

Draft Minutes

Bend Planning Commission

Monday, October 14, 2024 5:30 P.M. Regular Meeting



COMMUNITY
DEVELOPMENT

The hybrid meeting started at 5:32 P.M., in-person and online.

The public was invited to watch online at: www.bendoregon.gov/planningcommission

1. ROLL CALL:

- Margo Clinton – Chair
- Scott Winters – Vice Chair
- Bob Gressens
- Suzanne Johannsen
- Nathan Nelson
- Jeff Payne

Commissioners Present: All Commissioners were present except Suzanne Johannsen

Staff Present: Ian Leitheiser, Assistant City Attorney; Colin Stephens, CEDD Director; Renee Brooke, Planning Manager; Beth LaFleur, Senior Planner; Pauline Hardie, Senior Planner; Lynne McConnell, Housing Director; Karen Swenson, Senior Planner; Amy Barry, Principal Planner; Kim Voos, Associate Planner

VISITORS:

The Chair opened the floor for comments on non-agenda items. Attendees were encouraged to fill out a speaker slip and approach the podium, or raise their hand online, to provide comments.

Resident Nunzie Gould spoke, expressing concerns about the timing and availability of the agenda for public review, questioning how far in advance it is made available for residents to plan their participation. She raised issues regarding the specificity and clarity of terms used in the city's development code, particularly around different types of housing such as affordable housing, workforce housing, and middle housing, emphasizing the need for clear definitions. She questioned the potential impacts of proposed housing developments on public facilities and school district lands, urging the commission to consider the long-term implications of such policies.

2. WORK SESSION

2.1. PLTEXT20240514 - Legislative text amendments to Bend Development Code (BDC) Table 2.2.300 to remove new auto-dependent uses from the Convenience Commercial (CC) zoning district and to amend BDC 3.6.500, Short-Term Rentals, to subject properties within the Neighborhood Commercial

(CN) zoning district to the same Short-Term Rental review process as the underlying Residential Land Use Designation.

Senior Planner, Beth LaFleur – elafleur@bendoregon.gov

Senior Planner Beth LaFleur gave her [presentation](#) on the proposed legislative amendments to the Bend Development Code (BDC). The first amendment focuses on BDC Table 2.2.300, which pertains to permitted and conditional uses to remove new auto-dependent uses from the Convenience Commercial (CC) zoning district. This amendment is directly related to Council goals, which include developing new policies to support sustainable development and address community concerns related to auto-dependent uses in commercial zones.

LaFleur explained that auto-dependent uses exist to serve automobiles or motor vehicles, such as vehicle repair shops, gas stations, car washes, and auto and truck sales. These uses are currently permitted with a conditional use permit in the CC zone. If the amendment passes, existing auto-dependent uses in the CC zone would remain permitted and not be considered non-conforming.

Vice Chair Scott Winters asked if there was any discussion about auto-oriented uses—such as drive-thru services, for which LaFleur clarified that the amendment specifically targets auto-dependent uses, not auto-oriented uses.

Planning Manager Renee Brooke added that the Council's direction was focused on prohibiting new auto-dependent uses, with a broader analysis by the Growth Management Division planned over the next 2-3 years to facilitate neighborhood-serving commercial uses.

Commissioner Nathan Nelson mentioned that the amendment is intended as a temporary measure to prevent new gas stations in CC zones while further studies are conducted. He highlighted the need to carefully consider uses like mechanic shops, which are vehicle-oriented but necessary in neighborhoods.

The second amendment pertains to BDC 3.6.500, which involves Short-Term Rentals (STRs). The proposal seeks to subject properties within the Neighborhood Commercial (CN) zoning district to the same STR regulations as the underlying Residential Land Use Designation. LaFleur emphasized that the Council directed staff to pursue this amendment to support the long-term availability of housing and rental stock, and to protect the residential nature of neighborhoods where the CN district exists.

Nelson sought clarification, asking if the amendment would remove specific STR exemptions for the CN zone, making these properties subject to normal STR restrictions. LaFleur confirmed this, explaining that instead of being treated like a commercial zone, the properties would follow the underlying comprehensive plan district, which is residential.

