

ORDINANCE NO. NS-2465

AN ORDINANCE AMENDING THE BEND COMPREHENSIVE PLAN TABLE 3-1, INVENTORY OF HISTORIC SITES IN THE BEND URBAN AREA, TO RELOCATE THE HISTORIC RESOURCE IDENTIFIED AS THE NELLS AND LILLIAN ANDERSEN HOUSE FROM 63160 TO 63291 NELLS ANDERSON ROAD.

Findings:

- A. On October 20, 2022, the property owners of 63160 Nels Anderson Road, Tim and Julie Larocco, submitted an application to relocate the historic resource identified as the Nels and Lillian Andersen House from 63160 to 63291 Nels Anderson Road and for a Comprehensive Plan Text Amendment to update Table 3-1 of the Bend Comprehensive Plan to reflect the new location and address for the Nels and Lillian Andersen House. The application (PLHIS20220769) was deemed complete on November 1, 2022.
- B. On November 15, 2022, the Bend Landmarks Commission opened a public hearing and accepted testimony on the application to relocate the historic resource identified as the Nels and Lillian Andersen House from 63160 to 63291 Nels Anderson Road and to have Table 3-1 of the Bend Comprehensive Plan be changed to reflect the new location and address for the Nels and Lillian Andersen House. The Commission voted to recommend that the City Council approve the amendment request.
- C. Public notice for the City Council hearing was provided in accordance with the requirements of BDC 4.1.423 to 4.1.425. On January 12, 2023, notice was mailed by the Planning Division to all property owners of record and to the addresses based on the City's current addressing record, for properties within 500 feet of the subject site, as well as the representative for the Boyd Acres Neighborhood Association. On January 12, 2023, a Notice of Proposed Development sign was posted by the applicant along the property frontage, visible from the abutting right of way.
- D. The Bend City Council held a public hearing on February 1, 2023, to consider the Landmarks Commission recommendation.
- D. The City Council adopts the findings contained in the Landmarks Commission's recommendation which demonstrates that the requested Bend Comprehensive Plan amendment approved by this Ordinance are consistent with all applicable criteria, including those set forth in Bend Development Code Chapter 4.6.200.B.

THE CITY OF BEND ORDAINS AS FOLLOWS:

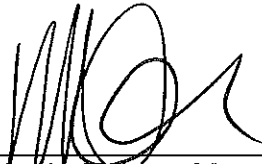
- Section 1. Chapter 3 of the Bend Comprehensive Plan is amended as shown in Exhibit A.
- Section 2. In addition to the findings set forth above, the City Council adopts and incorporates the findings of the Landmarks Commission in Exhibit B.
- Section 3. If any provision, section, phrase or word of this 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: February 1, 2023.

Second reading and adoption by roll call vote: February 15, 2023.

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

NO: Councilor Ariel Méndez



Melanie Kebler, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:



Mary A. Winters, City Attorney

EXHIBIT A

Amendment to Bend Comprehensive Plan Table 3-1 Inventory of Historic Sites in the Bend Urban Area.

Language that is proposed to be inserted is highlighted and underlined. Text to be removed is highlighted and ~~struck through~~.

Table 3-1
Inventory of Historic Sites in the Bend Urban Area

HISTORIC STRUCTURES

H. E. Allen House
Bend Athletic Club Gymnasium*
Bend Railroad Depot
Bend Water & Light Co. Powerhouse/dam
Bend Woolen Mill
Charles Boyd Homestead*
Cozy Hotel
Deschutes County Library Building*
Delaware Grocery
Downing Hotel
Trinity Episcopal Church*
First Presbyterian Church
A.L. French Home
Hoover's Universal Garage
Steidl and Tweet irrigation dam
Kenwood School
Keyes House
Liberty Theatre
Lucas House
Thomas McCann House*
Mountain View (Mayne) Hospital
August Nelson Building
Niswonger House
O'Donnel Building
Old Clinic
Old Bend High School Building*
O'Kane Building*
George Palmer Putnam House
Pierson Blacksmith Shop
A. J. Tucker Blacksmith Shop
James E. Reed House
Reid School*
Evan A. Sather Home*

