



STAFF REPORT

File #: Text Amendment 14-07

Applicant: City of Sisters

Request: The proposal includes a Development Code amendment to Chapter 2.5 Highway Commercial District Section 2.5.300 Development Standards, L. Formula Food Establishments (TA 14-07).

Hearing Date: April 30, 2015, 5:30 pm, Sisters City Council Chambers, 520 E. Cascade Avenue, Sisters, Oregon

Location Highway Commercial (HC) zoning district

Planner: Patrick Davenport

Date: April 22, 2015

I. Background

Text Amendments to the Sisters Development Code regarding Formula Food Establishments were recently approved by City Council per (attached) Ordinance #456 on March 12, 2015 after a Planning Commission public hearing on March 5, 2015. Prior to this approval, the Planning Commission held several workshops to receive public input and discuss these revisions on September 9th and November 11th, 2014 and February 19, 2015. These amendments revised several District requirements regarding Formula Food Establishments however, the City Council did not approve a specific section which was reconsidered in an April 16, 2015 workshop held by the Planning Commission. The Planning Commission directed staff to hold a public hearing on April 30, 2015 for the proposed text amendments presented herein.

This proposed text amendment reflects the Planning Commission's desire to limit the number of Formula Food Establishments in the HC zone by using an absolute number as a maximum and to delete the distance spacing requirements. Since the spacing requirements can be overcome by lot line adjustments and land partitions, which are difficult to anticipate and regulate, using an absolute number for a maximum is the most efficient and logical manner to appropriately restrict their development.

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II. Project Request

This proposal includes a Development Code amendment to amend the Development Code, Chapter 2.5 Highway Commercial District Section 2.5.300 Development Standards, L. Formula Food Establishments. The following text illustrates the proposed amendments. Proposed text additions are underlined and proposed deletions are in ~~strikeout~~ font.

2.5.300 Development Standards - HIGHWAY COMMERCIAL (HC) DISTRICT

L. Formula Food Establishments. The City of Sisters has developed a unique community character in its commercial districts. The city desires to maintain this unique character and protect the community's economic vitality by ensuring a diversity of businesses with sufficient opportunities for independent entrepreneurs. To meet these objectives, the city limits Formula Food Establishments to a maximum of six within this zone. ~~as follows: 1) No more than two per intersection provided that the streets are designated as either an arterial or a collector, and 2) other than at approved intersections, the Formula Food Establishments shall be separated on the same side of the street by at least 400 feet from property line of each Formula Food Establishment, regardless where the establishment fronts.~~

III. Conclusionary Findings

Sisters Development Code (SDC) Chapter 4, Table 4.1.200 lists a code amendment as a Type IV decision, regulated by Chapter 4.7 (Land Use District Map and Text Amendments). Section 4.7.200 states that legislative amendments are policy decisions made by the City Council and shall be reviewed using the Type IV procedure found in SDC Section 4.1.600 and shall conform to SDC section 4.7.600 Transportation Planning Rule compliance (if applicable).

Pursuant to the SDC Section 4.1.600, the City may approve, approve with modifications, approve with conditions, deny the proposed change or recommend an alternative to the code text amendment based on the following four criteria and standards.

Section 4.1.600 of the SDC states:

- E. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:**
- 1. Approval of the request is consistent with the Statewide Planning Goals;**
 - 2. Approval of the request is consistent with the Comprehensive Plan; and**
 - 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property. The applicant must demonstrate that the property and affected area shall be served with adequate public facilities, services and transportation networks to support maximum anticipated levels and densities of use allowed by the District without adversely impacting current levels of service provided to existing users; or applicant's**

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proposal to provide concurrently with the development of the property such facilities, services and transportation networks needed to support maximum anticipated level and density of use allowed by the District without adversely impacting current levels of service provided to existing users.

4. SDC 4.7.600, Transportation Planning Rule (TPR) Compliance

- 1. Approval of the request is consistent with the Statewide Planning Goals.** The Sisters Development Code requires all text amendments to comply with the requirements of the Statewide Planning Goals. Compliance with the relevant goals is as follows.

Goal 1 - Citizen Involvement. To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Response: Multiple Planning Commission workshops were held to gather feedback regarding these changes. Two public hearings are required by the Development Code; the first requires a recommendation to City Council by the Planning Commission, the second hearing requires a public hearing on the part of the City Council to decide whether to amend the Development Code. The Text Amendment (TA 14-07) was noticed in the Nugget Newspaper on April 15, 2015 and the City's website, two weeks prior to the April 30, 2015 Planning Commission hearing.

