



PLANNING COMMISSION Agenda Item Summary

Meeting Date: February 2, 2023

Staff: Woodford

Type: Workshop

Dept: CDD

Subject: Heavenly Acres Rezone and Sisters Development Code Amendments

Action Requested: This is a work session and meant merely to be an opportunity for the Planning Commission to learn more about the proposal from staff and to ask clarifying questions in preparation of hearing the proposal at the February 16, 2023 Planning Commission public hearing. At that hearing, the Commission will be asked to render a decision on its merits after a staff report and public testimony. Therefore, the work session is not a forum for deliberating or forming opinions on the merits of the proposal.



Area Map of the Heavenly Acres Subdivision

Background:

The Heavenly Acres Subdivision was created in the early 1980's in Deschutes County and includes seven (7) parcels. It was annexed into the City of Sisters in the early 2000's. At the time of the annexation, Urban Area Reserve (UAR) zoning was applied to the property.

According to the Sisters Development Code, the UAR zoning was meant "to serve as a holding zone for lands that are within the Sisters Urban Growth Boundary and within City jurisdiction



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and to retain parcels in larger sizes until public facilities (including water, sewer and transportation) are available and the land is rezoned for urban uses and densities.” Public facilities (including water, sewer, and transportation) are all now available to the parcels.

The City has discussed for many years about the need to rezone the properties, as the UAR zoning was recognized as no longer being relevant and reflective of its urban status; however, it was never initiated by the property owners – likely due to the coordination and cost involved. Also, the zone district was allowing them to continue their operations unabated, so there was not a pressing need to change the zoning. Similarly, the City never initiated it either, as it was one of many projects annually competing for priority and due to the outdated zoning not causing any issues with the landowners and any building or expansion plans.

The impetus to finally push forward with the rezone relates to the City Council’s goals of achieving more affordable housing in the community. With the availability of funds to help leverage affordable and workforce housing through the Affordable Housing Grant Fund (funded by a percentage of the transient room tax levied), Urban Renewal District funds devoted to housing and from a one time, \$500,000 contribution of ARPA (American Rescue Plan Act) funds passed through from Deschutes County for affordable housing.

To move forward with those funds was the need for an affordable housing developer and a suitable site to build it on (one which was vacant, about two acres or less, zoned properly for housing and a willing seller). The City conducted a Request for Proposals for use of the funds and received one proposal - from Northwest Housing Alternatives. Concurrently, the city inquired with property owners in the city who might be interested and who met the above criterion. Only one property owner expressed interest – one within the Heavenly Acres Subdivision; however, the UAR zoning does not currently support multi-family housing. To make the affordable housing project happen, a rezoning of the property to Multi-Family Residential (MFR) is necessary. Because of this opportunity and due to the existing need to “clean up” the UAR zoning, the city is spearheading this effort as the applicant.

Proposal:

Rezone: On behalf of the property owners, the city proposes a city initiated legislative rezone of these parcels from UAR to another zone - either [Public Facility \(PF\)](#) or [Multi-Family Residential \(MFR\)](#). A Comprehensive Plan Amendment is required in these cases. According to the Sisters Development Code (SDC), a rezone may be initiated by City Council or the Community Development Director (see Attachment A for a map of the proposed rezoning).

Development Code Text Amendments: A separate, but concurrent application for SDC Text Amendments is proposed to accommodate the existing church and other uses in the Heavenly Acres subdivision in their new zones, including (see Attachment B for text amendments language):



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- Add Churches as a Conditional Use in the PF Zone District as a Conditional Use
- Add private parks as a Permitted Use (to account for existing private parks)
- Amend the name of the PF zone to PFI (Public Facility/Institutional) to account for institutional uses along with public facility uses.
- Amend the Non-Conforming Uses to allow uses that were legally established in one zone and rezoned to another zone that permits that use conditionally, but hasn't received conditional use permit approval, to continue that use.
- Adding a new chapter: Chapter 5.3 Subsequently Allowed Uses

