jessamyn Ludwig called the meeting to order at 6:02 p.m.

Roll call was taken by Rosa Cays, Deputy Clerk. Commissioners present were Henry Vincent, Chuck Romberger, and Lance Schall. Also present were John Knight, Zoning Administrator, and Rusty Blair, Fire Chief.

6:02 (0:46) Item 2: Petitions from the public – There were no petitions from the public.

6:02 (0:53) Item 3: Approval of Minutes – Minutes of the meeting of September 16, 2020

Motion to Approve the Minutes of September 16, 2020

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

6:03 (2:14) Item 4: Election of Vice Chair – Elect new Vice Chair to complete term of former Vice Chair Joe Testone
Discussion/Possible Action

Mr. Knight introduced the item. The new vice chair would finish out Joe Testone's term, which ends February 2021.

Mr. Vincent moved for Mr. Romberger to be vice chair, Chair Ludwig second the motion.

Mr. Romberger said he was going to nominate Mr. Vincent, who declined the opportunity. Mr. Romberger said he was willing to be vice chair.

Motion to Elect Chuck Romberger as P&Z Vice Chair

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

Old (continued) Business:

6:07 (5:13) Item 5: Initiate code amendments to allow mixed use in C-1 and possibly the Industrial Zone

Applicant: Town of Jerome

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

Discussion/Possible Action – P&Z Reso. 2020-16

Mr. Knight said initial discussions were had and questioned if mixed use in the C-1 zone justified a code amendment or not, which was up to the commission. Mr. Knight said he had a resolution ready in case they decided to go forward, and that the commission would need to consider how to permit mixed use in residential versus commercial districts. Mr. Knight said it would be important to also determine how to treat mixed use in the industrial zone, and preferably separate from the C-1 zone. He said parking would also need to be discussed, although not necessarily at this meeting, as the item was simply about initiating the discussion.

(7:30) Chief Blair said he believed a conditional use permit (CUP) is needed for mixed use, because if it is just a permitted use, fire safety would likely be circumvented. He went into sprinkler requirements, separation needed, and other fire safety concerns.

Mr. Knight said once something is considered a permitted use, it is difficult to reverse the determination to a conditional use (he referred to the Prop 207 challenge about property rights). He said the first question would be to make it permitted or not in the C-1 zone.

Chief Blair said that any mixed use in an existing structure would require sprinklers, no matter if it's a permitted use or not.

Mr. Schall said he would like to encourage mixed use and said Chief Blair had good input and agreed with the need of a CUP.

Mr. Knight said the resolution was in the agenda packet to initiate the process.

Chief Blair said mixed use already exists in the commercial and industrial zones, so it is not new.

Ms. Cays asked Mr. Knight if the point of this was to address mixed use as a conditional use in the zoning ordinance.

Mr. Knight said the details are not addressed and that residential occupancy is already conditionally permitted in the C-1 and industrial zones, just not specified as to what level (ground, upper, etc.). He shared examples of issues that would need to be addressed, e.g., limited number of residences at the street level, parking, etc. Mr. Knight advocated mixed use be a conditional use in the industrial and in most situations in the commercial zones.

Mr. Schall asked about the resolution, which Mr. Knight clarified would simply begin the process of amending the code.

Mr. Romberger, owner of House of Joy and Lola's, mixed-use buildings in the commercial district, mentioned sprinklers were to be installed in House of Joy. He then asked if the buildings were grandfathered in since they were mixed use before he purchased them, or if he needed to apply for a CUP.

Mr. Knight said that in general, if a location is continually operating as mixed use, then Mr. Romberger would need to comply with the code at the time. He said some vacant places in C-1 can potentially be made mixed use, so they would have to comply with the latest ordinance, and that if there is interruption in the type of use of a building for more than six months, the owner/tenant cannot go back to the previous type of use.

(15.33) Chief Blair read from the JFD sprinkler ordinance. He said he had emailed it to Mr. Knight, and asked Mr. Knight if he had shared it with the commission because he did not see it in the agenda packet.

Mr. Knight said he had received it, but that Chief Blair had not requested that he forward it to the commissioners.

Chief Blair asked Mr. Knight to forward the information to the commissioners before the next meeting, which Mr. Knight said he would do.

Motion to Approve Resolution 2020-16

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

New Business:

6:20 (18:20) Item 6: Study Session on possible ordinance amendments including, but not limited to, amendments regarding setbacks, yard requirements, and appeals to Council

Applicant: Town of Jerome

Discussion/Direction to staff

Chair Ludwig commented that it was a lot to discuss.

