

ORDINANCE NO. NS-2500

AN ORDINANCE AMENDING THE BEND DEVELOPMENT CODE TABLE 2.1.200 & 3.6.300.J. TO ALLOW NEIGHBORHOOD COMMERCIAL USES ON QUALIFIED LANDS ADJACENT TO THE BEND CENTRAL DISTRICT

Findings:

- A. On February 22, 2024, the applicant submitted an application for Type IV legislative amendments to the Bend Development Code to allow Neighborhood Commercial uses on qualified lands adjacent to the Bend Central District.
- B. On May 13, 2024, the Planning Commission held a public hearing and issued a recommendation that the City Council adopt an Ordinance to amend the Bend Development Code as shown in Exhibit A.
- C. Public notice for the City Council hearing was provided in accordance with the requirements of Bend Development Code 4.1.515. On April 11, 2024, notice was mailed by the Planning Division to all Neighborhood Association representatives in advance of the Planning Commission hearing. On May 14, 2024 notice was mailed by the Planning Division to all Neighborhood Association representatives in advance of the City Council hearing. On April 21, 2024 and May 12, 2024, notice of each public hearing was printed in the Bend Bulletin under Legal Notices stating the time and place of the hearing, alongside a statement describing the general subject matter of the ordinance under consideration.
- D. The Bend City Council held a public hearing on June 5, 2024, to consider the Planning Commission recommendation.
- E. The Development Code text amendments approved by this Ordinance meet all applicable Development Code criteria, policies of the Bend Area Comprehensive Plan, and Oregon Statewide Planning Goals.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend Development Code is amended to allow Neighborhood Commercial uses on qualified lands as contained in Exhibit A, and as recommended by the Bend Planning Commission.

Section 2. In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit B.

Section 3. If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading: June 5, 2024

Second reading and adoption by roll call vote: June 20, 2024

YES: Mayor Melanie Kebler
Councilor Barb Campbell
Councilor Ariel Méndez
Councilor Anthony Broadman
Mayor Pro Tem Megan Perkins
Councilor Mike Riley
Councilor Megan Norris

NO: none



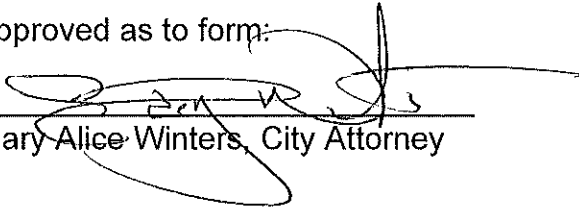
Melanie Kebler, Mayor

ATTEST:



Morgen Fry, City Recorder

Approved as to form:



Mary Alice Winters, City Attorney

Exhibit A
Bend Development Code Update
PLTEXT20240105
May 3, 2024
Prepared by:

Planning Division

Note:

Text in underlined typeface is proposed to be added.

***Indicates where text from the existing code has been omitted because it will remain unchanged.

Bend Development Code
Chapter 2.1

RESIDENTIAL DISTRICTS (UAR, RL, RS, RM-10, RM, RH)

2.1.200 Permitted and Conditional Uses.

Table 2.1.200 Permitted and Conditional Uses

Key to Permitted Uses

***Neighborhood commercial sites adjacent to a commercial or mixed-use Comprehensive Plan map designation, or the Bend Central District Special Planned District. See BDC [3.6.300\(J\)](#), Neighborhood Commercial Sites

Chapter 3.6

SPECIAL STANDARDS AND REGULATIONS FOR CERTAIN USES

3.6.300 Nonresidential Uses

J. Neighborhood Commercial Sites.

2. Neighborhood Commercial Site Standards. Neighborhood commercial sites must comply with the following standards:

a. Neighborhood commercial sites are limited to one of the following:

- i. Sites greater than one-quarter mile from a Commercial Comprehensive Plan map designation, Mixed-Use Comprehensive Plan map designation and neighborhood commercial site, and located on a corner at an intersection; or

- ii. In the RM and RH Zones, sites located on a corner at an intersection and adjacent to a Commercial or Mixed-Use Comprehensive Plan map designation or the Bend Central District Special Planned District; or
 - iii. In the RM and RH Zones, sites with frontage on an arterial or collector street, and adjacent to a Commercial or Mixed-Use Comprehensive Plan map designation or the Bend Central District Special Planned District.
- b. Corner Neighborhood Commercial Site Development Standards.
- i. Corner neighborhood commercial sites may be located on multiple abutting properties including interior properties when they abut a corner property developed, or will be developed, with a neighborhood commercial use or historical commercial use.
 - ii. No portion of the street facing elevation which contains a neighborhood commercial use can be located more than 150 feet from the property corner at the intersection.
 - (A) Exemption. The street facing elevation for a neighborhood commercial use may exceed 150 feet along street frontages which abut an arterial or collector street and are adjacent to a Commercial or Mixed-Use Comprehensive Plan map designation or the Bend Central District Special Planned District.
- c. The area of the neighborhood commercial site to be developed and all abutting properties approved for or developed with a neighborhood commercial use must not exceed the following:
- i. One-half acre in size for neighborhood commercial sites located one-quarter mile or greater from a Commercial or Mixed-Use Comprehensive Plan map designation.
 - ii. One acre in size for neighborhood commercial sites located adjacent to a Commercial or Mixed-Use Comprehensive Plan map designation or the Bend Central District Special Planned District.

