

**Planning Commission Work Session
at Bandon City Hall and via Zoom Meetings
with Live Streaming on Facebook
November 17, 2021**

COMMISSION:

- Paul Fisher, Chair
- Sally Jurkowski, Commissioner
- Ed Landucci, Vice Chair
- Gordon Norman, Commissioner
- Catherine Scobby, Commissioner
- Gerald Slothower, Commissioner
- Donald Starbuck Commissioner

STAFF:

- Dan Chandler, City Manager
- Shala Kudlac, City Attorney
- Dana Nichols, Planning Manager
- Megan Lawrence, City Planner
- Eric Montes, Planning Assistant

1.0 CALL TO ORDER

1.1 Roll Call

Fisher called the meeting to order at 10:03 a.m. Roll Call was taken as indicated above. Scobby joined the meeting using the Zoom virtual meeting application, as did City Manager Dan Chandler. All other members of the Commission and City Staff were present in the Council Chambers.

2.0 DISCUSSION

2.1 Work Session to Discuss Code Cleanup: Proposed Amendments to Titles 16 & 17

Nichols stated that the bulk of the Code Cleanup project involved bringing the Bandon Municipal Code (BMC) up to State standards, to ensure that the code was legal and enforceable, and to provide the community with a clear and objective process. Specifically, the State had required municipal codes to have clear and objective standards, with non-discretionary decision-making, when it came to housing. That meant Bandon would need to clarify any unclear or discretionary definitions, standards, or processes in its code. For example, the existing BMC contained definitions that were irrelevant, yet it left out definitions for a number of terms that were used in the code. Nichols believed those changes would benefit the public by making it easier to understand the City's development process.

Another aspect of the Code Cleanup effort was to modernize Bandon's code to align more closely with the State's organization structure, condensing dozens of pages into a more readable table format that Nichols thought would help the Commissioners with an upcoming Housing Code Update. By reviewing the uses and standards of each zone, she suggested the Commission would be in a better position to shape the future of housing development in Bandon.

Staff had used standard language from the DLCD (Department of Land Conservation and Development) Model Code for Small Cities as a basis for the recent Process Ordinance update, and Nichols said modifications of Model Code language had been fundamental to the Code Cleanup proposal as well.

Included in Staff's proposal was a new "Special Use Standards" chapter to create provisions for uses scattered throughout the existing code that required additional standards to be established. For example, the Commission had recently approved a Conditional Use Permit (CUP) for a multi-family housing development without having any standards in the code as guidelines for the decision.

Nichols sought the Commissioners' assessment of the new condensed format, their suggestions for improvements, their recommendations for additional sections of the code to clean up, and their preferred forms of public outreach. She noted that this type of code update would require a Measure 56 Notice (stating a potential impact on property values) given to Bandon property owners and a PAPA (Post-Acknowledgement Plan Amendment) submitted to DLCD before starting the Public Hearing process.

Other changes not being discussed in the Work Session would appear in the final ordinance, including the removal of unenforceable language from the signs chapter and the section governing ADUs (Accessory Dwelling Units); fixing spelling errors, incorrect references, and grammatical mistakes; and clarifying the "type" processes for each action.

Norman observed that the ideal outcome of the Code Cleanup project would be to provide developers with a clear, understandable map to guide them through the planning process without necessarily needing to ask Staff for help.

Nichols thought the table format was a step toward the goal of making the process more user-friendly for the public.

Norman asked if existing zones would remain the same and would be consistent with the template provided by the Model Code.

Nichols replied that the Cleanup proposal did not include removal of any zones, although she commented that the table format made it easy to spot the standards shared by multiple zones. She added that the Commission could consider limiting the number of zones or adding new ones. Nichols noted that the State had a "Neighborhood Commercial" zone that served as a transition between a residential zone and a commercial zone, and Bandon did not have that zone.

The Commissioners had received a printout of proposed changes to the BMC's Title 17 (Zoning), and Fisher inquired as to why the chapters dedicated to individual zones and their standards appeared in red and were stricken in the proposal.

Nichols explained that the purpose of each zone had been moved into Chapter 17.08 (Establishment and Classification of Zones) and that the following chapter (17.12) addressed zoning district regulations and included a table showing what was permitted in each zone. Special use standards were covered in Chapter 17.16.

Slothower agreed that the table format made it much easier to compare and contrast the characteristics of the City's zones.

