

Minutes of a Regular Meeting of the Lava Planning & Zoning Commission of the City of Lava Hot Springs, Idaho held Monday, July 22, 2019 at 6:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present: Neil Anderson, Commission Chair  
Fred Hinz, Commission Member  
Lisa M. Toly, Commission Member  
Vicky Lyon, Commission Member  
Canda L. Dimick, City Clerk

Excused: Curtis Waisath, Commission Member

Guests: None

Neil Anderson, Commission Chair apologized for being late and called the meeting to order at 6:45 pm.

### **Approval of Minutes**

Motion was made by Vicky Lyon and seconded by Fred Hinz tabling the minutes. All voted aye, unanimous.

### **Public Hearing – Ordinance 1983-2 amendment to define, regulate and permit solar energy systems within city limits.**

Motion was made Lisa Toly, Commission Member and seconded by Fred Hinz, Commission Member opening the public hearing. All voted aye; unanimous.

Canda Dimick, City Clerk presented staff report and read proposed ordinance. Public hearing notice was published in the Idaho State Journal on July 7, 2019. Notice of hearing was posted at the Lava Post Office and Lava City Hall on July 7, 2019. No written comments have been received and there was no one in the audience to address any input. City Clerk read the following proposed ordinance:

#### **ORDINANCE NO. 2019-1**

AN ORDINANCE OF THE CITY OF LAVA HOT SPRINGS, IDAHO, AMENDING ORDINANCE 1983-2 TO DEFINE "ENERGY SYSTEM, SOLAR", DESIGNATING THE ZONES IN WHICH SOLAR ENERGY SYSTEMS WILL BE PERMITTED, REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE, WAIVING THE RULE THAT THIS ORDINANCE BE READ ON THREE (3) SEPARATE OCCASIONS; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, IDAHO, AS FOLLOWS:

**Section 1:** Chapter II, Ordinance 1983-2, is amended to add definition for “energy system, solar” as follows:

## CHAPTER II

### DEFINITIONS

**ENERGY SYSTEM, SOLAR:** Any solar collector panel(s), film(s), shingle(s), or other solar energy device(s), or solar structural component(s), mounted on a building or on the ground and including other appurtenant structures and facilities, whose primary purpose is to provide for the on-site collection, storage, and distribution of solar, or radiant, energy received from the sun and used for heating or cooling, for water heating, and/or for generation of electricity. A solar energy system may be ground mounted (i.e., placed on top of the ground surface) or roof mounted (i.e., placed on or as a integral part of a building). Roof mounted systems may extend an additional two feet (2') beyond the maximum height allowance of the zoning district in which they are located. Ground mounted systems shall meet all required standards for accessory structures.

**Section 2:** Chapter IV, Ordinance 1983-2, is hereby amended to add solar energy systems as permitted accessory uses within the R-2, R-3, C-1 and C-2 Zones as follows:

## CHAPTER 4

### USE DISTRICTS

**SECTION 1: R-2 Zone.** The purpose of the R-2 Zone, Combined Residential Zone is to provide medium density residential development well designed and property located in the community pattern adjacent to shopping, recreation, cultural and other community facilities.

#### 1. Uses Allowed:

c. Accessory uses as regulated in this section, including solar energy systems as defined in this ordinance.

**SECTION 2: R-3 Zone.** The purpose of the R-3 (Multi-Family Residential) Zone is to provide for medium to high density residential development. This type of zoning pattern is intended to create transition area and buffer zones between commercial areas and low density residential development. It is also intended to permit higher density activities adjacent to more intensive community use areas.

#### 1. Uses Allowed:

a. Those uses allowed in the R-2 Zone, including accessory uses which includes solar energy systems as defined in this ordinance.

SECTION 3: Regulations for the C-1 Zone. The purpose of the C-1 Zone is to provide distinct zones regulated to provide local commercial service needs and to restrict incompatible uses which may be better located in community or highway oriented shopping areas due to the size of the shopping center location within the community, and residential neighborhood areas being served in other factors.

a. Uses Allowed:

12. Accessory uses to be allowed; including solar energy systems as defined in this ordinance;

SECTION 4: Regulations for the C-2 Zone. The purpose of the C-2 Zone is to establish distinct zones regulated to fulfill general shopping center retail needs and travel or highway related service requirements within the community.

a. Uses Allowed:

9. Accessory uses to be allowed; including solar energy systems as defined in this ordinance.

**Section 3:** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 4:** The rule requiring that this ordinance be read on three (3) separate occasions is hereby waived.