Staff finds the Text Amendment (TA 14-07) complies with Goal 1.

Goal 2 - Land Use Planning. To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Response: The process to adopt these amendments are established by Code which supports the planning process and ensures that the Planning Commission and City Council are aware of these Decisions.

Staff finds the Text Amendment (TA 14-07) complies with Goal 2.

Goal 9 – Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Response: Although this amendment, as written will enable four more Formula Food establishments in the City of Sisters (HC) District, these businesses will have their locations limited appropriately.

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2. **Approval of the request is consistent with the Comprehensive Plan.** The City of Sisters Comprehensive Plan is organized in a manner that follows the format of the statewide planning goals. The evaluation for consistency with the Comprehensive Plan text relies on whether the proposal aligns with specific tasks, policies and objectives within the relevant portions of the Plan, which are as follows.

Goal 1: Citizen Involvement

1.4 POLICIES

1. The City of Sisters shall seek out and encourage public participation in all aspects of the City planning process.

Tasks –

- a. Planning Commission and City Council meetings shall be held on a regularly scheduled basis.
- b. Planning Commission and City Council meeting agendas shall be publicized in a manner that makes this information widely available.
- d. The City shall use a variety of methods to achieve citizen involvement.

Response: Multiple Planning Commission workshops was held to gather feedback regarding these changes. Two public hearings are required by the Development Code; the first requires a recommendation to City Council by the Planning Commission, the second hearing requires a public hearing on the part of the City Council to decide whether to amend the Development Code. The Text Amendment (TA 14-07) was noticed in the Nugget Newspaper on April 15, 2015 and the City's website, two weeks prior to the April 30, 2015 Planning Commission hearing.

Staff finds that the proposed Text Amendment complies with all relevant policies provided within Goal 1 of the Comprehensive Plan.

Goal 2: Land Use Planning

2.4 POLICIES

3. As economic and social conditions change, it may be appropriate for the City to create new zoning designations that will work to assist the City in meeting the goals and policies of the Comprehensive Plan, the requirements of state law, and state land use goals.

Tasks -

- a. The City shall periodically review the Sisters Development Code to determine whether the districts set forth therein are adequate to address the goals, policies and objectives of the Comprehensive Plan and whether economic and social conditions warrant revision of the district codes, or creation of new districts. Any application for a code amendment shall address the policies and facts supporting the proposed code amendments.

Response: The City of Sisters has developed a unique community character in its commercial districts, and the City desires to maintain this unique character. The proposed

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amendments continue to protect the community's character, culture and economic vitality while still permitting a diversity of businesses with sufficient opportunities for independent entrepreneurs.

Staff finds that the proposed Text Amendments comply with all relevant policies provided within Goal 2 of the Comprehensive Plan.

Goal 9: Economic Development

A. 9.4 POLICIES

1. The City shall guide growth in a manner that will result in a balance between economic and environmental interests.

Tasks -

a. The City shall maintain and enhance the appearance and function of the Commercial Districts by providing a safe and aesthetically pleasing pedestrian environment, mixed use development, and requiring adherence to the Sisters Western Frontier Architectural Design for all types of development and signage. The Sisters Western Frontier Architectural Design Theme does not apply to the Sun Ranch Tourist Commercial District. In its place, a more historically accurate 1900s Rural Farm/Ranch House design standard applies. The City shall establish standards for this design theme in the Development Code.

Response: The proposed amendments continue to protect the community's character, culture and economic vitality while still permitting a diversity of businesses with sufficient opportunities for independent entrepreneurs.

Staff finds that the proposed Text Amendments comply with all relevant policies provided within Goal 9 of the Comprehensive Plan.

2. The City should support efforts to attract businesses providing family-wage employment opportunities.

Response: The proposed amendment increase economic development opportunities in the affected districts without compromising the Districts' purposes.

Staff finds that the proposed Text Amendment complies with all relevant policies provided within Goal 1, 2 and 9 of the Comprehensive Plan.

3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property. The applicant shall update City of Sisters Masters Plans for Water, Sewer, Parks and Transportation Systems subject to City Council approval, to reflect impacts of the rezoning on those facilities and long-range plans. The applicant must demonstrate that the property and affected area shall be served with adequate public facilities, services and transportation networks to support maximum anticipated levels and densities of use allowed by the District without adversely impacting current levels of service provided to

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existing users; or applicant's proposal to provide concurrently with the development of the property such facilities, services and transportation networks needed to support maximum anticipated level and density of use allowed by the District without adversely impacting current levels of service provided to existing users.

