

City of Bandon

CITY COUNCIL AGENDA DOCUMENTATION	DATE: January 3, 2022
SUBJECT: Planning Commission Meeting Minutes	ITEM NO: 6.2.1

BACKGROUND:

Meeting Minutes of the planning commission as submitted by Richard Taylor, Minutes Clerk.

- November 17, 2021 – Work Session
- November 18, 2021 – Regular Meeting

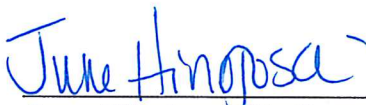
FISCAL IMPACT:

None

RECOMMENDATION:

MOTION: to approve as part of the Consent Agenda.

SUBMITTED BY:



June Hinojosa, City Recorder

**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 DLCDC (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 discourage 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

**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