

**Regular Meeting of the Planning Commission
at Bandon City Hall and via Zoom Meetings
with Live Streaming on Facebook
November 18, 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 7:00 p.m. Roll Call was taken as indicated above. All members of the Commission were present in the Council Chambers. City Manager Chandler joined the meeting using Zoom.

2.0 CONSENT AGENDA (none)

3.0 PUBLIC COMMENT – Opportunity for citizens to speak on items NOT on the Agenda

No members of the public chose to speak.

4.0 HEARING

- 4.1 Continued: Variance and Plan Review for 2608 Caryll Court (28S15W36CB/TL3200)
–Variance to the Bandon Municipal Code provision 3.750(2) in place in 1989
which required a building line to begin at a property width of 60 feet and was
recorded on the Beach View Estates Subdivision Plat and request to construct
a single-family dwelling in the Controlled Development 1 (“CD-1”) Zone
– #21-074; David Stokes & Sheri McGrath**

Fisher opened the Hearing at 7:01 p.m. and read aloud the standard rules and procedures. The Hearing was a continuation from the Commission’s October 28, 2021, Regular Meeting.

Nichols presented a Staff update on developments since the previous meeting concerning the application in question. She reported that the Applicants had withdrawn their Plan Review but would be going forward with a Variance request. Due to Staff’s recommendation for a building line that would place the proposed residence in line with the other structures on the same side of Caryll Court, the plans that were previously submitted would not be approvable if the Commission approved the requested Variance. Nichols said the Plan Review would move to a different process.

Nichols pointed out that new testimony had been added into the Hearing record since the meeting packet was distributed to the Commissioners. The documents included an aerial image of the Applicants' property and neighboring properties, showing the proposed building line, and some email correspondence involving one of the neighbors.

In a memorandum included with the meeting packet, Nichols had provided information that Staff had found regarding the conditions under which the sort of modification on a subdivision plat being requested by the Applicants was allowed. She said modifications were allowed provided that a local code provision allowed them, and Table 16.04.020 of the Bandon Municipal Code (BMC) could be interpreted to allow such a modification to approval as long as the same review procedure was followed as the original decision, in the same reviewing body as the original decision.

Nichols noted that "subdivisions would normally be approved by Staff, so this request is more public, has had more notice, and has had more opportunity for discussion than it maybe normally would have." She concluded that the code would allow the Commission to make the requested modification if it chose to do so. The Applicants also submitted additional testimony in the form of an email from Coos County Surveyor Michael Dado, who concurred with the conclusion that a plat could be amended after it was finalized. Nichols said Staff's recommendation for approval of the request was the same as presented at the October 28 meeting, with the same Conditions of Approval except those that concerned a Plan Review.

Landucci asked if the City Attorney had reviewed the plat modification request and found it legally acceptable.

Nichols responded that City Attorney Kudlac was unable to attend due to a schedule conflict, but she had given the original approval to move forward with the Variance and City Manager Chandler had also reviewed the application.

Chandler said it was important to note that the City Attorney was the one who originally suggested that the application should proceed as a Variance. He substantiated Nichols' statement that it was a matter of what the local code allowed, and he, Nichols, and Kudlac believed Bandon's code would allow the plat modification.

Fisher read aloud the rules for Public Hearing testimony.

Sheri McGrath, Coos Curry Consulting Group, P.O. Box 1548, Bandon, OR 97411

Speaking on behalf of the Applicant, David Stokes, McGrath said the issues to be resolved after the previous meeting had to do with the legality of the request and the impact on the neighbors, and she felt confident those issues had been addressed and settled. McGrath said letters had been received from two neighbors "who were in favor of equality," which meant everyone had the same right to build at the same spot. One of the neighbors who submitted testimony had indicated the build line for her client should be at 75 feet from the rear property line, which would make the Applicants' home line up with the other homes to the south of it. The nearest neighbor, Ginny Hall, had agreed.

McGrath noted that the Applicants no longer proposed two structures. Their revised plans would call for one single-family dwelling with an attached garage, the same as all of the neighbors. The redesign caused the scheduled Plan Review to be postponed. McGrath said the Plan Review was about to expire anyway. She felt the Applicants had satisfied the Commissioners' questions and concerns.