Nichols commented that the existing code was "incredibly redundant," with virtually the same language repeated page after page with minor modifications. She emphasized that organizing the uses and standards into Tables 17.12.030 and 17.12.040, respectively, did not actually change any of the corresponding information from the existing code. Nichols hoped the Commission would take a closer look at the contents of those tables during the Housing Code Update process and evaluate the appropriateness of the listed uses and standards.

Norman asked if pages had been eliminated from the code in the cleanup process, and Nichols responded, “Yes! We’ve eliminated quite a few pages.” She thought the code had been intimidating and overwhelming, and the proposed changes would make it easier to read and provide a better process for the public.

Slothower confirmed that the existing code was “so ponderous that it’s really hard to read.”

Norman wondered how Bandon arrived at the way its zones were mapped out and if it might be possible for some consolidation of similar zones.

Nichols observed that the R-1 and R-2 Zones were similar, but R-2 had originally been called Mobile Home Residential, and it was differentiated from the R-1 Zone by allowing mobile home living. She saw the Code Cleanup as an opportunity to determine what should be different in those two zones.

Nichols also had difficulty understanding the rationale for the three different Controlled Development Zones. CD-1 was primarily the Beach Loop Drive area, CD-2 mainly included the South Jetty area, and then there was the “somewhat nebulous” CD-3 Zone between the Jetty and Old Town, which she thought only encompassed one house. Since the CD-3 Zone had almost the same standards and uses as the other CD zones, Nichols wondered if there would be a way to incorporate it into one of the other zones or set some special uses there.

Landucci did not think the Heavy Industrial Zone (HI) was needed any longer. He said it had been created specifically for Douglas Pacific Mill, which had been located at the site now occupied by Bandon Supply.

Fisher commented that the Light Industrial Zone (LI) along Baltimore Ave. SE, south of 12th St. SE also did not seem appropriate, having been filled in with residences.

Nichols noted that the State had renamed the Light Industrial zones, calling them the Light Industrial and Employment zones. She suggested the Commission could consider making that same change.

Norman explained that his reason for asking about consolidation of zones was to confirm that it would not be done without sensitivity to the distinctions between the zones and what might be lost if they were consolidated. “We don’t want to make things more confusing,” he stated. “We want to make them more clear.”

Norman thought the examination of housing codes was being driven by State and Federal efforts to minimize the exclusion of certain types of housing in some municipalities. He observed that some cities would not have allowed the mixture of manufactured homes and “stick-built” homes that were found in the two blocks to the west of Southern Coos Hospital.

Fisher observed that Bandon allowed manufactured homes in all residential zones.

Nichols elaborated that the State of Oregon had required manufactured homes to be allowed wherever single-family dwellings were allowed.

Landucci clarified that it was Federal law.

Fisher asked if the City only accepted double-wide manufactured homes. Nichols answered that the definitions in the code listed the City’s standards for mobile homes, such as the date they were built, the width requirements, and the need to be installed on a permanent foundation. The idea was to ensure they were livable and safe.

Landucci noted that there were some hybrid homes where attractive additions were built onto manufactured homes.

Nichols remarked that technological advances had brought about innovations such as park models and tiny homes.

Fisher commented that the BMC had a provision for mobile home parks, but there was only one of them and it was located next to City Hall. He thought there had been a stigma about mobile home parks, but he considered them to be “classic workforce housing” where people could own their own home and rent a space for it. Fisher pointed out that park models were classified as RVs (Recreational Vehicles) and a park that housed them would be termed an RV park.

Nichols said whether the City would encourage mobile home parks would be a topic for later discussion. She determined that mobile home parks were allowed in the Commercial Zone.

Fisher voiced approval of cleaning up the code to simplify the wording and eliminate redundancy.

Nichols displayed a spreadsheet she had utilized to list all allowable uses in every zone in order to find inconsistencies in terms that were used. For instance, what was called a “duplex” in one zone was referred to as a “two-family dwelling” in another. In some cases, Nichols indicated the code language could be cleaned up and made more consistent by adopting a State-regulated terminology.

In the case of the Marine Commercial Zone, Nichols proposed replacing a long list of specific uses in the existing code by stating “marine services” were allowed, then defining that term in the definitions chapter. She also recommended differentiating between outpatient medical services and retail services such as pharmacies, and she questioned listing only specific types of retail businesses as allowable in the Old Town district or the Commercial Zone, as opposed to using a broad term such as “retail uses” or “commercial retail sales and services,” which was even more all-encompassing.