Subject Properties:

| Tax Map and Lot | Address | Ownership |
|-----------------|--------------------------|--|
| 151005CD00200 | 442 N Trinity Way | International Church of the Foursquare Gospel |
| 151005CD00300 | 322 N Trinity Way | International Church of the Foursquare Gospel |
| 151005CD00400 | 222 N Trinity Way | Assemblies of God Oregon District |
| 151005CD00500 | 121 N Brooks Camp Road | Bishop of the Protestant Episcopal Church in the USA in the Episcopal Diocese of Eastern Oregon |
| 151005CD00700 | 123 N Trinity Way | St Edward Catholic Church of Sisters |
| 151005CD00800 | 452 N Trinity Way | Corp Pres Bishop Church of Jesus Christ of LDS |
| 151005CD00900 | 1307 W McKinney Butte Rd | Sisters Community Church |

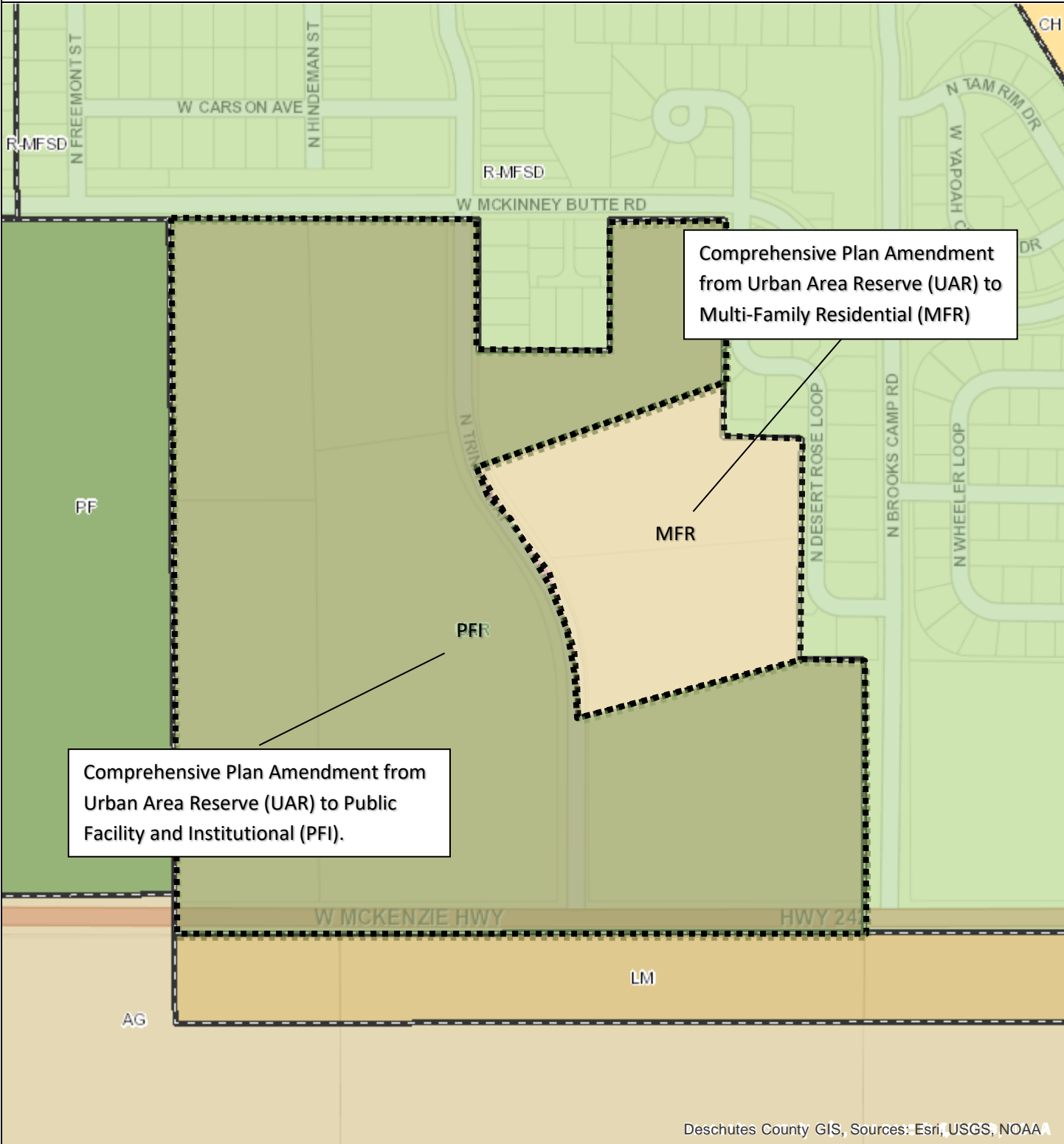
Project Website: For additional information, a project website has been created on the city's website at www.ci.sisters.or.us/community-development/page/urban-area-reserve-zone-change-project