LOCATION

875 Brooks Street
520 NW Wall Street
1160 NE Division Street
Foot of Vermont Street
1854 NE Division Street
20410 Bend River Mall Drive
327 NW Greenwood Avenue
507 NW Wall Street
845 NW Delaware Avenue
1033 NW Bond Street
469 NW Wall Street
157 NW Franklin Avenue
429 NW Georgia Avenue
124-128 NW Greenwood Avenue
Division St. near Yale Avenue
701 NW Newport Avenue
912 NW Riverside Boulevard
849-851 NW Wall Street
42 NW Hawthorne Avenue
440 NW Congress Street
515 NW Kansas Avenue
838 NW Bond Street
44 NW Irving Avenue
921-933 NW Wall Street
731 NW Franklin Avenue
520 NW Wall Street
115 NW Oregon Avenue
606 NW Congress Street
211 NW Greenwood Avenue
200-202 NW Greenwood Avenue
45 NW Greeley Avenue
129 NW Idaho Avenue
7 NW Tumalo Avenue

Table 3-1
Inventory of Historic Sites in the Bend Urban Area

HISTORIC STRUCTURES

Sawyer House
St. Francis Catholic Church
Shevlin-Hixon Executive House
N.P. Smith Pioneer Hardware Building*
Spheir Building
Stover House*
Old U.S. Post Office*
John I. West Building
Wright Hotel*
Nels and Lillian Andersen House

LOCATION

434 Drake Road
494 NW Lava Road
545 NW Congress Street
935-937 NW Wall Street
901 NW Bond Street
1 Rocklyn Road
777 NW Wall Street
130 NW Greenwood Avenue
215 NW Greenwood Avenue
63160 63291 Nels Anderson Road

SITES DESIGNATED WITH PLAQUES

1813 Rock
Bend School Landmark
A.M. Drake Homesite
Foley Landmark
Johns Landmark
Oregon Trunk Freight Warehouse Site
Pilot Butte Inn Site
Shevlin-Hixon Mill site
Central Oregon Pioneers' Landmark
Weist Homesite Landmark
Brooks Scanlon Craneshed Site

LOCATION

129 NW Idaho Street
Drake Park
Drake Park
Pilot Butte State Park
Drake Park
Railroad tracks & NW Division
1133 NW Wall Street
Shevlin Center near dam
Pioneer Park
1315 NE Third Street
721 SW Industrial Way

* Sites on the National Register of Historic Places

The items in Table 3-1 represent the city's official list of historic places compiled by the city and county, and approved by the Oregon Land Conservation and Development Commission. Any land use action or building modification to the historic structures on the approved list must be reviewed and approved by the joint city/county Historical Landmarks Commission, a citizens committee established in 1980.

Additional information and evaluation of historic sites is contained in resource material available at the city and county planning departments, the Des Chutes Historical Center, and in rules adopted by the state Land Conservation and Development Commission.

**BEND LANDMARKS COMMISSION
RECOMMENDATION TO THE CITY COUNCIL**



**COMMUNITY
DEVELOPMENT**

PROJECT NUMBER: PLHIS20220769

DATE SUBMITTED: October 20, 2022

**LANDMARK HEARING
DATE:** November 15, 2022

**APPLICANT/
OWNER:** Tim and Julie Larocco
P.O. Box 6087
Bend OR 97708

CONTACT: Michael Peterkin
Peterkin and Burgess
222 NW Irving Avenue
Bend, OR 97703

LOCATION: The subject site is at 63160 and 63291 Nels Anderson Road, Bend OR 97701; Deschutes County Assessor's Map 17-12-21B0, Tax Lot 01301 and Map 17-12- 16C0, Tax Map 00126.

REQUEST: The applicants request approval to relocate the historic resource identified as the Nels Andersen House from 63160 to 63291 Nels Anderson Road and that Table 3-1 of the Bend Comprehensive Plan be changed to reflect the new location and address for the Nels and Lillian Andersen House.

HISTORIC STATUS: Historic Structure listed locally in Table 3-1 of the Bend Comprehensive Plan.

