

**CITY OF BANDON
PLANNING COMMISSION**

**WEDNESDAY, May 25th, 2022
WORK SESSION – 7:00 PM**

MEETING WILL BE HELD IN PERSON AT THE COUNCIL CHAMBERS AT CITY HALL

AND OVER ZOOM:

Link to meeting:

<https://us02web.zoom.us/j/2157059460>

Meeting ID: 215 705 9460

- 1. CALL TO ORDER**
- 2. WORK SESSION: Code Clean-up Ordinance**
- 3. OPEN DISCUSSION**
Commissioner Comments
- 4. ADJOURN**

Council Chamber is accessible to the disabled. For services contact City Hall at 347-2437; 711 TTR;

e-mail: citymanager@ci.bandon.or.us

City Web site: www.ci.bandon.or.us

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MEMORANDUM

TO: Planning Commission
FROM: Dana Nichols, Planning Manager
DATE: May 25th, 2022
RE: Code Clean-Up Work Session

At the last meeting, the Planning Commission held their first public hearing on the proposed Code Clean-Up. When we talked about setting our work plan for the FY22 year, staff requested that we have an annual clean-up to fix mistakes, provide clarity on messy code language, and adopt requirements from the state that may have changed throughout the year. This year's proposal also includes a request to standardize language throughout each zone.

Certain components of the code clean-up may require additional discussion, which include: (1) the view line, (2) the removal of discretionary criteria, and (3) the language staff has recommended for standardization. Each of these topics has been explored in detail below for your conversation. Additional topics may be discussed as needed. The continuation of the public hearing will occur on May 26th, 2022 at 7:00, at which time the public may continue to provide input as we craft appropriate language to improve our development code.

View line

Ordinance 1240 was adopted in 1989 and is the first appearance of what I am calling the "view line" requirement. The language stated: *Siting of structures should minimize negative impacts on the ocean views of existing structures on abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built "in line" with other existing structures and not extend further out into those viewsapes.* This is the same language we have today.

Over the years, the planning commission minutes show multiple accounts of the staff interpretation in conflict with an applicant's interpretation. There was a view line committee that was dedicated to discussing and recommending changes to the language for clarity, however this doesn't appear to have prompted any changes to the code. Then, in 2001 the City Council adopted Resolution 01-03, which is the document that staff have used to interpret this particular provision in the year's following the decision. This resolution was passed to affirm an interpretation of the Planning Commission that: (1) view protection is only afforded to properties that are bluff-adjacent, (2) that the "view line" is drawn between structures on abutting lots along the bluff edge, and (3) that consideration must be given to ensure a view line does not eliminate a building site on an abutting vacant lot. This Resolution states that, "The primary intent of the ordinance is to afford existing structures on abutting lots adjacent to



the edge of the bluff, the maintenance of a reasonable view of the ocean that they enjoy without substantial impacts from proposed structures on abutting lots.”

After the recent change in legislation that requires the cities adopt “clear and objective” criteria for all needed housing, the view line criteria must be updated if the commission wants to continue to preserve views.

The Commission may want to discuss the following:

1. Does the existing interpretation still hold true?
2. What should be done about unique circumstance (i.e. Strawberry Point)?
3. Should the view line continue to be discretionary for commercial structure (or non-needed housing structure)?

Removal of Discretionary Criteria

In the initial draft of the code clean-up, staff recommended removing all language that was not clear and objective and replacing it with non-discretionary criteria for approval. The Planning Commission may wish to make all approvals non-discretionary or may want to allow for some discretionary decision-making for commercial uses in certain zones. This would bump the approval process from a Type I to a Type II, which would allow for an appeal.

For example, the CD-2 and CD-3 zones have requirements that staff recommended removing to comply with the clear and objective requirement, that could be modified to apply to conditional uses. These requirements were that all structures utilize natural wood materials and be of a rustic appearance and/or utilize scale, color, and materials that will enhance and promulgate the small town/village feel. The Commission may also amend these criteria to use clear and objective language.

The Commission may want to discuss the following:

1. Should commercial uses in certain zones require a plan review? This may lead to some changes in the Commercial Design Standards chapter and/or clarification within the zone.
2. Should structures that are not needed housing (out buildings, decks, etc.) be subject additional review and/or discretion?

Standardization

The planning commission had some questions about the language staff selected to condense and standardize the allowable uses in the zone. The table below shows each use listed in the code and the definitions of those uses to help in your discussion.



City of Bandon Planning Department

Bandon, Oregon 97411

Phone: 541-347-7922

Email: Planning@cityofbandon.org

New Use	Old Use	City's Definition	State's Definition
Duplex Dwelling	<ul style="list-style-type: none">• Duplex Dwelling• Two-Family Dwelling	<p>"Duplex" means a building with two attached housing units on one lot or parcel.</p> <p>"Dwelling, two-family" means a building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.</p>	<p>From Oregon Model Code: Duplex Dwelling. A structure that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.</p>