Attachments

Attachment A – Map of Proposed Rezoning
Attachment B - Proposed Code Amendments

PROPOSED COMPREHENSIVE PLAN MAP

Exhibit " " to Ordinance 2023-XX



**DEVELOPMENT CODE AMENDMENTS
CITY OF SISTERS DEVELOPMENT CODE
CHAPTER 1.3 – DEFINITIONS**

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1.3.300 Meaning of Specific Words and Terms

As used in this Code, the following words and phrases mean:

| **Community Center** - A ~~public~~-meeting place, often a complex of buildings, where people may carry on cultural, recreational, or social activities.

**DEVELOPMENT CODE AMENDMENTS
CITY OF SISTERS DEVELOPMENT CODE
CHAPTER 2.7 – PUBLIC FACILITY DISTRICT**

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Chapter 2.7 — Public Facility and Institutional District (PFI)

2.7.100 Purpose

The Public Facility and Institutional (PFI) District is intended to provide areas primarily for the location and establishment of facilities which are maintained in public and quasi-public ownership and which utilize relatively large areas of land.

2.7.200 Uses

- A. Permitted uses. Uses permitted in the Public Facilities District are listed in Table 2.7.1 with a “P”. These uses are allowed if they comply with the development standards and other regulations of this Code.
- B. Special Provisions. Uses that are either permitted or conditionally permitted in the Public Facility District subject to special provisions for that particular use are listed in Table 2.7.1 with an “SP”. Uses subject to an SP shall comply with the applicable special use standards included in Chapter 2.15.
- C. Conditional uses. Uses that are allowed in the Public Facilities District with approval of a conditional use permit are listed in Table 2.7.1 with either a Minor Conditional Use “MCU” or a Conditional Use “CU”. These uses must comply with the criteria and procedures for approval of a conditional use set forth in Chapter 4.4 of this Code.
- D. Similar uses. Similar use determinations shall be made in conformance with the procedures in Chapter 4.8 – Interpretations.

Table 2.7.1 Use Table for the Public Facility District

| Land Use Category | Permitted/Special Provisions/Conditional Use | References |
|---|--|------------|
| Public and Institutional Uses | | |
| <u>Churches and places of worship</u> | <u>CU</u> | |
| Community <u>center building</u> | P | - |
| Concession stand providing food, beer and/or wine as an accessory use | P | - |
| Museum & libraries | P | - |
| Public buildings and structures | P | - |
| Public yards | MCU | - |

| Land Use Category | Permitted/Special Provisions/Conditional Use | References |
|--|--|--|
| Public park, playground, swimming pool, skateboard park or similar facilities intended for public use | P/CU | Uses with outdoor night lighting and/or amplified sound system require a conditional use approval (CU) |
| Public or private play fields, sport complexes and similar recreational facilities | P/ CU | Uses with outdoor night lighting and/or amplified sounds require conditional use approval (CU) |
| Utility Facility | P | - |
| Public or private schools | P | - |
| Public trails, natural areas, open space, future park sites, and similar sites owned by public or special districts with minimal improvements | P | - |
| College or university | P | - |
| Public utility maintenance facilities and operation yards with outdoor storage of materials and supplies for T15R10S09 1002 | MCU | |
| Permanent outdoor facilities for performance of music, theater, and similar community events | P/CU | Uses with outdoor night lighting and/or amplified sound system require a conditional use approval (CU) |
| Communication facilities | CU/SP | - |
| Solid waste disposal site or transfer site T15R10S09 1002 | CU | - |
| Sewage treatment facilities T15R10S09 1002 | CU | - |
| Miscellaneous | | |
| Accessory uses and structures to a primary use are allowed if they comply with all development standards and any referenced special use standards. | P/SP | - |

Key: P = Permitted SP Special Provisions MCU = Minor Conditional Use Permit
CU = Conditional Use Permit

**DEVELOPMENT CODE AMENDMENTS
CITY OF SISTERS DEVELOPMENT CODE
CHAPTER 5.2 – NON-CONFORMING USES AND STRUCTURES**

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5.2.100 Purpose

The purpose of this chapter is to allow nonconformities to continue, but to ultimately bring all uses, buildings, and structures into conformance with this Development Code and the Comprehensive Plan.

