

ORDINANCE NS-2206

AN ORDINANCE AMENDING THE BEND DEVELOPMENT CODE SECTION 2.2.800H TO LIMIT HEIGHT VARIANCES TO A MAXIMUM OF FIVE FEET FOR PROPERTIES WEST OF BROOKS STREET BETWEEN FRANKLIN BOULEVARD AND FRANKLIN AVENUE.

- A. On May 15, 2013 the Bend City Council initiated a legislative Development Code amendment to reevaluate the recent removal of the prohibition of height variances west of Brooks Street in downtown Bend.
- B. On June 24, 2013, the Bend Planning Commission held a public hearing, for which public notice was provided in accordance with 4.1.515 of the Bend Development Code, to receive public testimony on the proposed amendment.
- C. On September 4, 2013 the Bend City Council held a public hearing, for which public notice was provided, to receive public testimony on the proposed amendment.
- D. The proposed amendment has been found to be consistent with the approval criteria found at 4.6.200 of the Bend Development Code.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. The Bend Development Code is amended as depicted in Exhibit A.
- Section 2. In addition to the above findings, the City Council adopts the findings contained in Exhibit B.

First Reading: September 4, 2013.

Second reading and adoption by roll call vote: September 18, 2013.

YES: Mayor Clinton
Councilor Jodie Barram
Councilor Sally Russell

NO: Councilor Scott Ramsay
Councilor Victor Chudowsky



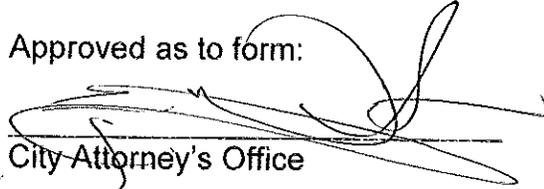
Jim Clinton, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:



City Attorney's Office

Exhibit A

Note: New text is underlined

Section 2.2.800 H

2. Maximum Building Height. No building or structure shall be erected, enlarged or structurally altered to exceed the height regulations listed below.

The maximum allowable building height limits in the CB Zone are as follows:

- a. On CB Zone properties between Franklin Blvd. and Newport Ave. on the west side of Brooks Street and Brooks Alley, the maximum allowable building height limit is 35 feet. A Class B variance to exceed the height limit by no more than five feet may be allowed in this area if approved by the Planning Commission through a Type III process.
- b. On CB Zone properties east of Brooks Street and west of the alley between Wall and Bond Streets, the maximum allowable building height limit is 45 feet.
- c. On CB Zone properties east of the alley between Wall and Bond Streets and west of Bond Street, the maximum building height limit is 55 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back one foot from the street-facing property line for every one foot that the building exceeds 45 feet in height, with a minimum setback of five feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.
- d. On CB Zone properties east of Bond Street and west of the alley between Bond Street and Lava Road, the maximum building height limit is 60 feet. Where portions of a building are higher than 45 feet, 60 percent of the street-facing facades higher than 45 feet must be set back one foot from the street-facing property line for every one foot that the building exceeds 45 feet in height, with a minimum setback of five feet and a maximum setback of 20 feet. The required setback may be reduced by one foot for each foot below the 45-foot height level that the setback begins. E.g., for a building that begins its setback at the 35-foot height level (10 feet below what is required) the required setback can be reduced by 10 feet.
- e. On CB Zone properties east of the alley between Bond Street and Lava Road, the maximum allowable building height is 70 feet.

Exhibit B

FINDINGS OF FACT IN SUPPORT OF LEGISLATIVE AMENDMENT TO THE BEND DEVELOPMENT CODE SECTION 2.2.800H

PROJECT NUMBER: PZ 13-275

APPLICANT: City of Bend

REQUEST: Amendment to the Bend Development Code to prohibit height variances west of Brooks Street in downtown Bend.

Procedural Findings:

The application was initiated By the City Council on May 15, 2013. Notice of the proposed amendments was provided to the Department of Land Conservation and Development (DLCDC) on May 20, 2013. Notification of the public hearing before the Bend Planning Commission was printed in the June 4, 2013 edition of the Bulletin. The Planning Commission held a public hearing on June 24, 2013 and voted in favor of recommending approval to the City Council. Notification of the public hearing before the City Council was printed in the July 20, 2013 edition of the Bulletin and mailed to surrounding property owners on July 16, 2013. The City Council held a first reading on September 4, 2013 and a second reading on September 18, 2013.

Criteria of Approval:

The criteria applied to legislative plan amendments are found within the Bend Development Code (BDC) Chapter 4, Section 4.6.200. The criteria are:

- 1. The request is consistent with the applicable State land use law;*
- 2. The request is consistent with the applicable Bend Area General Plan goals and policies;*
- 3. The applicant can demonstrate a public need or benefit for the proposed amendment.*

Application of the Criteria:

- 1. The request is consistent with the applicable State land use law;**

FINDING: The proposed amendments are consistent with the applicable State land use law. In particular, they will satisfy Goal 1: Citizen Involvement, Goal 2: Land Use Planning, Goal 9: Economic Development, and Goal 11: Public Facilities and Services.

Goal 1, Citizen Involvement, is satisfied through following the City's acknowledged text amendment process that includes a Planning Commission public hearing, followed by a City Council public hearing.

Goal 2, Land Use Planning, is met because the City followed the land use planning process and policy framework established in the City's acknowledged comprehensive plan and development code as a basis for the decisions and actions related to the new regulations regarding the use of land and to assure an adequate factual base for these decisions and actions. The proposed ordinance was adopted by the City Council after a public hearing. Multiple opportunities were provided for review and comment by citizens and affected governmental units during the preparation of this ordinance.

Because the proposed code amendments are limited in scope, there are no other Statewide Planning Goals applicable to this ordinance. Likewise, there are no applicable Oregon Revised Statutes or Oregon Administrative Rules that apply to these code amendments.

2. The request is consistent with the applicable Bend Area General Plan goals and policies;

FINDING: The "goals" established in the general plan express the desires of the residents of Bend as the City progresses into the future. The "goals" are generally carried out through "policies", which are statements of public policy. The City reviewed the Comprehensive Plan and found only Chapter 1 to be directly applicable to the proposed text amendments.

Chapter 1 of the Bend Area General Plan includes the following goal:

- Public/Civic Involvement* – Encourage involvement by all citizens, corporate and individual, to keep the city vital and the Plan an "evolving vision".
- Implementing Consistent Ordinances* – Implement the plan through effective, clear and consistent ordinances and language that reflect the intent of the vision.

Chapter 1 also includes the following public policies:

15. The city shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.
16. The city will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process.

Chapters 4.1 and 4.6 of the Development Code together require the Planning Commission and the City Council to hold public hearings prior to acting on amendments to the text of the Development Code. Public hearings were conducted before both bodies on the proposed amendments.

Based on the findings stated above, the City Council concludes that the proposed text amendments are consistent with the applicable General Plan goals and policies.

3. The applicant can demonstrate a public need or benefit for the proposed amendment.

FINDING: The community has expressed a concern about the potential massing of buildings close to the Deschutes River and how that massing will affect the downtown and river views. This amendment will ensure that the height of the buildings close to the river west of Brooks Street will not exceed 35 feet in height without a variance, up to a maximum of 5 feet. This will address the public need for assurances regarding commercial building size along the river.

4.6.600 Transportation Planning Rule Compliance.

When a development application includes a proposed comprehensive plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

FINDING: The City is proposing to adopt text amendments to the Bend Development Code, a functional component of the comprehensive plan. The City has analyzed the proposed text amendments and has found that none of the changes would cause a "significant effect" under ORS 660-012-0060.

Conclusion:

Based on the above findings, the City Council concludes that the proposed Development Code text amendments meet all applicable criteria for adoption.