ZONE: IL – Light Industrial

STAFF REVIEWER: Heidi Kennedy, Senior Planner, 541-617-4524, hkennedy@ci.bend.or.us

I. APPLICABLE REVIEW CRITERIA AND PROCEDURES

The Bend Code Chapter 10.20 Historic Preservation Code
Bend Comprehensive Plan, Chapter 3, Community Connections
Chapter 4.1; Development Review and Procedures

II. Background and Project Description

Application: The applicants request approval to relocate the historic resource identified as the Nels Andersen House from 63160 to 63291 Nels Anderson Road and that Table 3-1 of the Bend Comprehensive Plan be changed to reflect the new location and address for the Nels Andersen House.

Specifically, the applicants request that Table 3-1 of the Bend Comprehensive Plan be revised to change the location of the Nels and Lillian Andersen House. The house must be relocated due to Oregon Department of Transportation (ODOT) planned condemnation of property that contains the historic structure, presently located at 63160 Nels Anderson Road, for road right-of-way use involving the Bend Parkway relocation project.

Description of Property: The subject property is approximately 4.2 acres in size and abuts Nels Anderson Road along a portion of the west property line.

A copy of the relevant part of the Bend Area General Plan Table 3.1 Inventory of Historic Sites in the Bend Urban Area which identifies the Nels and Lillian Andersen House as a locally designated historic structure is provided below.

**Table 3-1
Inventory of Historic Sites in the Bend Urban
Area**

| HISTORIC STRUCTURES | LOCATION |
|---------------------------------------|-----------------------------|
| A. J. Tucker Blacksmith Shop | 200-202 NW Greenwood Avenue |
| James E. Reed House | 45 NW Greeley Avenue |
| Reid School★ | 129 NW Idaho Avenue |
| Evan A. Sather Home★ | 7 NW Tumalo Avenue |
| Sawyer House | 434 Drake Road |
| St. Francis Catholic Church | 494 NW Lava Road |
| Shevlin-Hixon Executive House | 545 NW Congress Street |
| N.P. Smith Pioneer Hardware Building★ | 935-937 NW Wall Street |
| Spheir Building | 901 NW Bond Street |
| Stover House★ | 1 Rocklyn Road |
| Old U.S. Post Office★ | 777 NW Wall Street |
| John I. West Building | 130 NW Greenwood Avenue |
| Wright Hotel★ | 215 NW Greenwood Avenue |
| Nels and Lillian Andersen House | 63160 Nels Anderson Road |

An aerial photograph of the subject property and surrounding area and photographs of the building are located below. Many of the buildings located west of the railroad tracks have recently been demolished to make way for the construction of the extension of the Bend Parkway relocation project.



APPLICATION AND BURDEN OF PROOF: The applicant has submitted the following documents in support of this project:

1. Historic Landmarks Commission Review Application.
2. Proposed demolition narrative including photographs of detached building.
3. Copy of notice letter sent to the Historical Museum and the State.
4. Copy of Deed.
5. Notice of pending ODOT action regarding the building.
6. ODOT signed Historic Inventory Report.

I. HISTORIC PRESERVATION CODE

E. Applications shall be reviewed according to the processes described below:

3. The following applications are reviewed by the Director via the Type III process:

c. Moving or partial/complete demolition of a historic structure.

FINDING: The applicant requests approval to relocate the historic resource identified as the Nels Andersen House from 63160 to 63291 Nels Anderson Road and that Table 3-1 of the Bend Comprehensive Plan be changed to reflect the new location and address for the Nels Andersen House.

Specifically, the applicant requests that Table 3-1 of the Bend Comprehensive Plan be revised to change the location of the Nels and Lillian Andersen House. The house must be relocated due to Oregon Department of Transportation

(ODOT) planned condemnation of the property that contains the historic structure, presently located at 63160 Nels Anderson Road, for road right-of-way use for the Bend Parkway relocation project.

The applicant has applied for a Type IV application which will require review by the Landmarks Commission for this request. The Landmarks Commission shall make a recommendation to the City Council regarding this application request. Section 10.20.080 of the Historic Preservation Code is reviewed below.

Chapter 10.20 Historic Preservation Code

10.20.080 Demolition or Moving of Historic Structures.

The following regulations apply to the demolition and moving of contributing and noncontributing historic resources:

A. The owner shall apply for approval to demolish or move a historic resource to the City of Bend. A pre-application meeting with the City is required.