5.2.200 Nonconforming Use

A use that was legally allowed when established, but which is no longer permitted in the zone in which it is located, or a use that was legally established in one zone and rezoned to another zone that permits that use conditionally, but hasn't received conditional use permit approval, may continue so long as it complies with all of the following requirements:

- A. Expansion. A nonconforming use shall not be expanded or moved to occupy a different or greater area of land, building, or structures than the use occupied at the time it became nonconforming.
- B. A nonconforming use may be replaced with another use even though the building or site does not meet the standards of this Code. However, such substitution is to occur only when the new use is designated as permitted or conditionally permitted for the zone in which the property is located.
- C. Discontinuance. If a nonconforming use is discontinued for any reason for more than twelve (12) consecutive months, any subsequent use shall **conform** to all of the regulations of the subject zone. For purposes of calculating the twelve (12) month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
1. On the date when the use of land is physically vacated;
 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
 3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
 4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

**DEVELOPMENT CODE AMENDMENTS
CITY OF SISTERS DEVELOPMENT CODE
CHAPTER 5 - EXCEPTIONS TO CODE STANDARDS**

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Chapter 5.3 Subsequently Allowed Uses

5.3.100 Purpose/Applicability

The purpose of this chapter is to address non-conforming uses that are subsequently made conforming by adding the use as a permitted use in the applicable zone or a zone change of the property to a zone where the non-conforming use on the property is permitted as well as instances where a lawfully established use is subsequently designated as a conditional use in applicable zone or the subject property is rezoned to a zone where the lawfully established use is allowed as a conditional use.

5.3.200 Non-Conforming Uses Allowed as Permitted Uses

A. Continued Use. A non-conforming use subsequently designated as an permitted use is allowed to continue under the operating conditions at the time of the change notwithstanding any non-compliance with then applicable land use regulations.

B. Alteration. Any alteration of a non-conforming use subsequently designated as an permitted use including, without limitation, the operating conditions, land, buildings, and structures associated with the use must comply with standards applicable at the time of alteration and any unmodified portion of the use must come into compliance to the extent reasonably practical. Such alterations may require site plan review approval under SDC Chapter 4.2.

5.3.300 Non-Conforming Uses Allowed as Conditional Uses

A. Continued Use. A non-conforming use subsequently designated as a conditional use is allowed to continue under the operating conditions at the time of the change notwithstanding any non-compliance with then applicable land use regulations.

B. Alteration. Any alteration of a non-conforming use subsequently designated as a conditional use including, without limitation, the operating conditions, land, buildings, and structures associated with the use must comply with standards applicable at the time of alteration and any unmodified portion of the use must come into compliance to the extent reasonably practical. Such alterations will require conditional use approval under SDC Chapter 4.4 and may require site plan review approval under SDC Chapter 4.2.

5.3.400 Lawfully Established Uses Allowed as Conditional Uses

A. Continued Use. A lawfully established use subsequently designated as a conditional use is allowed to continue under the operating conditions at the time of the change notwithstanding any lack of conditional use approval or any non-compliance with any special standards associated with the conditional use.

B. Alteration. Any alteration of a lawfully established use subsequently designated as a conditional use including, without limitation, the operating conditions, land, buildings, and structures associated with the use must comply with standards applicable at the time of alteration and any unmodified portion of the use must come into compliance to the extent reasonably practical. Such alterations will require conditional use approval under SDC Chapter 4.4 and may require site plan review approval under SDC Chapter 4.2.

5.3.500 Reasonably Practical

For purposes of this Chapter, it will not be reasonably practical to achieve compliance where compliance requires the applicant to commit resources that clearly exceed the public benefit of achieving compliance.