Mr. Knight acknowledged there was a lot involved and that it would likely take several meetings to pick through some of the issues. He reminded the commission about the Worth property on Center Avenue, which brought up setbacks for stairs, yards, and the appeals process—the latter noted as “clear as mud” and inconsistent in the zoning ordinance. He said stairs setbacks are not identified in the code (so they cannot be required), nor is the determination of types of yards. He said the other issue that came up at the last Council meeting was the Planning and Zoning Commission’s role in reviewing site plans. CUPs currently go to Council for approval, whereas site plan reviews are approved by P&Z unless appealed. Mr. Knight said he determined the types of projects that may not need to go to Council, then referred to documents in the agenda packet addressing the various issues.

Mr. Knight started the discussion with stairs and the setbacks required. He referred to photos in the agenda packet. Mr. Knight also mentioned that he had met with Chief Blair and building inspector Barry Wolstencroft and talked about fire-resistant materials, which brought up the question, if nonconforming stairs are being renovated, do they need to be upgraded to code? He said this was an important question from a fire access standpoint.

Chief Blair said he had gone through his code and setback requirements (i.e., dimensions). He said he was an advocate of exterior stairwells because they make it easier to access a building, but there are requirements, which he read from his code. Chief Blair said it is easier to deal with new construction and that the trouble is with nonconforming situations. He said he agreed with Mr. Knight that stairs need to meet the street level. In nonconforming situations, fire separation is the challenge and not blocking access on the side lot line where setbacks are nonexistent in many places. And with Jerome’s topography, the chief said many areas have stairs that follow the grade up to the next level, like East Avenue and Clark St., but that he was unsure of how to deal with additional stairs in nonconforming situations.

Mr. Knight said to him, stairs are like decks, and in the town ordinance, the deck setback is five feet from the property line. He reminded the commission that a three-foot setback was previously discussed, but that a five-foot setback is appropriate, and that provisions in the ordinance would need to make it clear that in no way can a projection in a setback (e.g., A/C unit, chimney) block or hinder fire safety access.

Chief Blair said that in cases where the setback is narrow, construction materials are going to be a factor to minimize the fuel rate. He mentioned old properties that could be built out again but would need to meet new setback requirements.

Mr. Schall said he could understand requiring five-foot setbacks with new builds, but with some old structures, this may not be possible and could leave the property owner with no choice and discourage them from rehabilitating their home. He said it would be more reasonable to let current setbacks exist if fire-resistant materials are used.

Chief Blair said there is a provision in the code that addresses this; he read from 1101.2 in the fire code.

Mr. Knight pointed out that one section in the code deals with nonconforming uses but also buildings, and that, generally, if nonconformity is not worsened, it's allowed. He said these situations will need to be addressed on a case-by-case basis. He said the way the code is written, if old stairs are to be replaced like for like, no approval is needed, but if different materials are being used, the project must go before DRB.

Chair Ludwig said the stairs by Rickeldoris came to mind and said they would have no other options to conform to the zoning ordinance.

Mr. Knight said the stairs are in the ADOT ROW and commented on the stairs recently rehabilitated on School and Main Streets. He said he hoped that over time, more residents will replace old wooden stairs with metal ones for the sake of safety and fire protection.

Chief Blair commented on the stairs by Rickeldoris. He then brought up the yard determinations and said that the fire department sets the addressing for existing structures and that new construction would need to meet setback requirements. He said to change the yard determinations in lieu of meeting setback requirements would be a mistake. Anything that would be allowed in a nonconforming situation already breaking setback requirements to further breach those requirements should not be allowed. Chief Blair said it was important to stay within the allotted coverage and meet setback requirements, what he needs to fight fire at the very minimum.

Mr. Knight said it's easy to look at a traditional subdivision and define the yards, but the lots in Jerome vary greatly. He referred to the exhibit in the agenda packet and pointed out the different shaped lots and those with two addresses and said it was important to look at the exhibit to see the various yard scenarios. One example he used was the Bustrin residence: if you have a double-frontage lot, do you have a rear yard at all? Mr. Knight said the point of the discussion was to get input from the commission. He reminded everyone about a previous discussion on unclear lot situations and letting the applicant determine the yards, who would then have to stick with their definition.

Chief Blair said he has no problem with new construction, but he does with existing, nonconforming situations where the yards are being manipulated to meet a setback that has been determined. He said some buildings with two addresses are in the C-1 zone, which have different setback requirements. He asked the commission to be cautious with nonconforming situations.