Norman wondered why certain retail uses were specified to begin with.

Slothower speculated that those who wrote the code were identifying factors such as, “in Old Town, do we want...a laundromat down there ‘cause it’s not touristy.” He thought, “They were trying to picture things that didn’t fit with their image of what they wanted.” However, Slothower did not think that approach worked very well.

Nichols said the Commissioners could choose to require more specific, special standards if they wished, but she thought listing specific uses was not the right tool to accomplish that.

Norman asked who would be involved in the Code Cleanup project beyond the Commission.

Nichols responded that only the Planning Staff and Commissioners would be involved.

Norman wanted to know what the next step would be, and Nichols explained that there could be another Work Session if the Commissioners wanted one. Next, there would be a Public Hearing before the Planning Commission, after which the Commission would make a recommendation to the City Council. If the Council gave approval, the Code Cleanup ordinance would take effect.

Landucci pointed out that there were two medical facilities in Old Town and there used to be a clinic between the Wheelhouse and La Fiesta Restaurants. He recommended continuing to allow medical facilities as a conditional use in Old Town so those services would be available and convenient for tourists.

Norman cited the city of Bend, Oregon as an example of development issues that might face Bandon. He said Bend used to have an Old Town area that served as a “working” downtown for the city. Then, the Old Mill District was developed, drawing some business to the south end of Bend. Yet that district was oriented toward tourism, according to Norman, and did not have much in the way of services that

you might find in Bend's Old Town. On a smaller scale, he thought Bandon would need to determine if it preferred to have its Old Town be a working downtown as well, or if it would be predominately a tourist attraction.

Landucci said Bandon's Comprehensive Plan in 1991 aimed at moving commercial businesses to the area around McKay's Market and the Post Office. The idea was that people came to visit Bandon for the beach and Old Town. Landucci contended that Old Town had been a rough area that did not attract tourists until it was revitalized in 1972 with the help of grants. (editor's note: the revitalization of Old Town began in 1982).

Jurkowski maintained that tourists would be discouraged if there weren't enough retail businesses in Old Town. She preferred businesses that would attract tourists.

Nichols responded that the Commission could specify the purpose of the zone that covered Old Town to help decide if conditional uses matched the purpose of the zone.

Norman suggested districts could be designated for that reason, and Nichols thought that would be similar to the existing overlay zones, such as the Architectural Overlay Zone, that specified uses and standards.

Fisher thought Old Town was the only area with an Architectural Review(AR).

Landucci believed the Architectural Review was no longer in place, but Nichols said it still existed for exterior aspects such as the appearance of signs, paint colors that were allowed, and the kind of landscaping that could be used, but it had become hard to enforce. She indicated that someone who painted a building a color that was outside the approved color palette could be asked by the Code Compliance Officer to choose an acceptable color if there was a complaint. Nichols added that the Chamber of Commerce and Greater Bandon Association were aware of such regulations, and businesses were also informed that their buildings were located in a floodplain and in the Architectural Review Overlay, so most modifications would require permitting from the City.

Landucci remarked that some of the buildings in Old Town were looking run down, and he did not know if there was a way to do anything about it.

Nichols responded, "Maybe there's a better way to get what we want," adding, "How do we make sure our code is actually making the community vision that we have come to life?" She did not think the AR was accomplishing that, suggesting the Commission might look at modifying it in the future, in part to simplify it and make it easier for people to comply.

Nichols was pleased with the discussion and the Commissioners' support for code reorganization, but she was hoping for some ideas on how much public involvement they would like to see in the process.

Landucci noted that there had been a good response from the public on the question of food carts, but he thought the Code Cleanup project was "a little bit more obtuse, a little bit more obscure" and something to deal with in-house. He did not think the subject would generate much interest and he doubted the information from the public would be that vital for the Commission.

Norman countered that there were going to be some significant changes in the BMC that could potentially have an impact on every citizen—in particular, developers and property owners—so the City would have to make some earnest attempts to involve the public, in the interest of transparency, perhaps including local newspaper articles.

Jurkowski asked if something could be put in the utility bills.

Nichols explained that any time the City modified what was allowed to be done with private property, a Measure 56 note had to be sent out, which used specific and sometimes “scary” language about its possible impact on property values. She thought Staff might develop a one-page write-up to accompany the Measure 56 notice to describe what was happening in plain language.