Aside from written remarks, no public testimony was offered.

Nichols offered some suggestions on how the Commission could modify the existing wording of the Condition of Approval that applied to the Variance, to match the specific nature of the Variance being approved.

Slothower suggested simply stating that the building line would be in line with the existing structures on Caryll Court would suffice.

Fisher observed that the line could also be defined as 75 feet.

Landucci wanted the motion to include language that stated that the Commission was acting upon the recommendation of the City Attorney and the City Manager.

Fisher closed the Public Hearing at 7:15 p.m.

Responding to Landucci's request, Nichols thought it should be included in the Findings of Fact for this Hearing, as opposed to making it part of the Conditions of Approval.

Landucci said he was fine with the Applicant's request.

Slothower observed that the letters from neighbors seemed to indicate they also approved. He added that he saw no problem with the request.

Landucci made a motion to grant a Variance to BMC 3.750(2) for the subject property, with the conditions that had been discussed.

Nichols urged a clarification of the motion by adding a provision that all proposed and future development would be built consistent with the build line on the surrounding properties.

Fisher specified the build line as being 75 feet from the rear property line.

Slothower seconded the motion and a brief discussion ensued.

Norman wondered if this decision would create problems for any lots on the other side of Caryll Court that had not been developed yet.

Starbuck said the motion needed to specify that it applied to the lots on the west side of Caryll Court.

Nichols pointed out that the Variance only applied to the subject property.

Slothower restated the motion with amended wording. Starbuck seconded the motion, and it passed by unanimous voice vote (7:0).

Norman noted that the Applicants would have to submit a new set of plans for review and wondered if the Commission would be involved.

Nichols clarified that the Plan Review would be a Type II decision since it had become a separate action. The Plan Review had initially been consolidated with the Type III Variance hearing as desired by the Applicants. She added that the Commissioners would have an opportunity to review their decision when the Findings were presented at the December meeting.

5.0 DISCUSSION/OTHER

5.1 Mobile Food Cart Survey Results

At a Work Session in October, the Commission had discussed mobile food vending. Nichols said the Commissioners offered a number of varying opinions but did not arrive at a consensus. They wanted Staff to conduct more research on the subject and get some feedback from the public. A survey of

community sentiment was taken, and the results were made available on the City's Facebook page and in the Commission's meeting packet, which had been published on the City's website.

Norman was impressed by the number of responses in a limited amount of time, and he asked how the survey had been conducted.

Nichols answered that the City Manager had put the survey together and posted it on Facebook. The Chamber of Commerce sent it to all Chamber members and some other local organizations did the same, helping to spread the word.

Norman asked if the City Council had seen the survey, and Nichols replied that it had not been formally presented to them.

The survey received 631 responses (as of the time of the meeting). Over three-quarters of the respondents said they lived in Bandon. Nearly 90 percent of them thought Bandon should allow some form of mobile food vending. The areas of town most favored for mobile food service by survey respondents were Old Town, "Any commercial area," "Up town," and "Along Highway 101," all of which showed over 50 percent approval. Close to 90 percent said they would like to see food carts clustered in "pods," but under 10 percent wanted them restricted to pods.

A "word cloud" analysis of the comments made by survey participants indicated they generally liked the idea of having a "variety" of "great" "food" "options" in "Bandon," based on the frequency of those words appearing in their remarks.

Norman said he perceived the survey as a confirmation of what the Commissioners had hoped to see. He continued to sense that the City Council would not be in favor of food carts, but he thought the survey would help to change their minds.

Nichols said she would try to have the survey put on the Council's agenda before the Commission moved toward discussing an ordinance on the subject.

Slothower noticed there were a number of comments in the survey about Bandon being windy, and he remarked, "Food dispensaries down on the South Jetty—which a lot of people liked—or even along the river there, I think is ridiculous, because...without being sloppy, wind can pick up garbage and carry it into the river or into Ferry Creek." He added that he had thought of the parking lot near The Laurel would be a good location, but decided it was too close to Ferry Creek. Slothower said garbage was his main concern, not necessarily because of people not caring, but because of the dominant wind.