Mr. Schall said he would like to see applicants able to propose yards for new construction and let the commissioners and fire chief have a say, too.

Chief Blair said the biggest issues are lots up against existing structures that don't have a setback. He said the idea behind the five-foot setback was to give firefighters at least 10 feet between structures to reach a fire.

Mr. Knight asked the commissioners how often the issue of determining yards came up to P&Z, and if it only comes up on occasion, perhaps there was no need to address it in the zoning ordinance.

Mr. Schall said it comes up about every three years but agrees that the commission can handle nonconforming situations case by case and not amend the ordinance. Discussion ensued about a general policy that states a project must be approved by the fire chief.

Mr. Schall said this was not just to appease Chief Blair but to also keep the community safe, which everyone should care about.

Mr. Vincent said the commission was dealing with two issues: existing structures and new projects. He said given Jerome's topography, odd lots, and land use in the community, discussing the definition of yards was much ado about nothing; that the commission will respect Chief Blair's input on setbacks, materials, and fire suppression, so let's move on.

Chief Blair said he appreciated the support and that we should all be aware of Jerome's unusual location and what is going on with fires in other communities.

Mr. Knight moved on to the appeals process, which the Council weighed in on and requested that the commission give their input. He spoke first about the appeals distance, which is typically 300 feet, but in Jerome, things are different, like the line of sight and how sound carries. Mr. Knight shared examples of what other jurisdictions do and said Council had suggested 300 feet. He then reported that most jurisdictions mandate that an appeal must happen within 15 days of an approval, and that others give 30 days, which is what the Council agreed on. Mr. Knight said he was concerned that 30 days was too much time and gave examples why. He said 15 days makes more sense for the applicant and 30 days for the appellant. He said some places won't give a building permit until the appeal period has passed, which protects the applicant and the town.

Chair Ludwig agreed that 15 days was plenty of time, especially if the applicant would have to wait for the appeal period to end to proceed with their project. She also thought a small fee should be set up.

Mr. Vincent agreed with both concepts.

Mr. Schall agreed the appellant must live within 300 feet or be someone adversely affected by the project; that 15 days for the appeal period was enough, and he agreed with a nominal fee for the appeals process.

Chair Ludwig agreed with Mr. Schall on who can appeal. Examples were shared on how one could be adversely affected.

Mr. Knight said a minor appeal fee is appropriate, and that it will prevent frivolous appeals. He also said those who are adversely affected know right away; they don't need 30 days.

Mr. Vincent said notices are posted for new projects, so neighbors are informed.

Mr. Knight moved on to the topic of how to address small projects, which mostly go through DRB—but P&Z has a role in amending the ordinance. He said the Jerome design guidelines will deal with these issues eventually. Mr. Knight feels there should be consideration for small projects that staff can handle, like the change in paint color on a handrailing or fencing, and would like input on how to categorize small, medium, and large projects. He named the levels of approvals on types of projects that go through P&Z, DRB, and sometimes to Council.

Chair Ludwig said it seemed illogical (and not her experience back in New Hampshire) that the Council would want final say on even small projects, albeit Mr. Sims's memo stated it was common. She said small projects should be handled by staff.

Mr. Knight said it has not been his experience either to have Council review/approve even small projects and shared what projects were typically handled by whom. Because Jerome is a national historical landmark, it is appropriate to have the Council review certain projects; but for painting handrails?

Mr. Vincent said the commission has been going around for three years about "painting handrails" and asked that the topic be finalized once and for all. As for final approval from Council on projects, Mr. Vincent felt the result would be the degradation of the importance of P&Z, for which community members volunteer and embrace the responsibility—and sign an oath. If one was to take a look at the code amendments that have been approved in the last three years, most of them erode the authority of P&Z. Mr. Vincent said that if the intent of the Council is to exert power and insist on final approval of all projects, they may as well fold the planning and zoning commission and "let them have the job." He said this was inconsistent with other municipalities in the state, and that the current Council is consistently attempting to erode the authority of the P&Z. He said it was degrading. Chair Ludwig agreed.

Mr. Schall said he would echo the same comment. He said the Council can be in on the appeals decisions for sure, but if they want to handle the day-to-day projects, the commissioners can go home. Mr. Schall said he has always thought that trivial projects like paint color, a door change, or a repainted handrail should be handled by staff.