<p>Residential Home</p>	<ul style="list-style-type: none">• Residential Care Home• Adult Foster Care Home	<p>"Residential care home" means as provided by Oregon Revised Statutes, a residence licensed by the State for the care of five or fewer physically or mentally handicapped persons is permitted in residential or commercial zones subject to the normal requirements for a residence. Residents and staff need not be related to each other or any other home resident. Handicapped means that a person suffers from a functional limitation in one or more major life activities.</p> <p>"Residential care facility" as means provided by Oregon Revised Statutes, a residence licensed by the State for the care of six or more physically or mentally handicapped persons.</p> <p>"Adult foster home" means any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage which must be inspected and licensed by the state of Oregon.</p>	<p>From ORS: "Residential home" means a residential treatment or training home, a residential facility registered or an adult foster home licensed that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.</p>
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<p>Public Park and Recreation Facility</p>	<ul style="list-style-type: none">• Park and Recreation Facility	<p>"Open space (common/private/active/passive)" means land within a development which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreation, conservation or other open space uses.</p>	<p>From Oregon Model Code: Parks and Open Space (Land Use). Parks and Open Space Areas are public parks or private common areas consisting mostly of recreational facilities, community gardens, or natural areas.</p>
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<p>Community Service, including governmental, emergency service, or non-profit offices</p>	<ul style="list-style-type: none">• Governmental structure or use	<p>Undefined</p>	<p>From Oregon Model Code: Community Services (Land Use). Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community, except for Schools, which are categorized separately. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Private lodges, clubs, and non-profit organizations that have membership provisions may be considered a Community Service. Uses providing mass shelter or short term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency may also be considered a Community Service. The use may also provide special counseling, education, or training of a public, nonprofit, or charitable nature. See also, Religious Institutions, and Parks and Open Spaces.</p>
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Clinic or office, outpatient only	<ul style="list-style-type: none"> • Medical, dental or related office • Medical, dental, or related clinic • Healthcare service facilities, including office 	"Office" means a group of rooms used for conducting the affairs of a business, profession, service, industry, institution or government.	From Oregon Model Code: Office (Land Use) . Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.
Medical Center (public)	<ul style="list-style-type: none"> • Hospital 	"Hospital" means an establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.	Undefined
Urgent Care/Pharmacy	<ul style="list-style-type: none"> • Drugstore 	Undefined	Undefined



<p>Commercial Retail Sales and Services</p>	<ul style="list-style-type: none"> • Gift, art, or handicraft store • Eating and drinking establishment • Gourmet or specialty foods or wine shop • Clothing store • Barber shop or beauty shop • Hardware store, florist shop, or specialty store 	<p>“Retail establishment” means a business in which sixty percent (60%) or more of the gross floor area is devoted to the sale or rental of goods, including stocking, to the general public for personal or household consumption or to services incidental to the sale or rental of such goods. For purposes of this section retail establishment also means a movie theater or an indoor recreational use.</p>	<p>From Oregon Model Code: Commercial. Land use involving buying/selling of goods or services as the primary activity. See also, Retail Sales and Services.</p> <p>Retail Sales and Service Uses (Land Use). Retail Sales and Service uses sell, lease, or rent new or used products, goods, or services. They include services such as barber/salon, accountant, restaurant, bar, repair service, and similar uses. See also, Vehicle Servicing.</p>
<p>Residential Facility</p>	<ul style="list-style-type: none"> • Residential Facility 	<p>"Residential facility" means a facility licensed under ORS 443.400 to 443.455 for eleven (11) or fewer unrelated physically or mentally handicapped persons or elderly persons and not to exceed two staff persons who need not be related to each other or to any other facility resident.</p>	<p>“Residential facility” means a residential care, residential training or residential treatment facility that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.</p>



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<p>Nursing, convalescent, or retirement home</p>	<ul style="list-style-type: none">• Nursing home	<p>"Nursing home or convalescent home" means a facility providing care, rehabilitation services and minor treatment for more than five persons under the direction of a physician, licensed by the state. May furnish basic provisions of food and laundry. Term includes rest home, home for the aged and sanitarium.</p>	<p>From Oregon Model Code: Senior Housing. Housing designated and/or managed for persons over a specified age. Specific age restrictions vary, and uses may include assisted living facilities, retirement homes, convalescent or nursing homes, and similar uses not otherwise classified as Residential Homes or Residential Facilities.</p>
<p>Offices (unless defined differently)</p>	<ul style="list-style-type: none">• Business, governmental, or professional Office	<p>"Office" means a group of rooms used for conducting the affairs of a business, profession, service, industry, institution or government.</p>	<p>From Oregon Model Code: Office (Land Use). Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.</p>



<p>Residential uses accessory to other non-residential conditional or permitted uses</p>	<ul style="list-style-type: none"> • Apartments, provided that they are an accessory use incidental to a listed permitted or conditional use in the bulding 	<p>"Dwelling unit" means a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family, or a congregate residence for ten (10) or fewer persons. (UBC 205)</p>	<p>From Oregon Model Code: Mixed-Use. The combination of residential uses with commercial (e.g., office, retail, or services), civic, or light industrial uses on a site.</p> <p>Residential Use (Land Use). Long-term (i.e., more than 28 days) occupancy of a dwelling unit, which may be owner-occupied or rented. Occupancy of a dwelling unit for shorter periods of time is considered an overnight accommodation.</p> <p>Dwelling Unit. A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, as applicable, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar.</p>
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Recreation facilities, including concert halls, theaters, and convention centers	<ul style="list-style-type: none">• Indoor recreational establishments	Undefined	From Oregon Model Code: Commercial Outdoor Recreation (Land Use) . Includes firing ranges, golf courses, and driving ranges, etc.
Community club or building	<ul style="list-style-type: none">• Community center	Undefined	Undefined (see community services)