Winters questioned how this issue was missed during the map alignment project where the comprehensive plan was intended to rule over zoning discrepancies. CEDD Director Colin Stephens provided historical context, explaining that the CN zone was an existing zoning district prior to 2006. During the 2006 update, there was a proposal to remove the CN zoning and rely on residential zoning with certain commercial uses allowed under specific conditions. However, due to concerns from property owners, the decision was made to keep the CN zone on a short list of properties, even though it no longer existed as a formal zoning district.

Bob Gressens asked about the driver for this change. Brooke responded that it was Council direction from a recent meeting, aiming to treat these properties similarly to surrounding residential zones in terms of STR use. Assistant City Attorney Ian Leitheiser added that these properties are remnants of a previous zoning approach and that it makes sense from a policy perspective to subject them to the same rules as the surrounding residential areas.

The public hearing for this amendment is scheduled for the next meeting on October 28th.

2.2. PLTEXT20240523 - Legislative text amendments to the Bend Development Code (BDC) primarily to implement certain Oregon state laws and legislation to facilitate housing development.

Senior Planner, Pauline Hardie – phardie@bendoregon.gov

Lynne McConnel, Housing Director

Housing Director Lynne McConnell provided background on the legislative text amendments to the Bend Development Code, emphasizing the dual nature of the amendments—to clarify and simplify complex state requirements for developers and the community, and to refine local regulations to better support housing development.

McConnell highlighted that Oregon has a significant housing shortage, particularly for low-income households. The city is focused on supporting affordable housing, middle-income housing, and market-rate housing to address this shortage. The amendments aim to stabilize and lower rents by increasing the supply of these various housing types. The goal is to ensure that housing costs do not exceed 30% of gross income for these groups.

Senior Planner Pauline Hardie presented on the legislative changes affecting the Bend Development Code. The first is Senate Bill 8, which mandates that affordable housing, meeting specific definitions, be permitted on a range of sites, including public facilities and industrial. It also provides height and density bonuses for affordable housing projects in residential, commercial, and mixed-

use districts. The new code section will consolidate all affordable housing provisions, allowing developers to easily find the three different opportunities for affordable or income-qualified housing developments in one place.

House Bill 3151 updates the definition of affordable housing to include manufactured dwelling parks. This update has been incorporated into the same section as Senate Bill 8, expanding affordable housing opportunities.

House Bill 4064 requires that manufactured homes and prefabricated structures be treated the same as single-family homes. It bans design requirements for these structures, allowing only thermal envelope performance standards. The code removes placement and skirting requirements and clarifies that prefabricated structures can be placed on individual lots like manufactured homes.

House Bill 3395 allows affordable housing on commercial and mixed-use properties, provided it meets specific definitions. The Bill requires that cities apply the approval standards, conditions, and procedures of the residential zone most comparable in density to the commercial uses. Bend's code amendment recommends using the Mixed-Use Neighborhood (MN) District standards for density, height, and setbacks for these projects. This Bill applies only to redevelopment projects or additions to existing developments, not to vacant land or land annexed within the last 15 years.

House Bill 2984 allows the conversion of commercial buildings or parts of buildings to residential use without requiring a zone change or conditional use permit. This Bill is not specific to affordable or income-qualified housing, but simply facilitates the creation of additional residential units through a straightforward conversion process.

House Bill 4063 allows a city to approve a partition and middle housing land division for a property in the same calendar year. Previously, only one partition per year was allowed by law.

Senate Bill 1537 allows developers to request up to 10 distinct adjustments to specific housing standards. Adjustments do not apply to certain regulations, such as fire code, tree code, or building code. The process for these adjustments is outlined in Chapter 5 of the Bend Development Code. This portion of the Bill sunsets on January 2, 2032. Additionally, the bill allows developers to opt into amended housing regulations if changes occur after their initial application.

Hardie's presentation proceeded by summarizing the amendments to the Bend Development Code. Zoning district amendments were made, adding "income-qualified housing" to use tables in residential, commercial, and mixed-use zones to guide developers to the relevant code sections. Additionally, the maximum lot coverage for townhomes in the Standard Density Residential (RS)

District was increased to 60% to accommodate smaller lots permitted by House Bill 2001. The amendments clarified that accessory dwelling units (ADUs) are allowed in commercial and mixed-use zones with existing single-family units and added cemeteries as an outright use in Public Facility (PF) District.