5. Residential Dwelling Density Standard. All new neighborhood commercial sites adjacent to a Commercial or Mixed-Use Comprehensive Plan map designation or the Bend Central District Special Planned District must meet the minimum residential dwelling density of the zoning district. Buildings and associated sites constructed prior to the date of adoption of this code, and with a documented history of a neighborhood commercial use, are exempt from the residential density requirements.

EXHIBIT B

CITY OF BEND PLANNING COMMISSION STAFF REPORT AND FINDINGS



COMMUNITY
DEVELOPMENT

PROJECT NUMBER: PLTEXT20240105 (Type IV)

HEARING DATE: May 13, 2024 at 5:30 p.m.
City of Bend Council Chambers (hybrid)
710 NW Wall Street, Bend, OR 97703

REPORT DATE: May 3, 2024

APPLICANT: Greg Blackmore, Blackmore Planning and Development Services
19454 Sunshine Way
Bend OR, 97702

LOCATION: City-Wide

REQUEST: Legislative Development Code Text Amendment (BDC 2.1.200; BDC 3.6.300.J.) to allow Neighborhood Commercial sites on qualified lands adjacent to the Bend Central District

STAFF REVIEWER: Nicolas Lennartz, AICP, Associate Planner
(541) 330-4020; nlennartz@bendoregon.gov

I. APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:

Bend Development Code (BDC)

Approval Criteria

Chapter 4.6, Land Use District Map and Text Amendments

Standards

Chapter 2.1 Residential Districts

Chapter 3.6 Special Standards and Regulations for Certain Uses

3.6.300 Nonresidential Uses

Procedures

Chapter 4.1, Development Review and Procedures

Bend Comprehensive Plan Policies

Chapter 1, Plan Management and Citizen Involvement

Chapter 5, Housing

Chapter 6, Economy

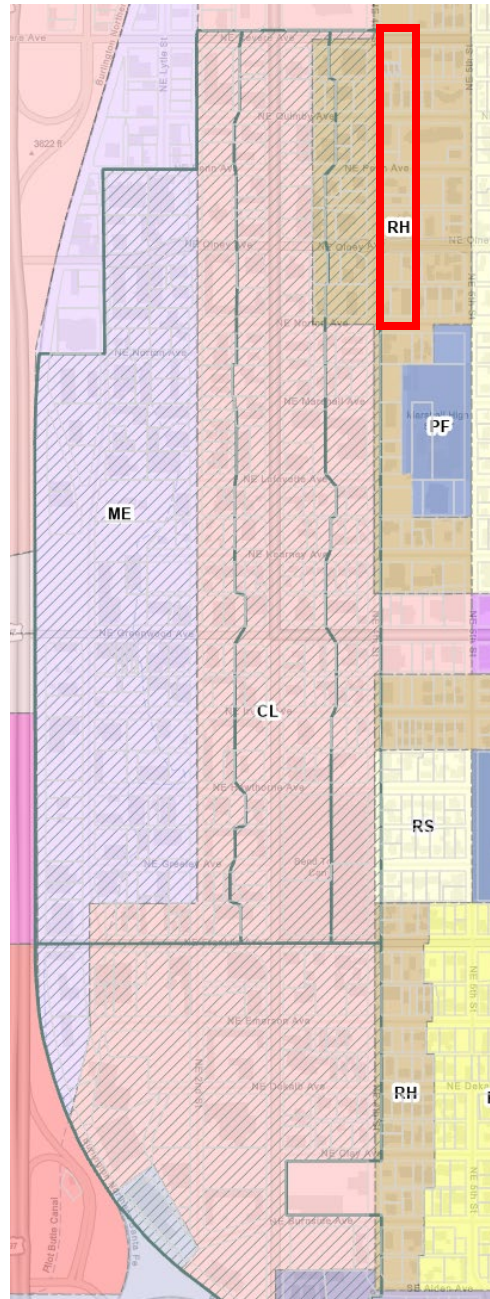
Chapter 11, Growth Management

Oregon Administrative Rules

Chapter 660, Division 15, Statewide Planning Goals

II. FINDINGS OF FACT:

- 1. LOCATION:** The area of impact is considered City-wide given the Development Code amendment would result in impact to more than a small number of persons. As the boundaries of the Bend Central District (BCD) Overlay Zone are currently drawn, the properties most impacted are located on the east side of the BCD in those lands zoned Residential High Density (RH), as depicted below.



****Map of affected properties (in red). The cross-hatch indicates the area of the BCD Overlay Zone. The change concerns residential properties adjacent to lands zoned RH within the Overlay Zone.***

2. **BACKGROUND:** The Neighborhood Commercial Sites are a special land use allowance under *BDC 3.6 Special Standards and Regulations for Certain Uses*, and are intended to allow commercial and mixed uses in residential zones when site-specific criteria are met. The preface language in 3.6.300 J. states: *Neighborhood commercial sites within the Residential Districts are intended to provide pedestrian-friendly access to goods and services convenient to nearby residents, encourage affordable mixed-use housing types, and provide a compatible transition between commercial and residential uses.*

The list of allowable uses on Neighborhood Commercial sites is contained in *Table 2.1.200 – Permitted and Conditional Uses* and includes, either outright or conditionally: Child care facilities, food and beverage service (under 2,000 square-feet), laundromats, retail sales and service, personal service, offices and clinics and mixed-use buildings. Properties meetings the location criteria for Neighborhood Commercial sites (BDC 3.6.300.J.2.) may either develop per these special standards, or pursuant to those standards of the underlying zone.