**Section 5:** This ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

City Clerk reported that the ordinance will be passed and approved if City Council follows the Planning & Zoning Commission's recommendation at the next City Council meeting. The City Clerk asked the commission if they had any comments and if everything was in order. Neil Anderson, Commission Chair expressed that he felt everything was covered and that he is in favor of permitting solar energy systems. Fred Hinz questioned what the ground mounting systems consist of. It was explained that panels are constructed to a pole framed device; like the existing systems that the city has behind the fire station and at the sewer lagoon (land supplication site storage lagoon). Panels are connected to a triangular frame that is attached to the ground and the electrical conduit is underground to the structure/meter. Vicky Lyon, Commission Member commented that she thought the residential zone was R-1. City Clerk explained that the commission established a R-1 Zone in the proposed zoning ordinance that has not been adopted yet and that the current residential zones in city limits are R-2.and R-3. The City currently does not have a residential low density R-1 zone. Vicky Lyon, Commission Member questioned if the ordinance will have to be changed when the proposed zoning ordinance is adopted to permit solar systems in the R-1 zone. City Clerk explained that the proposed zoning ordinance has solar energy systems listed as a permitted use in the R-1 zone.

Motion was made by Fred Hinz, Commission Member and seconded by Lisa Toly, Commission Member closing the public hearing. All voted aye, unanimous.

Motion was made by Fred Hinz, Commission Member and seconded by Lisa Toly, Commission Member to forward Ordinance 2019-1 to the City Council with a do pass. All voted aye; unanimous.

### **Review proposed Building Permit and Supplement Information Plans**

City Clerk reported that the contracted state building inspectors have recommended some changes to the city's building permit form and the related supplement information that the city distributes with the building permit form. Commission members were given the packet of the proposed changes and were informed that the city council has asked that the planning and zoning commission to look over the proposed changes and be involved. Commission members were asked to review the information and make notes of their concerns or comments for discussion at the next meeting. The City would like to get the revised form and supplement information updated before fall. The city has an existing building permit form that is currently being used. Copies of the city's existing form will be distributed to commission members. The building inspectors want the building permit form to provide additional information. Lisa Toly, Commission Member questioned if the permit form changes are going to help streamline the time frame for applicants obtaining permits. City Clerk stated that she does not feel that the permit form changes are going to improve the length of time involved in getting a permit approved. The Idaho Division of Building Safety is contracting with several cities and is trying to make the forms more uniform across the state. The city currently uses one form for the building/zoning permit. Some agencies have a zoning development form that an applicant completes along with the building permit form. The City Clerk reported that she mentioned to the inspectors that it will probably simplify the process if the city can stay to using a single form for both purposes. City Clerk expressed concerns regarding the proposed changes. She feels the form needs to address use (i.e. residential home, vacation rental, vacation home, bed and breakfast) and needs to document if the use is monthly or nightly. The commercial use could also be listed (grocery store, retail store, motel, restaurant etc.) with projected occupancy so that bathrooms and other associated amenities needed can be addressed. Lisa Toly questioned why exposure was highlighted on the form. City Clerk will check with the inspector to see what they are wanting with the highlighted exposure question and report to commission. The packet included a proposed building permit application form and a form when the permit is issued. A certificate of occupancy form and a certificate of completion form are also being worked on. A certification of completion form is used for projects that are not occupancy related. Neil Anderson, Commission Chair mentioned that he feels the forms do need to include the specialty areas that the city is more inclined to experience. The city's current permit application form has an area where the applicant describes the use and it also includes floodplain information. City Clerk offered to provide commission members with a copy of the current building permit form that the city uses before they leave the meeting. The current form that the city uses is due for a change and the updates are a work in progress.

## **Building Code Ordinance Draft**

City Clerk reported that she did not provide an updated copy of the draft because she is still waiting for review comments back from the state building inspectors. The state inspectors informed the City Clerk that they will email their response. When the states response is received, the City Clerk will forward it to Commission Members. City Clerk reported that she has received information that the state has adopted the 2015 International Fire Code under administrative rules and provided copies to the Commission. The City's proposed zoning ordinance adopts the International Fire Code; it does not reference the states administrative rules. City Clerk recommended adopting the 2015 Fire Code as adopted by the State of Idaho. Commission Members will review the administrative rules and further discussion will be scheduled at the next meeting.

## **Zoning Ordinance Draft**

City Clerk reported that the City Council has been working on reviewing the proposed ordinance and has another meeting scheduled for Thursday. City Clerk has informed the City Council that the commission is still working on the definition for grade or official grade and points of references to measure from. City Clerk reviewed the City Council's ordinance provision changes made at the last meeting. The City Council eliminated body from the Home, Manufactured definition because the word was irrelevant. The revised definition for Home, Manufactured is: A structure, constructed after June 15, 1976, in accordance with the HUD/FHA construction and safety standards, and is transportable in one (1) or more sections, which in the traveling mode, is eight (8) ~~body~~ feet or more in width or is forty (40) ~~body~~ feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is installed on a permanent foundation with all of the following characteristics. The City Council felt that the dimensions in the Home, Mobile, Temporary definition should be stricken because the size is irrelevant; several mobile homes now days exceed the dimensions. The revised definition for Home, Mobile, Temporary is: A trailer, tent trailer, camper, recreation vehicle, construction trailer or mobile home which is ~~eight (8) feet in width and thirty (32) feet or less in length and~~ may or may not contain cooking or bathroom facilities, but is not designed or used for long term occupancy. The City Council felt that a nursing home is required to be license and they wanted the word licensed added to the definition title. City Clerk reported that she received input back from the City Attorney regarding the definition for Zoning Administrator. Copies of the City Attorney's emailed response were given to Commission Members. The definition in the current Ordinance 1983-2 reads: Zoning Administrator – The City Council of Lava Hot Springs, Idaho, is the governing body designated to enforce the regulations of this Ordinance, until such time as a Planning and Zoning Commission and/or separate Zoning Administrator is appointed as provided for herein. Lava's Planning & Zoning Commission has been appointed for years by ordinance. City Clerk reported that she had developed a new definition based on provisions pulled from the ordinance creating the Planning and Zoning Commission. The proposed new definition sent to the City Attorney for review reads: Zoning Administrator. The City Council