Mr. Knight said that there were plenty of projects on the list that could have saved time and money for the applicants and for the board/commission if staff were allowed to approve smaller projects. He said the new design guidelines will help with this approval process.

Chair Ludwig asked what prompted Council to want final say on large projects.

Mr. Knight said there was interest from the Council in having more involvement in final decisions of site plan reviews. He said that rezones, larger-scale projects, ordinance amendments, and some larger projects, yes, should go through Council, although Jerome rarely sees large complicated projects, although plenty of small complicated projects.

Chair Ludwig asked if this has happened with past councils wanting final say on large projects.

Mr. Schall said past councils have basically "rubberstamped" what P&Z decided, and that he could not think of any examples of councils refusing a project.

Mr. Vincent said the Council does have approval of rezones, appropriately so, but that over the last three years, it has felt like the Council has been chipping away at the authority of P&Z and invalidating their hard work. He said reading Ms. Gallagher's memo in the agenda packet, it seemed more like a courtesy for the Council to ask for P&Z's input but a waste of their time if Council was going to have final say anyway. He said an example that comes to mind of the Council wielding authority was when they eliminated the P&Z/DRB liaison—despite the 5-0 DRB vote to keep the liaison. He said they may as well eliminate P&Z and let the public vote on code amendments. Mr. Vincent said then they wonder why it's hard to get volunteers with all the micromanaging.

Mr. Knight said he had heard Camp Verde had gotten rid of their planning and zoning commission because of similar issues. Chair Ludwig said she would like to avoid this in Jerome. [After further research, some of the Camp Verde P&Z commissioners resigned after their last council election, but the Camp Verde P&Z Commission will remain.]

Mr. Knight said P&Z does great work and deals with lots of gray issues.

Vice Chair Romberger said at Council meetings, he keeps hearing they want local control; that they want to make decisions themselves from state level on down. He said he sees no problem with local control, but over and under reaching are both problems. He said P&Z decisions should be separate from Council decisions.

Mr. Knight said the Council already can appeal any decision. He said he will set a hearing at a future meeting.

Informational Items (Current Event Summaries):

7:18 (1:16:24) Item 7: Updates of recent and upcoming meetings – John Knight, Zoning Administrator

- a. September 21, 2020 Council Meeting** – Amendments to the ordinance regarding stair setbacks, yard requirements and appeals process.
- b. October 5, 2020 DRB Meeting** – Design Review for Kelt stairs (665 Main Street) and Feher garage (11 Rich Street)
- c. October 8, 2020 Council Meeting** – Zoning Administrator work priorities (recreational marijuana ordinance, code amendments/code enforcement, telecom ordinance, design guidelines, and small projects)
- d. October 13, 2020 Council Meeting** – beekeeping ordinance, COVID-19 reopening, and recreational marijuana ordinance
- e. October 14, 2020 Council Meeting** – Recreational marijuana ordinance

Mr. Knight first asked if anyone was interested in the webinar on being a P&Z board sponsored by the National League of Arizona Cities and Town later in the month.

Mr. Knight then shared highlights from recent DRB and Council meetings. He mentioned that the Council almost sent the recreational marijuana ordinance (Prop 207) to P&Z, but that Council decided to treat it as a nuisance rather than a zoning issue.

Mr. Vincent asked why the Council decided this.

Mr. Knight said they didn't want to allow it in the C-1 zone; that the quickest path was through a nuisance ordinance process. He continued with the updates.

7:22 (1:20:14) Item 8: Potential items for Wednesday, November 18, 2020: Various code amendments

Discussion/Possible Direction to Staff

Mr. Knight said the code amendments discussed at this meeting would be brought back for consideration.

Mr. Romberger said on the cannabis issue, he understood that the Council wanted to restrict manufacturing, extraction, etc., but wasn't clear on where they stood on retail.

Mr. Knight said one thing that helped with the Council's decision is that it is likely that dispensaries would set up in larger jurisdictions, with a maximum number of marijuana businesses per county. He said he was nervous about rushing an ordinance through without seeing what other jurisdictions do with the proposition. If Prop 207 passes, it will basically decriminalize marijuana. In Jerome, residents will be able to grow and use marijuana at home if they follow certain regulations.

Mr. Vincent commended Mr. Knight for not wanting to rush the ordinance.

Item 9: Adjourn

Motion to Adjourn at 7:26 p.m.

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

Approved: 
Jessamyn Ludwig, Planning & Zoning Commission Chair

Date: 2-1-21

Attest: 
Rosa Cays, Deputy Clerk

Date: 17 Feb 2021