3. **PROPOSAL:** The applicant requests consideration for an amendment to the Bend Development Code, Table 2.1.200 and 3.6.300.J. to include adjacency to the Bend Central District Overlay Zone as a locational standard to qualify for Neighborhood Commercial use designations. The specific change is provided in Exhibit A.
4. **PUBLIC NOTICE AND COMMENTS:** On April 5, 2024, the Bend Planning Division submitted notice to the Department of Land Conservation and Development (DLCD) with a notice of the proposed development code change under consideration. The notice was provided 38 days prior to the first evidentiary hearing, and was assigned DLCD file # 001-24. On April 11, 2024, notice of the first evidentiary hearing was mailed to all representatives of the Bend Neighborhood Associations, including specific direction on how to submit comments or participate in the proceedings. On April 21, 2024 and 21 days prior, notice of this Planning Commission hearing was posted in the Bend Bulletin, a newspaper of general circulation under *Legal Notices* describing the nature of the application under review, and how to participate in the public review process for the proposed BDC Text Amendment.

In summary, all notice obligations required under BDC 4.1.515 have been satisfied. As of the date of this report, no public comment letters have been received by the Bend Planning Division.

5. **APPLICATION ACCEPTANCE DATE:** This application was submitted on February 22, 2024 and deemed complete on March 25, 2024.

III. APPLICATION OF APPROVAL CRITERIA:

BDC Chapter 4.6, Land Use District Map and Text Amendments

4.6.200 Legislative Amendments

A. Applicability, Procedure and Authority. Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the Comprehensive Plan and map, Development Code and changes in the Zoning Map not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with BDC Chapter 4.1, Development Review and Procedures, and shall conform to BDC 4.6.600, Transportation Planning Rule Compliance. A legislative amendment may be approved or denied.

FINDING: Although the impacts of the proposed Development Code amendments are primarily applicable to properties adjacent to the Bend Central District Special Planned District, given the number of properties involved, the amendments are considered to involve broad public policy rather than application to an individual property owner or group of owners. Therefore, the Legislative Amendment Procedures of this section are the appropriate procedures for this review.

B. Criteria for Legislative Amendments. The applicant shall submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve or to deny an application for a legislative amendment shall be based on all of the following criteria:

FINDING: The applicant submitted the required narrative detailing compliance with the criteria listed below.

1. The request is consistent with the applicable State land use law;

FINDING: Compliance with this criterion is achieved through compliance with the Oregon Statewide Planning Goals. In particular goals 1, 2, 9 and 10 are found most applicable to the requested Development Code change. Other goals are not found relevant to the proposed changes, and therefore, the appropriate goals will be considered for compliance as detailed below.

Goal 1 - Citizen Involvement, To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

FINDING: Goal 1 involves adherence to an adopted and required public process. Conformance with Goal 1 is achieved in the City of Bend through *Chapter 1 – Plan Management and Citizen Involvement* of the Bend Comprehensive Plan and through the implementation procedures that have been adopted in the Bend Development Code, particularly *BDC 4.1.500 Type IV Legislative Procedures*.

The procedural requirements of this Type IV application are being followed in conformance with this section including solicitation of public involvement by several methods. Notice of the first evidentiary hearing was mailed to all representatives of all Bend Neighborhood Associations, and a notice was posted in the Bend Bulletin under Legal Notices. These notices indicated when and where the hearing is to take place, and how any concerned parties may be involved by either submitting written comments or providing oral testimony during the hearing. The initial public hearing before the Planning Commission will precede a second public hearing before the City Council.

Following the procedures outlined in the Bend Development Code, which have been formally acknowledged as compliant with the Statewide Planning Goal 1 by the Oregon DLCD, the requirements of Goal 1 are satisfied.

Goal 2 – Land Use Planning, To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

FINDING: As stated above, this proposed development code amendment is being processed pursuant to the legislative procedures in BDC 4.1.500, which has established a process for reviewing all changes concerning broad public policy based on factual analysis. The proposed text amendments are within a Development Code that has been crafted to be consistent with the relevant Bend Comprehensive Plan policies. The Bend Comprehensive Plan was acknowledged by the Oregon Department of Land Conservation and Development (DLCD). The proposed text amendments serve to implement the applicable BCP Policies and do not alter the administration of the code or the established requirements which ensure a factual base for all decisions. By following the adopted Development Code review procedures as outlined herein, the review of this application will be consistent with Statewide Planning Goal 2.

Goal 3, Agricultural Lands

Goal 4, Forest Lands

FINDING: Goals 3 and 4 are not applicable because the proposal does not impact any agricultural land or forest land.

Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces

FINDING: The contemplated changes to the text of the Development Code will not directly impact any property or structure identified or listed as containing a Goal 5 resource for the City of Bend, and therefore, Goal 5 is not applicable to the proposal.

Goal 6, Air, Water and Land Resources

FINDING: The proposed text amendments do not directly impact any air, water or land resources within the City of Bend. Subsequent development on any affected lands will be reviewed for conformance with all applicable standards, however, this goal is not applicable to the proposed changes.

Goal 7, Areas Subject to Natural Hazards

Goal 8, Recreational Needs

FINDING: Goals 7 and 8 are not applicable to the proposed Development Code Text Amendment.

Goal 9 – Economic Development, To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

FINDING: The proposal will increase the viability of redevelopment and/or development of lands currently within the City of Bend where economic development is encouraged. The contemplated development code changes would, if approved, increase the number of viable uses on certain lands adjacent to the Bend Central District, which is intended to provide a wide range of uses that result in a walkable, vibrant, and diverse mixed-use district, and in general provide a greater variety of economic opportunities. Therefore, the proposal is consistent with Goal 9.

Goal 10 – Housing, To provide for the housing needs of Citizens of the state.

FINDING: As the zoning map designations and special planned district boundaries currently exist, the proposal has the potential to be primarily utilized by a 4 block area (east of 4th Street, between Revere Avenue and Norton Avenue) that is zoned Residential High Density (RH). This area is currently developed with a number of small landowner / operator businesses (commercial uses), along with residential developments. Furthermore, the residentially zoned area in the BCD (to the west) is primarily developed with commercial uses, along with a few residential developments. The contemplated Development Code Text Amendment would not require that commercial development occur on the RH zoned properties in this area, and would increase the options for an owner to potentially develop a viable mixed-use project with future development and redevelopment of these properties. The properties, following approval of the requested changes, may still develop per the standards of the underlying and designated zone regulations and there is no requirement or restriction on these newly eligible lands to be developed as Neighborhood Commercial sites.

The applicant further argues that, by closely analyzing the potential economic impacts, the proposed text amendment is expected to increase housing supply. The applicant states in the submitted narrative that the proposed code changes could result in redevelopment that includes mixed-use (commercial and residential) development on properties in this area. For example, Staff held a pre-application meeting in 2023 involving a site adjacent to the BCD that included a mixed-use building, and would only be viable with the changes under consideration. The applicant further states that the revised code would allow for redevelopment of these properties in a way that could allow owner/operators to maintain commercial elements on the properties, but also add residential components through redevelopment. Without the text amendment, these properties could not be redeveloped as mixed-use developments and would likely either remain as commercial, or possibly (as market dynamics dictate) be redeveloped as residential developments. The minimum residential density requirements of BDC 3.6.300.J.5. will ensure that the developments meeting the siting criteria provide needed housing units with any future development, as well.

In summary, because the proposed code changes do not *require* commercial development on the affected properties where currently only residential uses are allowed, the allowance of greater flexibility in uses allowed (including horizontal and vertical mixed-use) remains consistent with the obligations of Goal 10.

Goal 11- Public Facilities and Services, To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

FINDING: The proposed Development Code Text Amendment has the potential to impact uses, but not development requirements. Therefore, the changes remain consistent with the City’s current adopted plans and policies concerning the efficient arrangement of public facilities and services including sewer, water and transportation infrastructure. Furthermore, the ability to construct more compact, dense and urban developments more efficiently services citizens and requires less infrastructure. Therefore, the proposal remains consistent with Goal 11.

Goal 12 – Transportation, To provide and encourage a safe, convenient and economic transportation system.

FINDING: Goal 12 is implemented through the Transportation Planning Rule, OAR 660-12-0060, in addition to local land use regulations. The City of Bend Transportation System Plan (TSP) is implemented through adopted policies of the Comprehensive Plan, along with the standards and criteria of the Bend Development Code. Future development/redevelopment of any properties utilizing the proposed Development Code changes would be required to follow the established processes for entitlement, which will at that time consider compliance with site-specific requirements for transportation mitigations based on anticipated and demonstrated impacts. Therefore, the proposal remains consistent with Goal 12.

Goal 13 - Energy Conservation, To conserve energy.

FINDING: The proposal would permit Neighborhood Commercial sites on lands adjacent to the Bend Central District. The intent of the Neighborhood Commercial designations is to allow neighborhood-scale commercial uses to be integrated into neighborhoods in order to allow greater access to commercial goods and services. Although the Development Code changes would not require all lands to be subject to the new standards and they are only optional, it is reasonable to consider that the resulting developments could reduce local vehicle trip generation by increasing access to commercial goods and services in proximity to residential uses. Reducing local trip generation both by volume and distance therefore reduces energy demand. In sum, the proposal is considered consistent with Goal 13.

Goal 14 Urbanization – To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

FINDING: The properties affected are located within the Urban Growth Boundary and City Limits, and therefore, Goal 14 does not apply. However, the proposed Development Code amendments further incentivize development and redevelopment of properties in the BCD, which efficiently uses land within the Urban Growth Boundary.

Goal 15 Willamette River Greenway

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

FINDING: These goals are not applicable to the City of Bend.

In conclusion, the proposal is found consistent with the applicable Statewide Planning Goals and there are no other Administrative Rules applicable to this amendment. Likewise, there are no other applicable Oregon Revised Statutes that are criteria applicable to these amendments. (Note, consistency with the Transportation Planning Rule (TPR) is discussed further in this document).