FINDING: The applicants and ODOT staff have met with staff to discuss the process of moving the structure in order to accommodate the Parkway realignment project. An Historic Resource Relocation application was submitted on October 20, 2022 and the application fee was paid on October 25, 2022. This requirement has been completed.

B. At least 30 days prior to submitting an application to move or demolish a designated historic resource, the applicant shall provide mailed notice of the intended demolition or removal to the Deschutes County Historical Society and State Historical Preservation Office. The letters shall include the historic name of the resource, the date of construction or significant event associated with the property, a statement of its cultural or historic significance, and the reason for the proposed removal or demolition. Copies of the two mailed notices shall be submitted by the applicant with the demolition or removal application.

FINDING: This requirement applies to the request to move a designated historic resource. The applicants request approval to relocate the historic resource identified as the Nels Andersen House from 63160 to 63291 Nels Anderson Road and that Table 3-1 of the Bend Comprehensive Plan be changed to reflect the new location and address for the Nels Andersen House. The house must be relocated due to ODOT's planned condemnation of the site of the historic structure, presently located at 63160 Nels Anderson Road, for use as part of the road right-of-way for the Bend Parkway relocation project.

The applicant has submitted copies of the mailed notice dated October 17, 2022 sent to both the Deschutes Historical Society and the State Historic Preservation Office. The notice was mailed less than 30 days prior to submitting an application to relocate or move the historic structure. The timeline for this project has been extremely tight and expedited in order to accommodate the Oregon Department of Transportation Bend Parkway realignment project.

C. As part of the pre-application meeting, staff will provide the applicant information regarding financial incentives for historic preservation and adaptive reuse projects including but not limited to the Oregon Special Assessment Program, donations of facade easements, the Federal Investment Tax Credit, the “Preserving Oregon” grants, the “Preserving America’s Treasures” grants and special provisions in the International Building Code and International Existing Building Code available for designated historic resources. The applicant shall acknowledge in writing that he/she is aware of the above incentives.

FINDING: The applicants and ODOT employees have met with staff to discuss the process of relocation of the structure to accommodate the Bend Parkway realignment project. The subject property was acquired by Tim and Julie Larocco (“Larocco”) in 1999. In 2008, the Deschutes County Landmarks Commission nominated the Nels and Lillian Andersen house (“House”) for inclusion in the City of Bend Inventory of Historic Sites. On July 15, 2009, the Bend City Council added the House to the Bend Urban Area General Plan Inventory of Historic Sites. In an effort to relocate this structure, the applicants have demonstrated the desire to restore and retain the historic resource.

D. At least 30 days before submitting an application for demolition or removal of a historic structure, the applicant shall post a notice on the property notifying the public that the applicant is considering applying to move or demolish a historic structure. The notice shall also invite purchasers and tenants to make written offers to purchase and/or rent the structure. The notice posted on the property shall be placed at a conspicuous location easily visible from the adjacent street. A copy of the notices shall be submitted with the removal or demolition application.

FINDING: The State of Oregon filed a legal action to condemn the site of the House on or about June 10, 2022, a fact that can be confirmed by a review of the recorded Notice of Pendency of an Action (Deschutes County Doc. 2022-28566). The applicants propose to move the structure in order to save it from demolition by the Oregon Department of Transportation (“ODOT”). The applicants have reached an agreement with the State of Oregon to remove the House from the subject property, but the time allowed for removal is insufficient to enable the applicant to post a notice on the property notifying the public prior to application submittal for at least 30 days. Staff has sent surrounding property owner notice advertising the Landmarks Commission public hearing and the applicant has

been posted a public hearing notice on both properties related to this application request.

E. An application to move or demolish a historic resource shall contain the following information, if available:

1. The first list of submittal requirements applies to all historic resources, both contributing and noncontributing resources.

a. Proof of ownership of the property.

FINDING: The property was acquired by the applicants in two transactions in 1999 and 2001. Copies of vesting deeds, Documents 1999-7283 and 2001-50887 are being provided to the City of Bend and can be viewed on the website of the Deschutes County Clerk.

b. Whether or not the structure could be adaptively reused.