A new section was created to allow the conversion of commercial buildings to residential use in commercial and mixed-use zones, processed as a Type I application. Density requirements for these conversions were set, with no minimum for vertical mixed-use and medium density for other types. Income qualified housing options were consolidated into one section of the code, defining affordability requirements and ensuring clarity of the process and eligibility requirements. There is an additional density and height for Income Qualified Housing Allowed Outright, which may be reduced as necessary to address health and safety issues.

Commissioner Nathan Nelson asked if the city's largest fire truck is large enough to service the additional height bonus. McConnell answered, stating that once a building hits a certain height, the building becomes self-maintained with sprinklers. Winters added that although development code may grant higher height bonuses, for safety purposes, building code may not oblige.

Chair Margo Clinton asked a clarifying question on whether the requirements to allow affordable housing in the Public Facility (PF) District is coming from the state level or the Bill level. Staff responded that it is coming from the Bill level, noting that it has to be the choice of the landowner to decide if they want to allow such development on their site. Although there haven't been any proposals for affordable housing in the Public Facilities (PF) District yet, the city is seeking help from public sector partners to address the affordability challenge. The school district, parks department, and county are all exploring options to support affordable housing, highlighting the need for a collective community effort to solve this issue.

The next amendments address feedback from the development community regarding cottage housing developments. Currently, the code requires that the parent site of a cottage development meet underlying setbacks, with parking not allowed in these setbacks. This has caused issues, particularly for alley-loaded developments, where the rear setback is 5 feet, forcing developers to shift parking forward and lose open space. The proposed amendment allows parking within the 5-foot rear setback if it is alley-accessed, aligning with other developments in town.

For shared court developments, which involve townhomes fronting either a public street or a shared court, there has been interest in allowing units to front onto open space. The proposed amendment clarifies that interior units can front either the shared access court or an open space area, while perimeter units will still front onto the street.

In Chapter 4.1, which covers development review and procedures, the amendment removes the local option for the City Council to hear appeals on quasi-judicial development applications or to call up decisions from the Hearings Officer or Planning Commission. Appeals would go directly to the Land Use Board of Appeals, with administrative decisions still appealable to a hearings officer.

For Chapter 4.3, Land Divisions and Property Line Adjustments, the amendment allows a partitioned lot to undergo a middle housing land division within the same year. It also addresses financial burdens by allowing applicants to submit a conceptual site plan instead of obtaining building permits before recording the final plat. This change aims to ease the process for creating individual lots and building units over time.

Lastly, adjustments will be allowed in Residential, Commercial, and Mixed-Use Districts, so long as they can justify their need for the adjustments. Up to 10 distinct adjustments can be requested for development standards. The adjustment requests will be processed as Type I applications.

Vice Chair Scott Winters asked if the approval criteria is coming from the state, for which Hardie replied that it was.

Hardie outlined the next steps, which will be a Planning Commission Public Hearing on October 28th, the City Council Public Hearing and first reading on November 20th, with a second reading on December 4th, and the code amendments going into effect January 3rd, though some of them revised statutes have already been in effect.

Nelson expressed interest in the ability to track how developers plan on using the adjustments. Hardie noted that the bill mandates some tracking.

Winters addressed specific verbiage in the code regarding commercial and public institutional floor area, with requiring 100% ground floor coverage, mentioning that this language excludes any ability to add residential space for a lobby or other potential residential needs.

Nelson asked about the intent behind the visibility requirements. The approval criteria for adjustments include enabling provisions for accessibility or visibility in dwelling units that are otherwise not feasible due to cost or layout. The intent is to emphasize the importance of accessibility and visibility under state law.

Winters asked whether applicants can take advantage of more than one type of height bonus. Staff responded that under the adjustment provisions, building height maximums can be increased by either one story or 20%, whichever is greater, but not both.