2. The request is consistent with the applicable Bend Comprehensive Plan goals and policies;

FINDING: The applicable goals and policies of the Bend Comprehensive Plan are cited and considered below. If a chapter is not mentioned, then the goals and policies of that chapter do not apply.

Bend Comprehensive Plan

Chapter 1, Plan Management and Citizen Involvement

Community Goals:

Create and Preserve Great Neighborhoods - Bend has a variety of great neighborhoods that promote a sense of community and are well-designed, safe, walkable, and include local schools and parks. Small neighborhood centers provide local shops, a mix of housing types, and community gathering places. The character of historic neighborhoods is protected and infill development is compatible.

FINDING: The proposed changes to the Neighborhood Commercial designation would offer greater opportunity for certain properties to develop neighborhood-scale commercial uses. These neighborhood commercial nodes could be considered ‘Small neighborhood centers’ as stated in the goal above. The special standards that apply to Neighborhood Commercial sites ensure that any infill development remains compatible with the surrounding uses and existing character. Therefore, the proposed changes are supported by this goal.

Create Housing Options and Affordability - Bend residents have access to a variety of high quality housing options, including housing affordable to people with a range of incomes and housing suitable to seniors, families, people with special needs, and others. Housing design is innovative and energy efficient.

FINDING: The proposed changes may offer greater variety of housing options within existing neighborhoods by making mixed-use development an option on lands where it is currently prohibited. Furthermore, the proposed changes do not reduce the viability of exclusively residential developments adjacent to the BCD.

Policies:

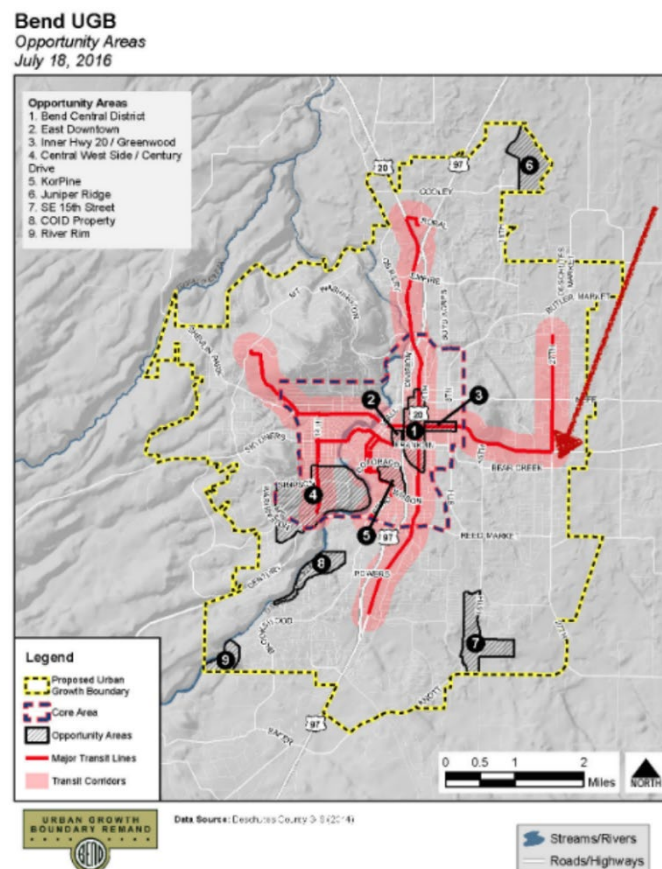
Development within the Urban Growth Boundary

1-7 The City will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel.

FINDING: The allowance of more mixed-use developments near the core of the city would significantly increase the integration of land uses in these areas impacted by the proposed change, pending future development and redevelopment. Creating commercial nodes within existing neighborhoods would further function to reduce trips, vehicle miles travelled, and facilitate non-automobile travel by placing commercial goods and services within proximity to existing residential development.

1-8 The City and county will encourage infill and redevelopment of appropriate areas within Bend Central Core, opportunity Areas and transit corridors (see Figure 11-1).

Figure 11-1: Core Area, Transit Corridors, and Opportunity Areas



***Figure 11-1, Bend Comprehensive Plan**

FINDING: The proposed text amendment would allow Neighborhood Commercial sites (and facilitate mixed-use development) immediately adjacent to the Bend Central District (an Opportunity Area), which is along major transit routes and identified as being within a Transit Corridor in the Comprehensive Plan. The greater flexibility in potential uses therefore encourages infill in these lands that are adjacent to opportunity areas as identified on Figure 11-1.

Citizen Involvement

1-15 The City shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.

1-16 The City will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process.

FINDING: The development procedures in *BDC 4.1.515 Notice* include mailed notice to recognized neighborhood groups and placement of a legal ad in the Bend Bulletin, and the two public hearings are being held in accordance with in *BDC 4.1.510 Hearing Required*. The notices provided allow ample opportunity for all citizens to participate in the planning process, in support of this policy.

