

Approved Minutes

Bend Planning Commission

Monday, February 10, 2025, 5:30 P.M. Regular Meeting



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

1. ROLL CALL:

- Margo Clinton – Chair
- Scott Winters – Vice Chair
- Bob Gressens
- Suzanne Johannsen
- John LaMotte
- Erin Ludden
- Nathan Nelson

Commissioners Present: All Commissioners were present except Chair Margo Clinton

2. **Staff Present:** Ian Leitheiser, City Attorney; Colin Stephens, CEDD Director; Renee Brooke, Planning Manager; Alexa Repko, Associate Planner

3. 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.

4. QUASI-JUDICIAL PUBLIC HEARING:

- 4.1. [PLWOZ20240709](#): Waterway Overlay Zone application to construct a new single-unit detached dwelling in the Residential Standard Density (RS) Zone at 2049 NW Lakeside Place.

Staff: Alexa Repko, Associate Planner, arepko@bendoregon.gov

Vice Chair Winters convened the hearing at 5:33 PM and asked the Commission if anyone had pre-hearing contacts, bias, prejudice, or personal interest. The Vice Chair then asked meeting attendees if there was any challenge with respect to Commissioners' bias, prejudgment, or personal interest.

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

Associate Planner Alexa Repko gave her [presentation](#). The proposal involves constructing a single unit detached dwelling on the east side of the Deschutes River within the Waterway Overlay Zone (WOZ). The site plan includes the dwelling, garage, covered patio, and a 100-foot setback from the ordinary high watermark. The project complies with Bend Development Code chapters 2.1, 2.7 and 3.5, meeting all required setbacks, lot coverage, building height, lighting, and drainage standards. The proposed covered patio encroaches into the 100-foot setback by 5 feet, which the Planning Commission can approve with a lesser setback of 95 feet per BDC 2.7.650 E. 1. a. The design is compatible with the area and meets all Deschutes River Corridor Design Review Criteria. Staff recommended approval with four standard conditions, omitting a condition regarding paint colors, which has been satisfied with the proposed application.

Commissioner Johannsen raised a concern about eaves encroaching into the 5-foot side yard setback, particularly regarding snow sloughing off the roof and potentially impacting the fence. Staff clarified that eaves are allowed to encroach into side setbacks by up to 2 feet, which still provides 6 feet of separation between properties, and that on-site drainage standards are met.

Commissioner Ludden inquired about the justification for the proposed 5-foot encroachment into the 100-foot setback. Repko explained that the 100-foot setback is specific to this stretch of the river (The east bank from the southern property line of Magill's Landing Subdivision to the northern property line of the Bend Riverside Motel). In most other areas of the river, the setback is typically 40 feet, making the 5-foot encroachment reasonable, especially since it only affects the covered patio. Repko also explained that the submitted site plan shows a blue line connecting the roof lines of the two neighboring homes along the east side of the river, which are also set back an average of 95 feet from the Ordinary High Water Mark. Planning Manager Renee Brooke added that the commission has the authority to approve setbacks up to 40 feet from the ordinary high watermark, considering factors like architectural features, screening, and proximity to public access. The 100-foot setback primarily addresses visual aspects and compatibility with the river, rather than floodplain concerns, as the property is outside the floodplain and riparian corridor.

John Jordan presented on behalf of the applicant team. He highlighted that the lot is build-ready with existing utilities, sidewalks, and a driveway apron, and no mature trees or vegetation need removal. The elevated site minimizes impact on the Deschutes River. A survey revealed no wetlands exist on site and that the encroachment into the setback from the ordinary high watermark is due to a unique peninsula and cove feature in the river. The design requires a slight encroachment into the 100-foot setback to optimize river views, and the setback aligns with neighboring homes.

Vice Chair Winters opened the public testimony portion of the hearing.

Public testimony was provided by Douglas Biolchini, a neighboring property owner who indicated he opposed the application. He brought up concerns about the impact on their view and property value if the new development raises the ground level and encroaches into the setback. He also mentioned the removal of mature trees by the previous owner, which changed the ecosystem and removed a windbreak.

The property owner, Chad Trott, acknowledged Douglas' concerns and assured the commission that they are respecting sight lines and building respectfully.

The applicant was offered an opportunity to provide rebuttal to the public testimony. Jordan clarified that they are not responsible for previous tree removal and must elevate the site to manage stormwater per building code.

Commissioner Ludden clarified that the covered patio encroachment is minimal and does not significantly block neighboring views.

Commissioner Nelson wanted clarification on the assertion that there is river access on the property. City Attorney Ian Leitheiser noted that while there is legal access to the river via an easement north of the property, there may not be practical access on this site due to the steep terrain.

Vice Chair Winters closed the public hearing at 6:12 PM and the Commissioners deliberated.

Commissioner LaMotte noted that the planning department had thoroughly reviewed the application and determined it met all requirements, with the only question being the 5-foot encroachment into the 100-foot setback. He expressed no issue with the encroachment, considering it reasonable given the craggy river edge and the inevitability of blocked views. He inquired about any historical precedents for similar encroachments in past projects.

Planning Manager Brooke responded that recent Waterway Overlay Zone applications have typically been approved with setbacks ranging from 40 to 50 feet from the ordinary high watermark. Required setbacks depend on what Waterway Overlay Sub-Zone a property is within and its location on the river. Required setbacks vary from 30-feet to 100-feet.

Vice Chair Winters discussed the precedent-setting nature of the 5-foot encroachment into the 100-foot setback.

The Commissioners expressed support for the application, considering it meets the necessary requirements and maintains uniformity with neighboring properties, with no significant impact on the river or public access.

Commissioner Johannsen made a motion to approve the Waterway Overlay Zone Application PLWOZ20240709 for a new single unit detached dwelling at

2049 NW Lakeside Place, based on the findings provided by staff and the recommended conditions, minus condition number 5, which has already been met. The motion was seconded by Commissioner LaMotte. The motion passed unanimously.

5. APPROVAL OF MINUTES:

The Planning Commission approved the December 9, 2024 Minutes.

6. COMMUNICATIONS:

6.1. Reports From Planning Commissioners

Commissioner Nelson apologized for missing the last meeting due to being ill and thanked everyone for understanding.

6.2. Report From Planning Manager

Renee Brooke, Planning Manager, reported that the next meeting on February 24th is canceled due to no agenda items, but March and April will be busy with multiple items on each agenda. Additionally, the City Council will hold a public hearing for the Ponderosa Master Plan and Comprehensive Plan Text Amendment on February 19th.

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, had nothing to report.

The meeting was adjourned at 6:21 p.m.

Minutes submitted by Maggie St. Onge