3. QUASI-JUDICIAL PUBLIC HEARING

PLCPMA20240503 – Comprehensive Plan Map Amendment to adjust the locations of lands designated Industrial General (IG), Commercial Limited (CL), Commercial General (CG), and High Density Residential (RH) within the Stevens Ranch Master Plan. The Stevens Ranch Transportation Mitigation Table and Sign District map are also proposed for updates to align with the Comprehensive Plan/Zoning Map changes.

Senior Planner, Karen Swenson - kswenson@bendoregon.gov

Chair Clinton convened the hearing at 6:42PM and asked the Commission if anyone had pre-hearing contacts, bias, prejudice, or personal interest. The Chair then asked meeting attendees if there was any challenge with respect to Commissioners' bias, pre-judgment, or personal interest.

Planning Manager Renee Brooke explained the quasi-judicial procedural requirements of State law.

Senior Planner Karen Swenson gave her [presentation](#), outlining the need for a comprehensive map plan amendment to the Stevens Ranch Master Plan. The first amendment involves flipping the limited commercial (CL) and high-density residential (RH) zones in the northwest corner of Stevens Ranch for better compatibility with recent commercial development and to create a more developable parcel.

Another amendment is in response to realigning a street to match Claremont Court on the west side of 27th Street, improving intersection functionality and slightly reducing industrial land. A related amendment moves general commercial zoning from the southern corner near Ferguson Road to the realigned roadway to the north, making it more pedestrian-friendly and creating a more developable industrial parcel in its place.

Another amendment adjusts the shape of the RH zone south of Wilderness Way from an L-shape to a standard rectangle.

Development Code text amendments related to these changes include updates to the Stevens Ranch master plan map, street system map, and phasing map. The transportation mitigation plan is adjusted to reflect these map changes without adding new mitigation requirements. The Sign District map is also updated to reflect the new zoning designations.

Public involvement included notifying property owners and occupants within 500 feet, as well as the two abutting neighborhood districts. Two public comments were received, one supporting the commercial move and another about unrelated sidewalk construction.

The applicant team gave their presentations. Tia Lewis, attorney for the Stevens Ranch LLC, provided background information on the Stevens Ranch Master Plan. Matt Robinson, Land Use Planner from DOWL, gave a presentation on the need for these changes, explaining that the amendments primarily involve updating the mitigation table to align with the new phasing plan and zone boundaries, without changing any development standards or allowed uses.

The amendments were driven by infrastructure improvements along 27th Street, including new roundabouts at Wilderness Way and Ferguson, which reduced commercial land by over an acre. To compensate, adjustments were made to the commercial and residential acreages around these roundabouts. The number of housing units within the master plan are not changed.

The amendments also aim to create more uniform zoning blocks for developer flexibility. Commercial lands at the northwest corner of Stevens Ranch were moved north of the COID canal, with high-density residential on the other side, aligning with the comprehensive plan. A traffic study confirmed no significant impact on trip generation rates, and existing infrastructure can support the build-out.

Commissioner Nelson inquired whether the changes would make commercial development more feasible. Robinson responded that the changes would indeed be beneficial, as they would capitalize on the existing traffic along Reed Market and 27th, where the commercial area already draws significant traffic.

Chair Clinton opened the public testimony portion of the hearing. No public testimony was provided.

Chair Clinton closed the public hearing at 7:05 PM and the Commissioners deliberated.

Commissioner Jeff Payne mentioned that he was surprised that some of these adjustments were not made during the original application. Clinton mentioned that this layout seems more cohesive, and the other Commissioners agreed.

Commissioner Payne moved to recommend that the City Council approve the Stevens Ranch Master Plan Comprehensive Plan Map Amendment as presented in Exhibit A, the Development Code Amendment in Exhibit B, and the Sign District Map in Exhibit C, with the findings as recommended by city staff in Exhibit D. Commissioner Nelson seconded the motion. The motion passed unanimously.

Chair Clinton volunteered to bring the recommendation to City Council.

4. LEGISLATIVE PUBLIC HEARING

PLTEXT20240451 – Legislative text amendments to the Bend Code to update the definition and boundary of Sign District 6 based on recent changes to the Bend Parkway alignment - Bend Code Chapter 9.50 Signs.