Chapter 5, Housing

Goals:

The intent of the Comprehensive Plan is to provide and maintain sufficient residential land to accommodate needed housing units under Statewide Planning Goal 10 (Housing). The following goals set the context for the policies in this chapter. The citizens and elected officials of Bend wish to:

- ***Keep our neighborhoods livable by offering a variety of living styles and choices, creating attractive neighborhoods located close to schools, parks, shopping and employment.***
- ***Accommodate the varied housing needs of citizens with particular concern for safety, affordability, open space, and a sense of community.***
- ***Recognize the importance of transportation linkages (streets, bikeways, side-walks and paths) in connecting neighborhoods and building and maintaining a sense of community.***
- ***Promote more flexibility in development standards to balance the need for more efficient use of residential land and preservation of natural features.***
- ***Zone adequate land in specific designations to allow for production of needed housing units.***

FINDING: The proposed changes to the Bend Development Code would increase the potential for commercial uses close to residential uses, either through mixed-use development or additional commercial development in residential zones where previously prohibited. Furthermore, by increasing the viability of development options for certain properties, additional residential units may be built where otherwise sites may remain under-developed, which provides needed housing. The changes outright promote flexibility in development standards, and the existing Neighborhood Commercial special development standards, which would remain unchanged, ensure integrated development that suits the site and preservation of natural features, and that minimum residential densities be met with new development. Therefore, the proposed changes are supported by the goals stated above.

Policies:

Housing Mix, Density, and Affordability

5-4 ***The City will apply plan designations, zoning districts and development code regulations to implement the mix of housing indicated in the adopted Housing Needs Analysis.***

FINDING: The contemplated changes to the Neighborhood Commercial designations would increase opportunities for mixed-use developments, including both horizontal and vertical mixed-use on sites that currently prohibit mixed-use. The City of Bend Housing Needs Analysis (2016), in conjunction with DLCDC policies and Statewide Planning Goals, all encourage compact mixed-use development as a method to reduce vehicle trips, increase walkability and provide housing options whereas traditional detached single-unit residential developments patterns have historically prevailed. The proposed Development Code amendment would facilitate providing the mix of housing desired and identified in the aforementioned plans and documents. Therefore, this policy supports the proposed changes.

Residential Compatibility

5-22 ***Private and public nonresidential uses are necessary and will be encouraged within residential areas for the convenience and safety of the residents. Such facilities shall be compatible with surrounding developments, and their appearance should enhance the area.***

5-23 ***Of necessity, nonresidential uses may abut residentially planned and zoned areas in different parts of the community. In these instances, nonresidential uses will be subjected to special development standards such as setbacks, landscaping, sign regulations, and building design that harmonize and provide transitions consistent with the primary purposes of the adjacent zones.***

FINDING: The proposed changes are directly consistent with the residential compatibility policies in that they allow non-residential uses in convenient and safe locations in order to serve local neighborhoods. Furthermore, the special standards for Neighborhood Commercial sites (BDC 3.6.300.J.3-12) ensure compatibility and integration in an effort to enhance the site through standards such as setbacks and landscaping. The areas primarily impacted by this Development Code change are located in a transition area between a significant commercial corridor to the west and a lower-density residential area to the east. Providing neighborhood-scale commercial options would better harmonize the transition between the more urbanized corridors adjacent to the site with the primarily residential uses opposite. Therefore, the desired code changes are found consistent with these residential compatibility policies.

5-28 ***Neighborhood commercial shopping areas may be located within residential districts and have development standards that appropriately limit their scale and recognize their residential setting.***

FINDING: The special standards of *BDC 3.6.300.J.3* through *3.6.300.J.12* include, but are not limited to operation, landscaping, setback, height and density standards that apply to all Neighborhood Commercial sites. These standards appropriately limit the scale and better integrate these potential commercial and mixed uses into existing residential neighborhoods. Therefore, the proposed changes are consistent with this policy.

Chapter 6, Economy

Goals

The intent of the Comprehensive Plan is to provide sufficient land to meet the City's goals of promoting quality economic growth and assuring a diverse economy. The following goal statements describe the economic hopes of the community and serve as the foundation for policy statements in this chapter. The citizens and elected officials of Bend wish to:

- ***Promote a vital, diverse and sustainable economy, while enhancing the community's overall livability.***
- ***Ensure an adequate supply of appropriately zoned land for industrial, commercial, and mixed-use development opportunities.***
- ***Strengthen Bend's position as a regional economic center.***
- ***Create more opportunities in Bend for jobs that pay a higher than median wage.***
- ***Create commercial areas that support multimodal access.***
- ***Encourage more small neighborhood commercial developments and convenience commercial centers to reduce the number and length of single occupancy vehicle (SOV) trips.***

FINDING: The final two goals stated above expressly support the proposed Development Code text amendment. Small-scale commercial nodes with specific development standards integrated into primarily existing neighborhoods increase access to commercial services, especially for multi-modal users, while also reducing the volume and duration of single-occupancy vehicle trips. These foundational statements support the proposed Development Code amendments.

General Policies

6-10 The City will seek opportunities to designate or allow additional sites for employment use and increase the use of existing employment land within the existing urban growth boundary prior to expanding the UGB.

FINDING: The proposed amendments would increase the viability of commercial/mixed use developments and, therefore, employment opportunities within the existing urban growth boundary. Therefore, the proposal is consistent with this policy.