Nichols pointed out that one of the biggest changes being proposed was eliminating the Type II Plan Review process from the Controlled Development zones, which would mean property owners would no longer receive notices of nearby construction. She stated that this change was being made to comply with State law that required clear and objective standards, eliminating the discretionary Plan Review procedure and shortening the housing development process.

Landucci felt that the Commission would need a limited amount of public input if it was only clarifying and simplifying the municipal code without redefining or removing existing zones. He believed cleaning up the planning process would be to everyone’s benefit.

Jurkowski wondered what the downside would be to including the public.

Slothower figured an open house or an open meeting would not attract more than ten people. He agreed with Jurkowski that everyone should be informed and have the opportunity to participate, but he thought if it were explained clearly that the goal was to clean up the code without making many changes, few people would show up.

Landucci suggested people would like the idea that excess verbiage was being removed and the code was being downsized.

Norman maintained that some people would have suspicions that their property values might be hurt, and he pointed out that the ten people who might show up at an open house were likely to talk to an unknown number of others in the community. He repeated Jurkowski’s question about including an announcement in the monthly utility bill.

Nichols answered that something could be included with the utility bill or as part of the City Manager’s newsletter, but there would still be a Measure 56 notice sent to probably every property owner in Bandon. She also expected information to be posted on the City’s Facebook page, she liked Norman’s suggestion of newspaper articles, and she agreed that the Commission should promote public awareness beyond just the necessary Public Hearing.

Landucci interjected that he liked the City Manager’s newsletter, since it came from “a guy who really runs the City” in a city manager form of government, and he liked the idea of the Code Cleanup being explained to the public by the City Manager.

Norman agreed that the newsletter was “an excellent vehicle” for informing the public, and he favored using multiple means to spread the information.

Jurkowski asked for an explanation of the “unenforceable ADU code” Nichols had mentioned earlier in the meeting.

Nichols replied that after Bandon’s ADU code was passed a couple of years earlier, the State had stated that parking and owner-occupancy could not be required in ADU ordinances, so the City would have to strike any such unenforceable language from its code.

Fisher inquired about the unenforceable sign code language Nichols had referred to earlier.

Nichols responded that a Supreme Court case had stated, “If you have to read a sign to regulate it, then that code is not enforceable,” which meant decisions regarding signs could not be based on their

content. It also meant the City's prohibition on a business having an off-premises sign on another property was unenforceable. The City could continue to regulate siting and design elements of signs, housing, commercial businesses, and so forth.

Nichols asked for comments on the height calculation process and how it was affected by the determination of "native grade." She told the Commissioners that native grade was sometimes hard to determine, due to filling and grading that might have taken place previously. Nichols wondered if the Commissioners would want some clarification to that term added to the Code Cleanup.

Jurkowski recalled from her experience looking for a home, that she came away with a belief that people should be allowed to put in fill when their driveway would otherwise end up at an angle that would cause runoff water to flow into their garage.

Nichols said the code distinguished between native grade and "finished grade," and a house could only be so tall above native grade. The ground before it was disturbed was referred to as native grade, even if it might have only been established ten years prior to development. She suggested a possible accommodation that could be made in the code, allowing someone to request a modification to the native grade determination on their property through a Type II or Type III decision that would require a public notice, possibly a hearing, and an opportunity to appeal, if necessary.

Slothower liked the idea of allowing enough fill that a house could be built to the height of surrounding homes.

Norman observed that the purpose of a height restriction was to minimize obstruction of light or views.

Nichols added that there were different height requirements in different zones. West of Beach Loop Drive, the height limit was 24 feet. It was 28 feet on the east side of Beach Loop. Some commercial businesses could go as high as 45 feet. Measurements were taken from the native grade.

Fisher recalled homes built on a slope were allowed to use the building site as the native grade.

Nichols said that was still the practice.

Jurkowski commented that contractors needed to be aware of that option.

Nichols felt encouraged to include the native grade and height measurement provisions in the Code Cleanup project and she planned to present the Commissioners with options for new language.

Starbuck proposed addressing the treatment of properties that sloped upward to a building site as well as those that sloped downward.

Nichols interpreted that to mean there would be different formulas used for a hill and a depression.

Another subject Nichols brought before the Commissioners was the lot coverage restriction in commercial zones. She stated that there were many historic buildings in Old Town that had "zero lot lines," meaning they were built out to all sides of their lots. The code only allowed 75 percent of a commercial lot to be built out, causing modern buildings to have some space around them. Nichols thought that provision in the code made it difficult for businesses to expand or build an addition like a covered patio on an unused portion of their property. She asked for input from the Commissioners on whether to keep the lot coverage provision for Old Town properties or amend it.

Fisher cited the Radio Hut building as an example of the dilemma of whether to "leave it as a crumbling-down old building" or have a very small footprint for new construction. He noted that buildings in Old Town were "places on stilts that were all built as temporary structures."

Norman wondered which was easier to defend from fire—zero lot line structures or those built to the 75 percent coverage limit.

As a property owner in Old Town, Landucci liked the 75 percent coverage rule to protect neighboring buildings from deteriorating structures that he compared to “a pile of kindling.”

Nichols offered the idea of an option to exceed 75 percent lot coverage that would require a property owner to make the request before the Planning Commission.

In rejecting the option of 100 percent coverage, Landucci stressed his concern for public safety, and he expressed reluctance to allow new construction in Old Town with “marginal buildings like the old Radio Hut and Lloyd’s” there.

Nichols concluded that revamping the Old Town standards—especially the commercial design elements and the fire and safety concerns—and reviewing the AR zone requirements could be addressed in the future as a separate ordinance update.

Fisher noted that the State would enforce fire regulations for new construction, but he did not know how to update old buildings to fire code standards. Under Lloyd’s, he said, there was over eight feet below the building. Water drained into that space and had to be pumped out. There was a similar six-foot space below the old Radio Hut building. Fisher described some of the special accommodations made for oddities of the old buildings in Old Town. He also mentioned that the requirement for everyone to provide their own parking seemed “to have gone by the wayside as well.”

Nichols concurred that the parking minimums in Old Town had become “nearly unenforceable,” especially when a business changed hands and spaces were limited.

Landucci did not think the large parking lot on 1st St. SE, across from the Old Town Marketplace, would ever be developed for a hotel or any other structure because it was all fill and the Coquille Tribe had a legitimate claim to the property. He believed the property was better suited to a parking lot, which was a necessity that would enhance other developments around the Port of Bandon, which he called “the jewel here on the coast.”

Fisher returned to the topic of public involvement and wondered if the code revisions could be presented at an open house at The Barn.

Nichols thought it might be helpful to just post the new charts online, although she also wanted to reach those who were not “computer savvy.” She suggested posting the information in the lobby at City Hall and inviting the public to come and take a look.

Landucci approved of that approach.

Fisher asked if the Marine Commercial Zone would remain unchanged.

Nichols’ recommendation was to designate the Marine Commercial Zone for marine uses and set special standards for those uses. She said the Port of Bandon had approached the City with an application for some modifications to that C-3 Zone. Nichols added that the Shoreland Overlay would help keep the Port area for marine-related uses, but she felt the Port was seeking allowances for more commercial or retail uses.

Fisher hoped the Port would remain a port.

Nichols assured him that in the Code Cleanup the existing uses would simply be reorganized but would still be allowed. Later, special standards could be established, depending on the direction the Port would like to take and in conversations with the Commission.

Starbuck observed that the Port had been evolving from a commercial port to a more tourist-oriented, activity-based approach.

Nichols acknowledged that the Port had proposed about a year earlier to change the C-3 Zone to allow more tourist or retail uses. Those uses were classified as Conditional Uses, and the Port requested to change them to “outright permitted” uses. She thought there would be a middle ground in the code that would say “permitted but with special standards.”

Landucci commented that Bandon had a working port for many years, but he stated, “the fishery days are over.”

Nichols said her next step in the Code Cleanup project would be to assemble all the proposed language changes and send that information to the State, initiating the PAPA process. She hoped to schedule a Public Hearing in January, 2022, since there already were two Public Hearings coming up in December. Meanwhile, some public outreach could be done.

Fisher recommended posting information in the *Coffee Break* and letting people know they could also view material on the proposal at City Hall.

Jurkowski suggested putting information in the *Bandon Buzz* as well.

Landucci thought the City Council should make funds available for advertising.

Nichols stated there was \$1,000 in the Planning Department budget for a citizen involvement program, and that could be applied to a variety of forms of public outreach.

3.0 ADJOURN

Fisher adjourned the Work Session at 11:21 a.m.

Planning Commission Work Session Minutes
Submitted by Richard Taylor, Minutes Clerk