Principal Planner, Amy Barry – abarry@bendoregon.gov

Associate Planner, Kim Voos - kvoos@bendoregon.gov

Amy Barry, Principal Planner, [presented the amendments](#) to Chapter 9.50 Signs. Sign District 6, an overlay district along the Bend Parkway, is being extended to the city's northern boundary due to the new Parkway alignment, and to the south, to include previously omitted properties.

The amendment proposes measuring 300 feet from the center line of the northbound and southbound sections of the parkway, rather than from either side of the rights-of-way, for greater accuracy and consistency. The map adjustments extend Sign District 6 on the current Bend Code Figure 9.50.040 Sign District Map, which ends at the north triangle interchange and just short of the southern boundary, to include all relevant properties along the Bend Parkway to the north and south boundary of the City limits. The applicable Bend Development Code criteria ensure consistency with state land use law and Bend's comprehensive goals and policies and require demonstration of a public need and benefit for the proposed code amendment. One public comment from Carlson Sign stated that the amendment felt like a departure from the original intent of Sign District 6 and would be overly restrictive for the businesses in the area of the new road.

Commissioner Payne asked whether the amendment increased the width of Sign District 6 by 50 to 100 feet through town. Barry clarified that while there are a few spots where the width increased slightly, there are also areas where it would have been more if measured from the edge of the right of way.

Barry provided further detail on the change, stating that the original intent was to measure 300 feet from the edge of the parkway, but the map did not correspond with this, as it was measured from a center line that did not align well. Planning Manager Renee Brooke addressed that the GIS staff recommended basing the centerline definition on a reliable data set for future consistency.

Commissioner Nelson asked if this issue came up as a result of trying to fix the GIS map. Barry stated that the issue was identified when updating Figure 9.50.040 to include the new parkway alignment on the north end, which extended the parkway and necessitated the amendment.

Chair Clinton opened the public testimony portion of the hearing. No public testimony was provided.

Commissioner Winters asked about where District 6 overlaps with other Sign Districts. Barry mentioned that Sign District 6 overlaps with other sign districts, but it applies on top of the underlying districts. Residential properties along the parkway are not impacted by this overlay, as they cannot have the types of signs regulated by Sign District 6.

Chair Clinton closed the public hearing at 7:20 PM and the Commissioners deliberated.

Commissioner Nelson moved to recommend that the City Council approve the legislative amendments to Bend Code Chapter 9.50 Signs to update the boundary of Sign District 6, as presented in Exhibit A, with the findings as recommended by city staff in Exhibit B. Winters seconded the motion. The Commissioners passed the motion unanimously.

The text amendment is planning on going to City Council for a first reading and public hearing on November 6th, with a second reading on November 20th. Chair Clinton volunteer to bring it City Council.

5. APPROVAL OF MINUTES:

The Planning Commission approved the [June 24, 2024 Draft Minutes](#) and the [September 09, 2024 Draft Minutes](#).

6. COMMUNICATIONS:

6.1. Reports From Planning Commissioners

There were no reports from Planning Commissioners.

6.2. Report From Planning Manager

Renee Brooke, Planning Manager, provided updates on the upcoming meeting on October 28th, which will include two public hearings for items discussed in today's work session. She mentioned there will be two vacancies on the Planning Commission next year, with applications from candidates due by October 29th.

Commissioner Winters asked about the rules regarding the composition of the Planning Commission, specifically the number of members from certain industries. With Commissioner Payne leaving, it was clarified that his position, which was in the development industry, would open up for someone in a similar role, such as a contractor or developer.

6.3. Report From Community and Economic Development Director

Colin Stephens, CEDD Director, had nothing to report.

6.4. Report From City Attorney

Ian Leitheiser, Assistant City Attorney, provided an update on the challenge to the city's tree preservation code currently before the Land Use Board of Appeals (LUBA). The record of the case was settled amicably and without significant

disputes. The defense will be a concentrated effort over the next few weeks, after which LUBA will review the case and make a decision. The city's approach to the defense is straightforward and focused on upholding the council's decision.

The meeting was adjourned at 7:28 p.m.

Minutes submitted by Maggie St. Onge