6-11 The City will periodically review existing development and use patterns on industrial and commercial lands. The City may consider modifying Comprehensive Plan designations and zoning to better respond to opportunities for redevelopment and revitalization of employment lands in underutilized areas.

FINDING: While the contemplated amendments do not concern Comprehensive Plan or Zoning designations, the effect is similar by expanding the opportunity for additional lands near the City's core to qualify for Neighborhood Commercial uses. The City, by allowing the proposed changes, would be responding to opportunities presented previously to the City, including mixed-use developments adjacent to the BCD, that would otherwise remain prohibited based on the current regulations. This policy therefore supports the proposed amendments.

Commercial Development

6-31 *The City shall strive to retain and enhance desirable existing commercial areas and encourage property owners' efforts to rehabilitate or redevelop older commercial areas.*

FINDING: The proposed amendments aim to increase the viability of redevelopment or rehabilitation of commercial areas as many of the existing developments in the primary area of impact, although zoned RH, are developed commercially. Due to their historic proximity to one of the City's major arterial roadways (3rd Street) the area has been improved with many commercial uses prior to the establishment of the current residential designation. The purpose statement of the BCD, per BDC 2.7.3205 further states *'[To] Provide a variety of residential development types and greater density of development, with a transition area adjacent to the existing residential neighborhood east of 4th Street'*. The transition area referenced by this statement is among the area of impact by this proposed Development Code change. Therefore, establishing allowable channels for greater flexibility in commercial and mixed-use development types achieves the policy objectives stated above.

6-34 *The City will encourage the development of Neighborhood Commercial centers. Such centers should be scaled to serve the frequent needs of the residents of the neighborhood.*

FINDING: This policy directly informs the proposed amendments. Should the proposed amendments be approved, future Neighborhood Commercial developments would be further reviewed for conformance with the special standards of BDC 3.6.300.J.3-12., which ensure integration between existing residential uses and the proposed development. No changes are proposed to these special development standards, and only to the eligibility criteria for establishment of these Neighborhood Commercial sites. Therefore, by approving the proposed amendments the City would be encouraging the development of these commercial nodes as intended by the policy above.

6-36 *Commercial developments that abut residential zones or residential uses shall be subject to special setback and screening provisions.*

FINDING: The special standards and setbacks stated by this policy are contained in BDC 3.6.300.J., and no changes are proposed to this section. The amendments only concern eligibility of Neighborhood Commercial sites based on site location, and any future sites made viable by the proposed changes will be subject to the special standards of BDC 3.6.300.J., inclusive of any setback and screening requirements. Therefore, this policy supports the proposed amendments.

Chapter 7, Transportation Systems

Goals

Increase System Capacity, Quality, and Connectivity for All Users (e.g., drivers, walkers, bicyclists, transit riders, mobility device users, commercial vehicles, and other forms of transportation):

- ***Increase route choices and connections for all users.***

- **Roads: increase capacity and efficiency.**
- **Sidewalks: increase access and connectivity.**
- **Bicycle facilities: increase total miles of bike routes/facilities.**
- **Transit: increase transit participation.**
- **Use technology to enhance system performance, including accessible technology (i.e., audible signals).**
- **Increase the number of people who walk, ride a bike, and/or take transit.**
- **Provide reliable travel times for commuters, emergency vehicles, and commercial users.**
- **Minimize congestion.**
- **Reduce vehicle operating and maintenance costs due to poor pavement conditions.**
- **Emphasize asset management.**

Ensure Safety for All Users:

- **Reduce serious injuries and fatalities.**
- **Maximize safe routes within and between neighborhoods and throughout the community for all users.**
- **Design and build facilities and routes that maximize safety for pedestrians and bicyclists.**
- **Ensure safe speeds.**

Facilitate Housing Supply, Job Creation, and Economic Development to Meet Demand/Growth:

- **Build new roads and upgrade existing roads to serve areas targeted for growth (prioritizing opportunity and expansion areas) and job creation.**
- **Provide access and connectivity to expanded housing supply.**
- **Improve connectivity and route choices for commercial users.**

Protect Livability and Ensure Equity and Access:

- **Incorporate a complete streets approach for all new road projects and road reconstruction.**
- **Increase safe routes to schools.**
- **Ensure that people of all income levels and abilities have access to the transportation options that best meet their needs.**
- **Encourage the use of roads for their stated classification.**
- **Keep through freight traffic on ODOT facilities.**

Steward the Environment:

- **Minimize the impacts of the transportation system on natural features.**

- **Minimize the impacts of the system on air and water quality and noise.**
- **Reduce carbon emissions from transportation.**

Have a Regional Outlook and Future Focus:

- **Coordinate and partner with other public and private capital improvement projects and local/regional planning initiatives.**
- **Create a system that is designed to implement innovative and emerging transportation technologies.**

Implement a Comprehensive Funding and Implementation Plan:

- **Identify stable, equitable, adequate, and achievable funding for transportation programs and projects.**
- **Ensure that the financial plan and investment priorities are transparent, understandable, and broadly supported by the community.**
- **Produce a funding plan that includes contributions from residents, visitors, and businesses and that delivers benefits to all users and geographies equitably and in a timely manner.**
- **Include performance measures/benchmarks and a formal process to periodically assess progress to date and adjust or update the plan as needed.**
- **Achieve financial stability.**

FINDING: The proposed amendments do not explicitly concern transportation system improvements, however, as referenced throughout the findings, the establishment of additional commercial nodes in residential neighborhoods helps reduce automobile use and increases multi-modal access to small scale commercial goods and services. These concepts are supported by numerous goals stated above.