of Lava Hot Springs, Idaho, created a Planning and Zoning Commission by City Ordinance to actively participate in the planning and zoning for the city. The Commission shall review all subdivision recommendations on the same to the City Council, shall study all requests for zoning changes within the city and make recommendations to the council for any zoning changes or boundary changes in zoning; shall review all applications for variances or conditional uses and make recommendations to the City Council for such variances or conditional use permits; shall maintain current studies of the Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance of the City, as well as the city impact area, and make recommendations concerning changes in the same as they may be needed; and shall exercise such other duties and functions as may be delegated by the council to the Commission by ordinance or otherwise. The City Council of Lava Hot Springs, Idaho and/or the City Code Enforcement Officer are hereby designated to enforce the regulations of this Ordinance. The City Attorney has reviewed the new proposed definition and he advised that the commission has authority to create the position and designate duties; there are no limits to what a Zoning Administrator can do. The City Attorney recommended not putting the duties of the commission in the ordinance definition. He stated that the duties can be established by resolution of the commission and may change from time to time. The City Attorney recommended simply saying that the commission reserves its authority to establish the position of zoning administrator and hire other staff as allowed by statute with the duties to be established by resolution adopted by the Commission. City Clerk stated that the city attorney doesn't realize that the commission does not have final decision authority and that the commission would be making a recommendation to City Council. Neil Anderson, Commission Chair questioned if there were any city budgeted funds to hire a zoning administrator and the answer was no. Neil Anderson, Commission Chair expressed that if there are no financial preparations to hire a zoning administrator then why is there a need for a definition in the ordinance. City Clerk feels that defining zoning administrator is necessary for enforcing the ordinance. The last sentence in the new proposed definition provides that the City Council of Lava Hot Springs, Idaho, and/or the City Code Enforcement Officer are hereby designated to enforce the regulations of this Ordinance. The City Attorney's recommendations relate to a hired position which could be the City's Code Enforcement Officer. The City is having a tough time retaining a Code Enforcement Officer. Commission members will continue working on the definition. City Clerk brought it to the Commission's attention that there was a comment made at the last meeting that may justify clarifying height regulations. Height regulation in the R-2 Zone provides that any building or structure, including accessory structures, or portion thereof hereafter erected shall not exceed two and one-half stories or twenty-five feet in height. The City has always enforced the twenty-five (25) foot height regulation on residential structures; average above finished grade. At the last meeting, a comment was made that the definition provides an option for or two and one half stories. The individual was claiming that the structure that they were proposing to build was only two and one half stories but with the walk out basement it was going to be over twenty-five feet from average finished grade. The height options may seem conflicting. City Clerk questioned Commission Members about changing the regulation to read

only not to exceed rather than or because a lot of A-frame structures can have high pitches. The individual that made the comment is proposing to build a two story home with a loft. City Clerk questioned if the loft would be considered another story or if it is built in the pitch of the roof if is it a half story. The word or is currently provided for in the height regulation for all of the city's residential and commercial zones. In the commercial zones the height regulation reads that any building or structure or portion thereof hereafter erected, shall not exceed three (3) stories or thirty-five (35) feet in height. A basement below ground would be considered a story. Commission members felt that the twenty-five foot height regulation needs to reference average finished grade. Lisa Toly, Commission Member questioned what number of feet defines a story. Neil Anderson, Commission Chair questioned what constitutes a half of a story. A half story is most likely the space in the peak (attic area). Defining a story and a half of a story was mentioned. Commission Members leaned to striking the words two and a half stories or from the residential zone height regulation; three stories or from the commercial zone height regulation and establishing a measuring point as average finish grade. Commission Members agreed that they need to do some more research before making a recommendation.

#### **Other Business**

There was no other business presented or discussed.

#### **Schedule Next Meeting**

Next regular meeting is scheduled for Monday, August 26, 2019 at 6:30 p.m., Lava City Hall

#### **Adjournment**

Motion was made by Fred Hinz, Commission Member, and seconded by Lisa Toly, Commission Member, to adjourn. All voted aye, unanimous. Meeting adjourned at 7:22 pm.

Transcribed by:

Signed:

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Canda Dimick, City Clerk

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Neil Anderson, Commission Chair