Slothower liked the idea of using the City-owned land south of Face Rock Creamery in the Woolen Mill District for mobile food vending, where he thought it would be close enough to Old Town for tourists to walk to it. He preferred grouping the vendors together in pods.

Norman agreed and said he strongly favored pods. He contended they would increase the viability of the individual businesses, attracting larger crowds and making it easier to manage if there was common seating, a common trash area, and common restrooms. Norman thought whatever location was chosen should be easily accessible and easily visible. So, he would favor Old Town.

Jurkowski reminded everyone that the City already allowed the food truck by the Bandon Rain Cider Tap Room. She wondered if the pod arrangement were to prevail, whether that vendor would have to be part of a pod or would be allowed to operate independently.

Nichols pointed out that the Food 101 truck was operating under a special events permit that allowed it to set up next to Bandon Rain on specified days and times. She said the permit was issued on a temporary basis.

Fisher pointed out that Food 101 was set up on private property.

Nichols recommended that the code should have provisions for both standalone mobile vendors and those that would be clustered.

Jurkowski did not wish for any new ordinance to have a negative impact on what Food 101 was already doing successfully.

Fisher wanted to insure there would not be any “curbside” vending, where someone would set up along the side of the road or street. He thought there should be a prohibition on any kind of items being sold that way, not just food.

Nichols felt roadside vending was already prohibited by the existing code.

Norman thought that specific prohibition should be made clear if it was not adequately addressed in the current code. He expressed concern for the impact of curbside vending on sidewalk traffic and the promotion of trash. Norman found pods more appealing because they would be located on a lot, off the street, as he had seen in Portland and Salem.

Landucci interjected that those were all on private property, with garbage service and utilities, as you would expect from a business. He noted that a pod that was located on City property would require the City to collect rent and monitor utilities, etc. “It should be all private,” he maintained. “Let the private sector bear the burden of dealing with all of the problems connected with a small business.” Landucci pointed out that there was a stringent process for obtaining a permit for a mobile food unit from the County, and the City did not have to be concerned about that. He did not wish the City to become involved with additional headaches such as supplying restroom facilities and trash collection.

As a person who worked in a store in Old Town, Jurkowski commented that there was litter in that area even though it was well-equipped with trash receptacles, so she did not believe issues like loose garbage could be totally eliminated.

Landucci observed that garbage had been a problem in Old Town for years. He said people used to pull up their cars and put personal garbage into communal dumpsters intended to serve the businesses, so the dumpsters had to be locked down.

Norman suggested that the Council should have access to the minutes of the Planning Commission meetings in which mobile food units were discussed, as well as information about the survey process and its results.

Landucci sought to differentiate between food carts and food trucks. He saw carts as mostly staying in one place and trucks as being able to move from place to place, so he was more concerned about food trucks. Landucci admitted to holding a bias against “the old, beat-up UPS truck or bread truck that’s converted to a food cart,” although he praised the Alder Smokehouse in North Bend, which took its portable smoker to fairs and other events.

Nichols pointed out that enforcing the health regulations for mobile food units was taken care of by the County. She said the job of the Commissioners was to look at siting and design—where to put them and what should they look like.

Slothower emphasized that regulations would not allow an old rusty Post Office truck to serve as a mobile food unit, anyway.

Fisher added that the County had strict rules for food trucks, requiring stainless steel on the interior, for example, and he disagreed with Landucci about food trucks that could drive from one location to another, saying there were plenty of really nice ones. His example was Brian Sprengelmeyer, who turned an old bus into an attractive food truck, where “he serves fantastic food.” Fisher did not want people like Sprengelmeyer, who began by selling his food inside the Farmers Market, to be deprived of an opportunity to grow their business without being restricted too much.

Nichols said her next steps would be to get more feedback from the City Council, put together a draft ordinance based on the Commissioners’ recommendations, and come up with options for pods or standalone units that could be discussed at another Work Session.

Landucci was concerned that the Commission should reach a consensus on which zones would allow mobile food units. He favored limiting them to General Commercial and Old Town areas.

Nichols thought there might be a need to create an overlay that restricted the Commercial Zone locations to those near the highway and not in parts of the zone that were more residential. She noted that the Woolen Mill District was zoned as Light Industrial, so that zone or an overlay including parts of that zone, might be considered for mobile vending as well. Nichols planned to bring a zoning map of the City to the next discussion on mobile units—probably at a Work Session in January, 2022.

Norman expressed concern about locations having good access.

Fisher concurred, noting that food trucks had a need for foot traffic.

5.2 Planning Department Report

Nichols provided the Commissioners with a copy of the Planning Department’s monthly report in their meeting packets. She reported that the City had received a record 53 applications for new single-family dwellings in 2021 through November 10. Staff had conducted 34 Plan Reviews in the year, up to the day of the meeting, with four more scheduled for the following week.

In December, Nichols said the Commission would review a Conditional Use Permit (CUP) for a single-family dwelling and a request for a flag lot. She anticipated two Vacation Rental Dwelling (VRD) applications to come before the Commission in January, 2022. Nichols planned to prepare a list of 2022 meeting and Work Session dates to give the Commissioners at their next meeting.

Table Rock Motel, on Beach Loop Drive, had requested a Plan Review for the removal of older cabins, to be replaced by new structures that would match the other existing two-story units. A three-percent overage was discovered on the maximum allowable impervious surface, but the recently-passed Process Ordinance allowed for Adjustments. Under that provision, Table Rock Motel was requesting an Adjustment for an additional three percent impervious surface because they were putting sidewalks on their property and they had poured pads to support picnic tables for public use. Nichols explained that Plan Reviews were Type II applications and were handled on the Staff level, but she thought this one would be of interest to the Commission. She added that all neighbors had been notified.

Nichols said Staff was moving forward on the housing grant and the transportation grant. She mentioned a webinar on community engagement strategies for active transportation in small rural communities which some of the Commissioners attended, conducted by the Oregon Department of Transportation (ODOT).

Jurkowski, who was able to participate in part of the session, commented, “One of the big takeaways for me is how important it is to have the accessibility for people to have safe biking places. A lot of people who don’t have resources depend on them.”

Fisher pointed out, “A lot of people with resources are now riding their bikes.” He noted the number of electric bikes that could be seen around town. Fisher shared one of the suggestions he found interesting from the webinar: One way to reach out to the community that was discussed was through “pop-up” information tables where the public could provide City Staff with recommendations.

Nichols responded that Staff was considering that means of connecting with the public to obtain feedback on possible new transportation facilities.

Jurkowski also felt the transportation webinar had emphasized the importance of sidewalks.

Nichols stated that there would be more discussion of transportation opportunities, including sidewalks, as the Commission moved into the Transportation System Plan (TSP) update process.

Slothower inquired about the 42 applications approved for “accessory structures” year-to-date, and Nichols clarified that those were not Accessory Dwelling Units (ADUs) but included anything that was considered accessories to a primary dwelling, such as decks, sheds, and garage additions. She added that a Certificate of Occupancy had just been issued for an ADU on Newport Avenue and there was an internal ADU approved on the Jetty.

Concluding her report, Nichols told the Commissioners that Staff was working with the City’s Finance Department to put together an annual report on the impact of VRDs on the community.

Slothower wondered if there had been any developments in the project to construct an apartment complex on Seabird Drive.

Nichols answered that Staff had received an updated architectural rendering of what the apartments would look like. She let the Commissioners know they would be kept informed of any big Zoning Compliance applications, including this one.

6.0 COMMISSIONER COMMENTS

Landucci wanted to make clear that his family had property in Old Town and Uptown that would be perfect for food carts, and he said, “Here I’m against the City getting involved. So, you have to draw your own conclusion.” Landucci added that his reason for favoring mobile food units on private property rather than City property was not financial. He maintained it was almost impossible not to have conflicts of interest in a small town, and that was why he thought it was important to disclose his property ownership and declare it was not the influencing factor on his point of view regarding the siting of food carts.

Fisher wanted to know if the Planning Commission was acting as the Citizen Involvement Committee.

Nichols replied that she would discuss that subject with the City Manager and bring it up at the next Commission meeting.

7.0 ADJOURN

Fisher adjourned the Regular Meeting at 8:01 p.m.

Planning Commission Regular Meeting Minutes
Submitted by Richard Taylor, Minutes Clerk