Chapter 11, Growth Management

Goals

The following goal statements describe the future urban form and growth aspirations of the community and serve as the foundation for policy statements in this chapter. The citizens and elected officials of Bend wish to:

- **Encourage the city’s evolution from small town to livable city, with urban scale development, amenities, and services in appropriate locations, while preserving and enhancing the natural environment and history of the community;**
- **Use Bend’s existing urban land wisely, making efficient use of land inside the boundary, with infill and redevelopment focused in appropriate areas within the Central Core, along transit corridors, and in key opportunity areas (see Figure 11-1);**
- **Create new walkable, mixed use and complete communities by leveraging and complementing land use patterns inside the existing boundary and using expansion to create more complete communities;**

- **Locate jobs in suitable locations, where there is access to transportation corridors, larger parcels, and good visibility for commercial uses;**
- **Plan Bend’s infrastructure investments for the long term;**
- **Meet state requirements for growth management and the UGB while achieving local goals;**
- **Lay the groundwork for the future growth of Bend by taking into consideration the context of lands beyond the UGB;**
- **Utilize best practices (e.g. cluster development, transect planning) in appropriate locations to reinforce the City’s urban form, reduce risk of wildfire, and recognize natural features that present “hard edges” for urbanization; and**
- **Implement an overall strategy to “Wisely grow up and out”.**

FINDING: The proposed amendments achieve the goals stated above by providing opportunities for additional infill and redevelopment within the City’s current urban growth boundary, reducing the pressure for development on lands on the periphery. Neighborhood Commercial sites are an efficient use of land that can achieve walkable and mixed-use communities, as intended by these goals. Additional commercial uses may also provide additional job opportunities, and near residential neighborhoods with optimal connectivity and visibility given the area’s proximity to the Bend Central District. Therefore, the proposed amendments are found consistent with the goals of this chapter.

Policies

General Growth Management Policies

11-1 The City will encourage compact development and the integration of land uses within the Urban Growth Boundary to reduce trips, vehicle miles traveled, and facilitate non-automobile travel.

11-2 The City will encourage infill and redevelopment of appropriate areas within Bend’s Central Core, Opportunity Areas and transit corridors (shown on Figure 11-1).

FINDING: As stated throughout these findings, the proposed changes to the Bend Development Code encourage development and redevelopment of specific lands adjacent to the Bend Central District Special Planned District, which is an Opportunity Area per Figure 11-1. Although lands affected by the proposed amendments are not directly within this aforementioned Opportunity Area, providing additional redevelopment opportunities along and adjacent to this specially designated area only serve to further vitalize the area. These newly viable Neighborhood Commercial sites would, by assimilating with the existing neighborhood and community, create compact development that reduces vehicle trips and encourages multi-modal travel. Therefore, the proposed changes are found consistent with certain policies stated in this chapter.

[4.6.200.B. Continued]

- 3. The applicant can demonstrate a public need or benefit for the proposed amendment.**

FINDING: The applicant states on page 22 of the burden of proof: *Given current market conditions and financial constraints with developing any site in the City of Bend, it is anticipated that the new text language (if utilized) would result [in] redevelopment that includes mixed-use (commercial and residential) on properties in this area. The text would allow for redevelopment of these properties in a way that could allow owner/operators to maintain commercial elements on the properties, but also add residential elements, through redevelopment. Ultimately, it is anticipated that the text amendment will provide added opportunities for redevelopment and thus increase economic vitality, job opportunities, multimodal opportunities, and neighborhood commercial convenience in this area [of] Bend.*

The demonstrated public benefit is considered reasonable. Staff has further received development inquiries and potential proposals on sites within the area that would not be viable without the Development Code Text Amendments. It is reasonable to anticipate that with these changes to the Neighborhood Commercial designation, additional development and/or redevelopment would occur as a result. This (re)development would include public infrastructure improvements including potential street, sewer and water amenities that the City otherwise would not be able to construct. Allowing greater flexibility of uses does not preclude compliance with all applicable City development standards, and only serves to offer options to owners and developers of land adjacent to an identified Opportunity Area. In summary, the applicant presents a strong argument that there exists a public need and/or benefit for the proposed changes to the text of the Bend Development Code.

4.6.600 Transportation Planning Rule

When a development application includes a proposed Comprehensive Plan amendment or annexation, the proposal must be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

FINDING: The Transportation Planning Rule compliance is obligated by the applicability, procedure and authority language under *4.6.200 Legislative Amendments*. However, the proposed changes to the Bend Development Code do not include a Comprehensive Plan amendment nor annexation. Therefore, the Transportation Planning rule does not apply.

IV. RECOMMENDATION: Based on the BDC text amendment request and supporting documents submitted by the applicant, and the findings of fact in this staff report which are based on the applicant's narrative addressing the relevant criteria for approval, Staff recommends that the Planning Commission make a recommendation to the Bend City Council for adoption of an ordinance to amend the Bend Development Code as presented in Exhibit A.