FINDING: The structure will be relocated, and its current use continued.

c. Records of how the structure has been used over time.

FINDING: The structure has been used primarily as an office for Instant Landscaping Co.

d. Date property was acquired and status of the property under this chapter at the time of acquisition, e.g., whether the property had been designated as a historic resource.

FINDING: The property was acquired in 1999 and 2001. The historic building was listed as a historic resource by the City's Comprehensive Plan as a result of the applicant's 2008 application that resulted in the inclusion of the building on the historic sites inventory of the Bend Area Comprehensive plan.

e. Statement of the necessity of the action requested.

FINDING: The State of Oregon's condemnation of the subject property for roadway purposes and the City-approved alignment for an extension of the Bend Parkway where the house is located create the necessity to move the building in order to preserve it.

f. Whether or not there is a viable economic or public use for the structure as it exists.

FINDING: There is no viable economic use for the structure in the current location given approved plans to re-align the Bend Parkway in the location of the structure where it currently exists.

g. Alternatives to the requested action that have been studied.

FINDING: The only alternative to demolition is to move the structure on the property given the State's condemnation action to expand and extend the Bend Parkway across the subject property.

h. Records of the current owner's efforts to maintain and rehabilitate the structure in the past five years or since purchasing the structure, if ownership has been for a period of less than five years.

FINDING: The applicants have rehabilitated and maintained the structure over the years. Detailed records have not been provided because this requirement is related to determining whether it is appropriate to demolish a building rather than to preserve it by changing its location.

i. The information used in the original designation of the property or structure as a historic resource as filed in the Deschutes County Historical Landmarks Commission Historic Sites file or applicable National Register of Historic Places nomination.

FINDING: The original application was filed with the City of Bend in 2008. All the records of that application request are available through the City of Bend File PZ-08-0061. The records are currently in archives and not easily available electronically.

j. Evidence of structural maintenance including maintenance records for the past five years or since the current owner purchased the building, and whether the current owner has neglected the structure thereby deliberately leading to demolition by neglect.

FINDING: As mentioned above, the applicants are not seeking to demolish the building. This information, therefore, is not applicable to this application request to relocate the building.

k. Records of applications for any available historic preservation or energy efficiency grants or tax incentives.

FINDING: According to the submitted narrative, the applicants have not applied for any energy efficiency grants or tax incentives.

l. Whether or not the structure poses a threat to the public health or is a safety or fire hazard and whether or not there is a technically feasible means of alleviating the public health, safety, or fire hazard.

FINDING: The existing structure is currently being used for the Instant Landscaping Co. office and does not pose a threat to the public health and is not a safety or fire hazard.

m. Current photographs of the structure and its setting showing all exterior sides of the structure.

FINDING: Photographs of the structure taken circa 2011 are provided with this application in the Section 106 Documentation Form, Oregon Inventory of Historic Properties prepared by the State of Oregon. The structure is in substantially the same condition today.

2. The following applies to contributing resources only:

a. Records of efforts to sell the property during the past 18 months to a party interested in preserving or adaptively reusing the structure.

b. Records of advertisements for tenants for the structure.

c. Evidence prepared by parties of comparable lease or rental rates for the structure.

d. Architectural plans and construction drawings of the historic structure.

e. Copies of all attempts to market the property, such as advertisements, notices, and news articles in magazines, newspapers, and the local historical society newsletter.

f. Evidence that the owner(s) are willing to consider in good faith, in the interest of preserving the structure, all reasonable offers to purchase, rent or lease the property and whether the owners have made a good faith effort to locate a tenant or a buyer for the property.

g. Reports of registered structural engineers, registered architects or historic preservation contractors with historic preservation experience about the feasibility of rehabilitation, restoration or an adaptive reuse project.

h. The importance of the historic structure to the identity of the neighborhood and the importance to the appearance of the built environment and architectural diversity and texture of Bend.

FINDING: None of the above information is relevant to the request presented by the applicant. The application request has been submitted due to the planned condemnation of the subject property by the State of Oregon. Therefore, this section not applicable.

