

# Draft Minutes

Bend Planning Commission

Monday, December 9, 2024, 5:30 P.M. Regular Meeting



COMMUNITY  
DEVELOPMENT

The hybrid meeting started at 5:31 P.M., in-person and online.

The public was invited to watch online at: [www.bendoregon.gov/planningcommission](http://www.bendoregon.gov/planningcommission)

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## 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 Chair Margo Clinton.

**Staff Present:** Ian Leitheiser, Assistant City Attorney; Colin Stephens, CEDD Director; Renee Brooke, Planning Manager; Aaron Henson, Senior Planner

## 2. 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.

No public comment was given.

## 3. QUASI-JUDICIAL PUBLIC HEARINGS

**PLDR20240499:** Waterway Overlay Zone application to add 1,268 square feet and convert a 1-story single-unit dwelling into a 2-story duplex in the Residential Standard Density (RS) Zone at 748 NW Harmon Boulevard.

**Senior Planner, Aaron Henson - [ahenson@bendoregon.gov](mailto:ahenson@bendoregon.gov)**

Vice Chair Scott Winters convened the hearing at 5:32 p.m. 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. There were none.

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

Senior Planner Aaron Henson gave his [presentation](#) for PLDR2024099. He provided information of the location and background on the Waterway Overlay Zone, riparian and flood zones. The project is within 100 feet of the ordinary high water mark so design review applies but none of the project is in the flood plain or riparian zone. This section of river has a 40-foot setback from the ordinary high water mark and there is an existing deck extending slightly into this setback. Planner Henson showed the 100-foot design review boundary from the ordinary highwater mark and noted that the structure is mostly within this boundary, and the proposed project is significant enough to be subject to this review process. Mr. Henson showed the proposed architecture and colors facing the river, then discussed three proposed conditions of approval to address issues at the building phase. Mr. Henson stated that no comments were received from the public or outside agencies.

Commissioner Payne asked if the existing footprint was just going up?

Mr. Henson responded that essentially yes, but it will also extend a bit in some spots facing the river. The interior space is being remodeled. The expansion is in the area of existing decking with a small increase in new decks, and Mr. Henson described the changes proposed to create the new duplex.

Vice Chair Scott Winters opened the public testimony portion of the hearing. No testimony was provided. Then he asked if there was an applicant presentation.

Ryan Freitas stated he was the manager for the project but that the Jeff Warwick (applicant) and the architect were online.

The applicant Jeff Warwick attempted to speak remotely, but the Zoom audio was unclear. The transcript of his testimony was, "No comment and thank you for your time."

Vice Chair Winters closed the public testimony portion of the hearing at 5:47 p.m. and the Commissioners deliberated.

Commissioner Jeff Payne commented that it seemed fine to him.

Commissioner Suzanne Johannsen stated that the project is within the character of the area which is redeveloping and houses are going up.

Commissioner Bob Gressens agreed that it seems to meet all the guidelines and be compatible with the surrounding area.

Commissioner Nathan Nelson stated he had nothing to add.

Commissioner Jeff Payne made a motion to approve the proposed Waterway Overlay Zone application to add 1,268 square feet and convert a 1-story single-unit dwelling into a 2-story duplex at 748 NW Harmon Boulevard, with the findings and conditions recommended by staff. Commissioner Nelson seconded the motion. The motion passed unanimously.

#### 4. QUASI-JUDICIAL PUBLIC HEARINGS

**PLDR20240213:** Waterway Overlay Zone application for a second single-unit dwelling on a 1.14-acre property located in the Residential Low Density (RL) zone at 659 NW Silver Buckle.

**Senior Planner, Aaron Henson - [ahenson@bendoregon.gov](mailto:ahenson@bendoregon.gov)**

Colin Stephens, CEDD Director, stated that he would go over some procedural steps. A letter was submitted into the record on the day of the Planning Commission Hearing by an attorney representing neighbors in opposition to this development. Neither the owner nor City staff have had time to analyze and prepare a response to issues that were raised. Director Stephens stated he spoke with the applicant prior to the meeting, and they would like to continue the hearing so that all can have an opportunity to be prepared to have a public hearing.

Director Stephens explained the applicable Bend Development Code procedures for continuances at a hearing. If a request for a continuance is made less than 7 days before the hearing, the Commission must open the hearing, take testimony, close the hearing and then continue it to a date certain. At the end, the applicant will be asked to confirm that they're going to toll the 120-day review period to January 27, 2025. Mr. Stephens stated that staff would not give their presentation but that anyone who wishes to be heard tonight can speak. The Commission will not make a decision this evening.,

Vice Chair Scott Winters opened the hearing at 5:53 p.m.

Most people who submitted requests to provide comments at the hearing chose to wait until January 27th to provide their testimony.

Gabrielle Yuro spoke online, but could not be heard in the Chambers due to technical issues.

Elaine Kitigawa said they would defer their testimony until January 27th and urged the Commissioners to visit the site.

Stu McDonald said they would defer their testimony, but had a question on procedure on continuances as this is the third time the project will be continued.

Senior Planner Aaron Henson explained that State law requires the City to issue a final local decision within 120 days of when an application is deemed complete. But the applicant has requested continuances, and the 120-day clock can be extended by a maximum of 245 days, for 365 days total.

Assistant City Attorney Ian Leitheiser explained that additional information was provided today from someone opposing the application, and the Planning Commissioners are going to want to know about and understand what the issues are. He explained the need for the information to be analyzed to answer questions

and determine whether the application can be approved, which is why it is being continued to January 27th.

CEDD Director Stephens stated that the Commission could make a decision on January 27th, or the record could be left open and a possible decision could be made at a meeting in February.

Planner Henson added that there is also an appeal period, and the Planning Commission's decision may be appealed to the Land Use Board of Appeals.

Chris Koback stated that he is the author of the letter mentioned earlier. He wanted to make sure that by getting the extension that a mandamus situation is not unwittingly created, and also deferred his comments to the next meeting.

Commissioner Johannsen asked if the application had been deemed complete and where we are in the 120 days.

Planner Henson responded that the project had been deemed complete but he did not know exact number of days. He further stated if the applicant agrees to put the 120-day clock on hold again tonight, the City should be able to meet the requirement to issue a decision on the timetable required under State law.

Commissioner Johannsen asked for further clarification on the timelines.

Planner Henson stated that there have been two extensions for 77 days total. The maximum they can extend is 245 days.

CEDD Director Stephens stated that staff will ask the applicant to toll the 120-day clock between tonight and January 27th. It will be the same number of days left as there are tonight.

Commissioner Johannsen asked if the Commission can still take written testimony and will be able to review the project in City View before January 27th.

CEDD Director Stephens affirmed this.

Project Applicant Ernest Jubela stated that he would like to put his application on hold until January 27, 2025.

Commissioner Johannsen made a motion to continue the public hearing to January 27, 2025. Commissioner Nelson seconded the motion. The motion was passed unanimously.

## **5. APPROVAL OF MINUTES:**

The Planning Commission approved the [October 14, 2024 Draft Minutes](#).

## **6. COMMUNICATIONS:**

## **6.1. Reports From Planning Commissioners**

Commissioner Winters represented the Commission at the December 4<sup>th</sup> City Council meeting on the package of code amendments to implement several state bills and stated that the name change for SW Innovation Way was approved.

Director Stephens noted that the appeals portion of the Development Code was also amended by Council on December 4th. After January 3rd, Planning Commission decisions are no longer appealable to the City Council. The Council also considered amendments to the Convenience Commercial and Neighborhood Commercial Code changes and split the two issues apart. They approved the limitation on auto-dependent uses in the CC zone and tabled the limitations on Short-Term Rentals in the Neighborhood Commercial zones until 2025 after taking public testimony, and did not pass the latter.

## **6.2. Report From Planning Manager**

Renee Brooke, Planning Manager, provided several updates. Tokens of appreciation were given to the Commissioners and to Commissioner Payne commemorating the end of his term on the Planning Commission. Two new Commissioners John LaMotte and Erin Ludden are coming to the next meeting and Margo Clinton was reappointed. The next scheduled meeting on December 23rd is to be canceled. The next meeting is expected to be on January 13th. There are items lined up as well as Ian's annual training.

Reminder of the City Council and Advisory Board Summit January on 14th. They will discuss Council goals and priorities for the next 2 years. Staff would like to receive collective input from the Commission for Council goals and priorities and have one Commissioner be the representative voice for the Commission.

Commissioner Nelson listed two accomplishments – passing the Housing Development Code package and the tree code.

Commissioner Johanssen added that the tree code was the Commission's request to the Council.

Commissioner Payne added working on the Cottage code was important, it took a lot of work and makes a lot of sense for infill areas.

Vice Chair Winters stated that these development code updates have been big packages with an intense process like House Bill 2001 and the shelter code where a lot of things are shifting in big ways. The Commission has made small changes to improve them.

Planning Manager Brooke cited two street name changes and a lot of Waterway Overlay Zone applications, including Miller's Landing, heard by the Commission.

Planning Manager Brooke prompted the Commission to give suggestions/recommendations to City Council for the next two years.

Commissioner Johanssen stated that given how fast we are growing, another larger UGB expansion should be considered.

Vice Chair Winters suggested focusing on areas to best achieve goals and consider overlay zones or other tools to implement Climate Friendly Area-related concepts.

Commissioner Johanssen suggested pedestrian access, a pedestrian master plan and a sidewalk inventory for a Council goal for improved connectivity and safety.

Commissioner Nelson recommended continued focus on modifying codes and processes to incentivize denser housing development and alternative transportation options. A second goal is getting public involvement earlier in the process.

Commissioner Gressens recommended plans for higher density housing in the downtown core area and revitalization to promote housing without sprawl.

Commissioner Winters suggested making sure our firefighting capabilities are not hindering any type of development – single point stairs, height, building types and materials being examples. Feels there is missing infill type between duplexes, triplexes and big apartments.

Commissioner Payne suggested exploratory sessions with the Planning Commission and key developers and small developers.

Planning Manager Brooke responded that there are other City advisory committees that fill this role such as Affordable Housing Advisory Committee.

She further summarized that if the Commission's input becomes a Council goal, it guides our work priorities over the next two years. The tree preservation code and the changes to the CC zone that the Commission saw recently were both Council goals.

Commissioner Winters stated last year he was given very little time to speak to Council about goal priorities.

Planning Manager Brooke stated that this Summit is in response to that.

Commissioner Johannsen suggested having a work session with City Council after the goal setting to talk about goals and what they want the Commission to be doing.

Commissioner Winters would like to see allowing more commercial uses in residential zones.

Commissioner Johannsen would like to see more local control on speed limits rather than ODOT. City Attorney Leitheiser says there is a process and more control.

Planning Manager Brooke thanked the Commission and will distill these down and find out about the amount of time allowed to present at the summit.

**6.3. Report From Community and Economic Development Director**

Colin Stephens, CEDD Director, already contributed, nothing more.

**6.4. Report From City Attorney**

Ian Leitheiser, Assistant City Attorney, also already contributed.

The meeting was adjourned at 7:00 p.m.

Minutes submitted Cathleen Carr