Response: The amendments do not negatively affect public facilities, services and transportation networks. During land use review of the projects, staff can work with the property owner, Building Department, Public Works Department and the City Engineer to make sure the project doesn't negatively affect public facilities, services or transportation networks.

4. Transportation Planning Rule (TPR) Compliance.

Legislative changes are reviewed to verify compliance with the TPR, which is found in Oregon Administrative Rules, Division 12, Section 660-012-0060. Sisters Development Code, section

4.7.600 Transportation Planning Rule Compliance

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

- 1. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal is projected to cause future traffic to exceed the capacity of "collector" street classification, requiring a change in the classification to an "arterial" street, as identified by the Transportation System Plan; or**
- 2. Change the standards implementing a functional classification system; or**
- 3. Allow types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility;**
- 4. The effect of the proposal would reduce the performance standards of a public utility or facility below the minimum acceptable level identified in the Transportation System Plan.**

B. Amendments to the Comprehensive Plan and land use standards which significantly effect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

- 1. Limiting allowed land uses to be consistent with the planned function of the transportation facility; or**
- 2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,**

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3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.

Response: This change has no significant effect on either the Comprehensive Plan or any of the land use districts. The functional classifications of the streets will remain as shown on the 2010 Transportation System Plan (TSP).

IV. Public Comments

Staff has received support for this text amendment. No comments have been received that indicate opposition to these amendments. As discussed previously, the Planning Commission held multiple workshops to receive public input and refine this amendment to the Development Code as previously discussed. The Text Amendment (TA 14-07) was noticed in the Nugget Newspaper on April 15, 2015, two weeks prior to the April 30, 2015 Planning Commission hearing.

I. Composition of the Record

The following make up the record in this matter, and are contained in file TA 15-01 and are available for review at the City of Sisters City Hall:

1. Staff Report with proposed text amendments
2. Resolution
3. DLCD Notice



**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SISTERS
STATE OF OREGON
PLANNING COMMISSION RESOLUTION PC 2015-08**

THE CITY OF SISTERS PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE THAT:

WHEREAS, the City of Sisters proposes to amend the City of Sisters Development Code to revise Chapter 2.5 Highway Commercial District Section 2.5.300 Development Standards, L. Formula Food Establishments.; and,

WHEREAS, in accordance to the provisions found in the Sisters Development Code Chapter 4.1, text amendments are processed as a Type IV application; and,

WHEREAS, the findings presented within City file number TA 14-07 have determined that the changes proposed to the Sisters Development Code will not adversely impact the City's sewer, water and/or road infrastructure; and,

WHEREAS, staff has made findings that this request is consistent with the applicable Statewide Planning Goals, the City's adopted Comprehensive Plan, Transportation System Plan, and the City's adopted Development Code; and,

WHEREAS, the Department of Land Conservation and Development (DLCD) received the Notice of Proposed Amendment on March 11, 2015 at least 35 days prior to the first evidentiary hearing; and,

WHEREAS, after due notice was published in the Nugget newspaper on April 15, 2015, a public hearing on the proposed project was held before the Sisters Planning Commission on April 30, 2015, at which time findings were reviewed, witnesses were heard and evidence was received; and,

WHEREAS, adopting the changes proposed to the Sisters Development Code are in the best interest of the City of Sisters.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF SISTERS PLANNING COMMISSION HEREBY FINDS AND RECOMMENDS THAT THE CITY COUNCIL ADOPT THE COMPREHENSIVE PLAN AMENDMENT, FILE NO. TA 14-07 SUBJECT TO THE FOLLOWING EXHIBITS:

- Exhibit A – Staff Report**
- Exhibit B – Notice to DLCD**
- Exhibit C – Draft Resolution**

THE FOREGOING RESOLUTION IS HEREBY ADOPTED THIS 30th DAY OF APRIL, 2015.

Members of the Commission: Dean, Gentry, Layne, Nagel, Seymour, Tewalt, Wright,

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Signed: David Gentry, Chairman



NOTICE OF A PROPOSED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.:

Received:

Local governments are required to send notice of a proposed change to a comprehensive plan or land use regulation **at least 35 days before the first evidentiary hearing.** (See [OAR 660-018-0020](#) for a post-acknowledgment plan amendment and [OAR 660-025-0080](#) for a periodic review task). The rules require that the notice include a completed copy of this form.