F. The Landmarks Commission shall make a decision on whether a resource may be demolished or moved based on the following criteria:

1. The request is consistent with relevant State Administrative Rules and statutes; and

FINDING: The applicant is following the process prescribed by the City's acknowledge land use regulations to relocate the historic structure. As the City's Development Code and Comprehensive Plan have been acknowledged by the State to comply with relevant administrative rules and state statute, compliance with the City code and plan will assure compliance with State law.

2. The request is consistent with relevant General Plan policies; and

FINDING: The Bend Area Comprehensive Plan Chapter 3 includes the following related policies:

Historic sites

- 1. The city shall encourage the preservation, rehabilitation, and reuse of historic structures whenever practical.*
- 2. The city will continue to encourage identification and preservation of significant historical and cultural sites.*
- 3. The preservation of exterior facades shall be the emphasis of the city's and county's encouragement of historic preservation.*
- 4. The city and county will encourage public educational institutions to promote the importance of Bend's history and historic landmarks.*

Relocating the historic building will enable it to be preserved. Staff and the Landmarks Commission recommend the City Council find that this proposal is consistent with the relevant policies of the Bend Area Comprehensive Plan.

3. There is no viable economic alternative to demolition.

FINDING: The applicants are not seeking to demolition the structure.

G. The Commission may attach conditions to the decision regarding historic artifacts and/or regarding the future development of the location if other historic resources will be affected by the proposed development.

FINDING: As part of this relocation application approval, a building permit from the Building Safety Division will also be required.

Recommended Condition of Approval: Apply for and receive approval to relocate the building through the Building Safety Division prior to relocation of the structure to a new property. **(Condition #1)**

H. If the City approves the application for demolition, a building permit may not be issued until all appeals have been exhausted or waived.

FINDING: This is not relevant to the request to relocate the structure.

I. The Building Division shall notify the Landmark Commission staff of abatement of dangerous buildings involving historic structures. Landmark Commission staff may work with property owners to remedy the cause for the abatement notice. The Building Division shall entertain requests for extensions of time in processing such abatements to enable the property owner to remedy such dangerous conditions; provided, that the public safety is maintained.

FINDING: The building has not been officially designated a dangerous building by the City of Bend Building Safety Division.

J. The same procedures as stated in this section for demolition shall apply to moving a building or structure. The setting is an important component of the historical context. The site to which the building or structure is moved shall be as similar as is possible to the original setting.

FINDING: The applicants are intending to move the building. The proposed new site is a few properties from the existing site and is as similar and close to the original setting as is possible. The area has already been significantly impacted by the construction of highways, roadways and the development of the area with industrial uses.

K. When the Landmarks Commission approves the demolition of a historic resource inventoried in the Bend Area General Plan it shall make a recommendation to the City Council regarding whether or not the landmark or historical status should be removed from the General Plan. In making this recommendation the Commission shall consider the following factors among others: The historic resource was part of an ensemble designated as a historic landmark; or the site of the historic resource itself was designated as a significant feature of a historic landmark; or other buildings, structures, or objects on the property are historic resources.

FINDING: This section of the code does not apply because demolition is not proposed.

L. Notice of the demolition of a historic resource shall be given to the State after the resource is removed.

FINDING: This section of the code does not apply because demolition is not proposed.

M. If a designated historic resource is to be demolished, if it is practical and if funds are available, the Landmarks Commission shall keep a pictorial and graphic history of the historic building or site and obtain artifacts from the building or site which it deems worthy of preservation.

FINDING: This section of the code does not apply because demolition is not proposed.

LANDMARKS COMMISSION RECOMMENDATION TO CITY COUNCIL: The Landmarks Commission recommends the City Council approve the request to relocate the historic resource identified as the Nels and Lillian Andersen House from 63160 to 63291 Nels Anderson Road and that Table 3-1 of the Bend Comprehensive Plan be changed to reflect the new location and address for the Nels and Lillian Andersen House with the following conditions of approval:

1. Apply for and receive approval to relocate the building through the Building Safety Division prior to relocation of the structure to a new property.
2. In the event there is damage to the building during the moving process, reasonable repairs to the building shall be allowed.

Written by:


Heidi Kennedy AICP, Senior Planner