Jurisdiction: **City of Sisters**

Local file no.: **TA 14-07**

Please check the type of change that best describes the proposal:

- Urban growth boundary (UGB) amendment** including more than 50 acres, by a city with a population greater than 2,500 within the UGB
- UGB amendment** over 100 acres by a metropolitan service district
- Urban reserve designation**, or amendment including over 50 acres, by a city with a population greater than 2,500 within the UGB
- Periodic review task** – Task no.:
- Any other change** to a comp plan or land use regulation (*e.g.*, a post-acknowledgement plan amendment)

Local contact person (name and title): **Pauline Hardie**

Phone: 541 323-5208 E-mail: phardie@ci.sisters.or.us

Street address: 520 E Cascade Avenue, PO Box 39 City: Sisters Zip: 97759-

Briefly summarize the proposal in plain language. Please identify all chapters of the plan or code proposed for amendment (maximum 500 characters):

Development Code amendment to the definition and regulations of Formula Food Establishments in the Downtown Commercial, Highway Commercial, North Sisters Business Park and Tourist Commercial Districts. Also amending the Code to require staff Decisions (Type II) to be forwarded to Planning Commission and Planning Commission Decisions (Type III) to be forwarded to City Council during the appeal period so they know about the Decision and can call it up for review if they choose to do so.

Date of first evidentiary hearing: 03/05/2015

Date of final hearing: 03/12/15

This is a revision to a previously submitted notice. Date of previous submittal:

Check all that apply:

- Comprehensive Plan text amendment(s)
- Comprehensive Plan map amendment(s) – Change from _____ to _____
Change from _____ to _____
- New or amended land use regulation
- Zoning map amendment(s) – Change from _____ to _____
Change from _____ to _____
- An exception to a statewide planning goal is proposed – goal(s) subject to exception:

Acres affected by map amendment:

Location of property, if applicable (site address and T, R, Sec., TL):

List affected state or federal agencies, local governments and special districts:

NOTICE OF A PROPOSED CHANGE – SUBMITTAL INSTRUCTIONS

1. Except under certain circumstances,¹ proposed amendments must be submitted to DLCDC's Salem office at least 35 days before the first evidentiary hearing on the proposal. The 35 days begins the day of the postmark if mailed, or, if submitted by means other than US Postal Service, on the day DLCDC receives the proposal in its Salem office. **DLCDC will not confirm receipt of a Notice of a Proposed Change unless requested.**

2. A Notice of a Proposed Change must be submitted by a local government (city, county, or metropolitan service district). DLCDC will not accept a Notice of a Proposed Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of a Proposed Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 1 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist
Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line "Notice of Proposed Amendment."

Submittals may also be uploaded to DLCDC's FTP site at http://www.oregon.gov/LCD/Pages/papa_submittal.aspx.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 1 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of a Proposed Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Text:** Submittal of a Notice of a Proposed Change for a comprehensive plan or land use regulation text amendment must include the text of the amendment and any other information necessary to advise DLCDC of the effect of the proposal. "Text" means the specific language proposed to be amended, added to, or deleted from the currently acknowledged plan or land use regulation. A general description of the proposal is not adequate. The notice may be deemed incomplete without this documentation.

7. **Staff report:** Attach any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained.

8. **Local hearing notice:** Attach the notice or a draft of the notice required under ORS 197.763 regarding a quasi-judicial land use hearing, if applicable.

9. **Maps:** Submittal of a proposed map amendment must include a map of the affected area showing existing and proposed plan and zone designations. A paper map must be legible if printed on 8½" x 11" paper. Include text regarding background, justification for the change, and the application if there was one accepted by the local government. A map by itself is not a complete notice.

10. **Goal exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.

¹ 660-018-0022 provides:

(1) When a local government determines that no goals, commission rules, or land use statutes apply to a particular proposed change, the notice of a proposed change is not required [a notice of adoption is still required, however]; and

(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review such that the local government cannot submit the proposed change consistent with the 35-day deadline, the local government may submit the proposed change to the department as soon as practicable. The submittal must include a description of the emergency circumstances.

<http://www.oregon.gov/LCD/Pages/forms.aspx>

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

Notice checklist. Include all that apply:

- Completed Form 1
- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)
- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal