



**REGULAR MEETING AND SPECIAL PUBLIC HEARINGS OF THE  
NORTH BEND PLANNING COMMISSION  
Wednesday August 7, 2024, 6:30 PM  
City Hall, 920 SE Cedar Falls Way, North Bend, WA**

**AGENDA**

- 1) Call to order and roll call, Planning Commission**
- 2) Approval of minutes from June 5, 2024 Pg. 2**
- 3) NBMC Amendment 16.12.005 and Table 20.01.004 – Mobile Home Parks Public Hearing Pg. 4**
- 4) Seattle Commercial Development Corporation Development Agreement Public Hearing Pg. 13**
- 5) NBMC Amendment 18.10.050 - Accessory Dwelling Unit Amendments Introduction Pg. 26**
- 6) Adjournment by 8:30 unless otherwise approved.**

**PLEASE NOTE:** Members of the public may choose to attend the meeting in person or by teleconference. Members of the public attending the meeting in-person will have an opportunity to provide public comment and if attending the meeting by teleconference may submit written comments via in-person drop off, mail, fax, or e-mail to [planning@northbendwa.gov](mailto:planning@northbendwa.gov). All written comments must be received by 4 p.m. on the day of the scheduled meeting and must be 350 words or less. If an individual requires an accommodation because of a difficulty attending the public meeting, the City requests notice of the need for accommodation by 3:30 p.m. on the day of the scheduled meeting. Participants can request an accommodation to be able to provide remote public comments by contacting the City by phone (425) 888-5633 or by e-mail to [planning@northbendwa.gov](mailto:planning@northbendwa.gov). No other remote public comment will be permitted.

Those wishing to access the meeting by teleconference will be required to have a registered Zoom account and display your full name to be admitted to the online meeting.

Zoom Meeting Information:

To Sign Up for a Zoom Account: <https://zoom.us/join>

Join Zoom Meeting

<https://us02web.zoom.us/j/84069345990?pwd=SE9IM3Y3ZmJRNThrSUIMRFhINVZHUT09>

Meeting ID: 840 6934 5990

Passcode: 317193

Call In Phone Number: 1-253-215-8782

**REGULAR MEETING AND PUBLIC HEARING OF THE  
NORTH BEND PLANNING COMMISSION  
- ACTION MEETING MINUTES -  
Wednesday, June 5, 2024, 6:30 PM**

This meeting was held at City Hall, 920 SE Cedar Falls Way, North Bend, WA, and was also available online. A complete video recording of this meeting is available on the City of North Bend YouTube website, at [www.youtube.com](http://www.youtube.com), under "City of North Bend."

## **AGENDA ITEM #1: CALL TO ORDER**

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The meeting was called to order at 6:30 PM.

## ROLL CALL

Planning Commissioners present: Brian Fitzgibbon, James Boevers, Juliano Pereira, Hannah Thiel, Olivia Moe, Sam White and Stephen Matlock.

City Staff Present: Rebecca Deming, Community & Economic Development Director, Mike McCarty, Principal Planner

AGENDA ITEM #2: Approval of minutes from May 15, 2024 meeting

Motion by Commissioner White, seconded by Commissioner Fitzgibbon, to approve the May 15, 2024 meeting minutes. The motion passed unanimously.

**AGENDA ITEM #3: Public Hearing - Capital Facilities Element Amendments for 2024 Comprehensive Plan Update – Public Hearing and Planning Commission Recommendation**

CED Director Rebecca Deming provided an introduction and summary of the draft updates to the Capital Facilities Element prepared as a part of the City's 2024 Comprehensive Plan Update. Ms. Deming also summarized more recent amendments made to the draft since the May 15 Planning Commission meeting based on written comments received from the Department of Fish and Wildlife. Commissioner Thiel opened and closed the public hearing at 6:31. No members of the public were present for the hearing. Staff addressed questions of Commissioners. The Planning Commission requested the following additions and corrections:

- Add a caption to photos within the Element describing the subject matter of the photo (and other Elements moving forward) and any credits as necessary.
- P. 19 of packet - Minor typo identifying certain policies with the policy marker of CR rather than CF (Capital Facilities).

Motion by Commissioner Fitzgibbon to recommend City Council approval of the draft Capital Facilities Element with the additions and corrections provided at tonight's meeting. The motion was seconded by Commissioner Pereira, and passed unanimously.

## AGENDA ITEM #4: Introduction of Energy and Sustainability Element Amendments for 2024 Comprehensive Plan Update

Principal Planner Mike McCarty provided an introduction and summary of the draft updates to the Energy and Sustainability Element prepared as a part of the City's 2024 Comprehensive Plan Update and noted written comments received. Commissioner Thiel opened and closed the public hearing at 6:39. No members of the public were present for the hearing. Staff addressed questions of Commissioners. The Planning Commission requested the following corrections:

- P. 49 of packet - Spelling error for the table source citation – Panel not Pannel.
- P. 50 of packet – Spelling error for the table source citation – Department not Dpartment.
- P. 61 of packet – Spelling error Policy ES 13.10 – Pursue not Purse.

Motion by Commissioner Fitzgibbon to recommend City Council approval of the draft Energy and Sustainability Element with the additions and corrections provided at tonight's meeting. The motion was seconded by Commissioner Boevers, and passed unanimously.

**1 AGENDA ITEM #5: Adjournment by 8:30 PM unless otherwise approved by the Commission**

2 The Meeting was adjourned at 6:50 PM.

DRAFT



**Staff Report and Planning Commission Recommendation  
To Amend Municipal Code Section 16.12.005 Plans – Preparation and filing and Table  
20.01.004 Types of development permits and approvals**

**Meeting Date:** August 7, 2024

**Proponent:** City of North Bend

**Staff Recommendation:** A Motion to recommend City Council approval of the proposed Ordinance amending NBMC Section 16.12.005 Plans, Preparation and filing and Table 20.01.004 Types of development permits and approvals.

**I. Purpose of Proposed Municipal Code Amendments:**

The City of North Bend is proposing amendments to North Bend Municipal Code Section 16.12.005 Plans – Preparation and Filing to follow state recommendations speeding up project review processes (SB 5290) and Table 20.01.004 Types of development permits and approvals to coincide with said amendments. The proposed amendments are intended to follow recommendations provided in RCW 36.70B.160.

**II. Proposed Amendments**

**1. Section 16.12.005 Plans – Preparation and filing:**

North Bend Municipal Code Subsection 16.12.005(A) is proposed to be amended as follows:

- A. Prior to any construction or installation of any buildings or utilities in a new or proposed mobile home park, or additions, extensions, and enlargement of any existing mobile home park, the owner or operator shall obtain approval from the Community Development Director ~~examiner~~. ~~The examiner shall conduct an open record hearing to review the proposed plans~~. All submitted plans shall be prepared by a licensed architect or engineer; provided, however, that an owner may develop his own drawings when he is capable of producing drawings equivalent to the conventional drawings of architects and engineers.

~~The examiner's decision shall be final and conclusive unless a written appeal is filed in superior court according to the city's appeal procedures as set forth in Chapter 20.06 NBMC, as now in effect or as may be subsequently amended.~~

2. Table 20.01.004 Types of development permits and approval:

North Bend Municipal Code Table 20.01.004 Types of development permits and approvals is proposed to be amended as follows:

Permit Type - II Quasi-Judicial	Code Requirement	SEPA Review	Staff Recommend	Staff Decision	Open Record Hearing	Closed Record Hearing	Decision Body	Open Record Appeal	Closed Record Appeal	Court Appeal
k. Public Agency/Utility Exemption	14.05.085	No	Yes	No	HE	No	HE	No	No	Yes
l. Reasonable Use CAO Exemption	14.05.085	No	Yes	No	HE	No	HE	No	No	Yes
m. Shoreline Conditional Use	14.20.680	E or NE	Yes	No	HE	No	HE	No	State Shoreline Board	Yes
n. Shoreline Substantial Development Permits	14.20.670	E or NE	No	Yes	No	No	CED	No	State Shoreline Board	Yes
o. Shoreline Variances	14.20.690	E or NE	Yes	No	HE	No	HE	No	State Shoreline Board	Yes
p. Mobile Home Parks	16.12.005	E or NE	<u>No</u> <u>Yes</u>	<u>Yes</u> <u>No</u>	<u>No</u> <u>HE</u>	No	<u>CED</u> <u>HE</u>	No	No	Yes
q. Preliminary Plat	17.12	Yes	Yes	No	HE	No	HE	No	No	Yes
r. Final Plat	17.16	No	Yes	No	No	CC	CC	No	No	Yes
s. Conditional Use Permits	18.24.020	E or NE	Yes	No	HE	No	HE	No	No	Yes
t. Variances	18.26.030	E or NE	Yes	No	HE	No	HE	No	No	Yes
u. Comprehensive Plan and Development Regulation Amendments	20.08.050	E or NE	Yes	No	PC	No	CC	No	No	Yes
v. Special District, Master Plan, and Master Plan Amendments	18.13	E or NE	Yes	No	HE	No	HE	No	No	Yes

CC – City Council CE – City Engineer CED – Community and Economic Development

HE – Hearing Examiner DOE – Department of Ecology E or NE – Exempt or Nonexempt PC – Planning Commission

#### IV. Impacts of Proposed Amendment

NBMC 20.08.070 and .080 requires that applications for municipal code amendments be evaluated for their environmental, economic, and cultural impacts, as well as impacts to surrounding properties. These impacts are evaluated below.

- 1) **Environmental Impacts.** No environmental impacts are anticipated from amending NBMC Chapter 16 or 20 as cited above. Regulations protecting critical areas, managing stormwater runoff, and controlling floodplain impacts are governed by the Critical Area Regulations in NBMC Title 14, and apply regardless of what type of development occurs on a site.
- 2) **Economic Impacts.** No significant economic impacts are anticipated by amending the developmental review process of mobile home parks as cited. However, combined with other implementations of SB 5290 there is expected to be positive economic impact to both applicants

through faster processing speeds and to City through cost protection measures.

- 3) **Cultural Impacts.** No significant cultural impacts are anticipated from the amendments. All proposed projects must plan for protecting cultural resources.
- 4) **Impacts to Surrounding Properties.** The proposed amendments are not specific to any properties and are not anticipated to significantly impact properties surrounding mobile home parks.

#### **V. Compatibility of Proposed Amendment with North Bend Comprehensive Plan (NBCP)**

In accordance with NBMC 20.08.070 and .080, applications for municipal code amendments must be evaluated for compliance with the Comprehensive Plan. The proposed amendments are in compliance with the Comprehensive Plan.

#### **VI. Compatibility of Proposed Amendment with the North Bend Municipal Code (NBMC)**

In accordance with NBMC 20.08.070 and .080, applications for municipal code amendments must be evaluated for compliance with the North Bend Municipal Code. The proposed amendment is compatible with the North Bend Municipal Code.

#### **VII. Planning Commission Findings and Analysis**

Pursuant to NBMC 20.08.100, the Planning Commission shall consider the proposed amendment against the criteria in NBMC 20.08.100 (B). A staff analysis is provided in italics under each criterion below.

1. Is the issue already adequately addressed in the Comprehensive Plan?  
*The Comprehensive Plan does not address the proposed amendment.*
2. If the issue is not addressed in the Comprehensive Plan, is there a need for the proposed change?  
*Yes. The proposed change to the code follows RCW recommendations and aligns with the City's desires.*
3. Is the proposed change the best means for meeting the identified public need?  
*Unknown. The proposed amendments simplify project developments relating to mobile home parks.*
4. Will the proposed change result in a net benefit to the community?  
*The amendments are a no project action but provide clear requirements for those proposing mobile home parks.*

## **VIII. Summary Findings:**

1. The Planning Commission will consider the proposed amendments and held a public hearing on the draft regulations at their August 7, 2024 meeting. Any comments received will be noted here.
2. The Planning Commission voted to approve/deny the amendments at their August 7, 2024 meeting.
3. Pursuant to RCW 36.70A.106, the draft regulations were forwarded to Commerce - Growth Management Services on July 31, 2024.
4. The proposed amendments are consistent with the procedures established in NBMC 20.08, *Comprehensive Plan and Development Regulations Amendment Procedures*. The Planning Commission finds that the proposed amendments are consistent with the criteria in NBMC 20.08.100(B) and would result in a net benefit to the community.

### **Staff Recommendation:**

Based on the findings above and pending consideration of public input to be provided for and at the Public Hearing, staff recommends approval of the draft regulations as provided herein, attached Exhibit A.

### **Planning Commission Recommendation**

Following consideration of the Comprehensive Plan and Development Regulation Amendment process in NBMC 20.08.070 through 20.08.110 and public comment received at the public hearing, the Planning Commission recommends approval of the draft regulations as provided herein, attached Exhibit A.

Exhibit A – Proposed Ordinance with Exhibit

Exhibit B – Public Comment (If received)

# ORDINANCE

**AN ORDINANCE OF THE CITY OF NORTH BEND,  
WASHINGTON, RELATING TO MOBILE HOME  
PARKS; AMENDING NORTH BEND MUNICIPAL CODE  
SECTION 16.12.005 RELATING TO PREPARATION  
AND FILING OF PLANS FOR MOBILE HOME PARKS;  
AMENDING THE DEVELOPMENT PERMIT AND  
APPROVAL FRAMEWORK FOR MOBILE HOME  
PARKS SET FORTH IN NBMC TABLE 20.01.004;  
PROVIDING FOR SEVERABILITY; AND  
ESTABLISHNG AN EFFECTIVE DATE**

**WHEREAS**, the North Bend City Council desires to amend North Bend Municipal Code Section (“NBMC”) 16.12.005 and NBMC Table 20.01.004 to further the City’s compliance with Second Substitute Senate Bill 5290 (“S.B. 5290”) passed by the Washington Legislature in the year 2023, and which reformed aspects of the land use permitting process; and

**WHEREAS**, under S.B. 5290, which has been codified as RCW 36.70B.160, cities are asked to eliminate public hearings from the land use permitting process which are not required by the Revised Code of Washington (“RCW”); and

**WHEREAS**, the City staff identified sections of the current NMBC pertaining to mobile home parks that require an open record public hearing beyond what the RCW requires; and

**WHEREAS**, the City Council has determined that it is in the best interests of the City to amend NBMC Section 16.12.005 and NBMC Table 20.01.004 to eliminate public hearings specific to mobile home parks; and

**WHEREAS**, the Planning Commission considered the proposed amendments to NBMC Section 16.12.005 and NBMC Table 20.01.004 at its August 7, 2024, meeting and recommended City Council approval, and a public hearing on the amendments was held on September 17, 2024;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND,  
WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. NBMC Section 16.12.005 (Plans – Preparation and Filing),**  
**Amended:** North Bend Municipal Code Section 16.12.005 (Plans – Preparation and filing) is hereby amended as follows:

### **16.12.005 Plans – Preparation and filing.**

Prior to any construction or installation of any buildings or utilities in a new or proposed mobile home park, or additions, extensions, and enlargement of any existing mobile home park, the owner or operator shall obtain approval from the Community Development Director ~~or examiner~~. The examiner shall conduct an open record hearing to review the proposed plans. All submitted plans shall be prepared by a licensed architect or engineer; provided, however, that an owner may develop his own drawings when he is capable of producing drawings equivalent to the conventional drawings of architects and engineers.

~~The examiner's decision shall be final and conclusive unless a written appeal is filed in superior court according to the city's appeal procedures as set forth in Chapter 20.06 NBMC, as now in effect or as may be subsequently amended.~~

### **Section 2. NBMC Table 20.01.004 (Development Permit and Approval Framework), Amended:**

Table 20.01.004 of the North Bend Municipal Code (Development Permit and Approval Framework) is hereby amended as set forth on Exhibit A attached hereto and by this reference incorporated herein. The remainder of North Bend Municipal Code Section 2.01.004 shall remain in full force and effect as currently adopted.

**Section 3. Severability:** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 4. Effective Date:** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2024.**

**CITY OF NORTH BEND:**

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**Mary Miller, Mayor**

**APPROVED AS TO FORM:**

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**Kendra Rosenberg, City Attorney**

**ATTEST/AUTHENTICATED:**

Published:

Effective:

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**Susie Oppedal, City Clerk**

## EXHIBIT A

**Table 20.01.004 Development Permit and Approval Framework**

<b>Permit Type - I Administrative</b>	<b>Code Requirement</b>	<b>SEPA Review</b>	<b>Staff Recommend</b>	<b>Staff Decision</b>	<b>Open Record Hearing</b>	<b>Closed Record Hearing</b>	<b>Decision Body</b>	<b>Open Record Appeal</b>	<b>Closed Record Appeal</b>	<b>Court Appeal</b>
a. SEPA Threshold Determination	14.04.060	E or NE	No	Yes	No	No	CED	No	No	Yes
b. Critical Area Study	14.05.145	E or NE	No	Yes	No	No	CED	HE	No	Yes
c. Floodplain Permit	14.12.050	E or NE	No	Yes	No	No	CED	HE	No	Yes
d. Short Subdivisions (Short Plat), and Binding Site Plans	17.12	E or NE	No	Yes	No	No	CED	HE	No	Yes
e. Boundary Line Adjustments	17.28	E or NE	No	Yes	No	No	CED	HE	No	Yes
f. Landscape Review	18.18.020	E or NE	No	Yes	No	No	CED	No	No	Yes
g. Design Review	18.34.040	E or NE	No	Yes	No	No	CED	HE	No	Yes
h. Clearing and Grading Permits	19.10.200	E or NE	No	Yes	No	No	CE	HE	No	Yes
i. Site Plan	18.14	E or NE	No	Yes	No	No	CED	No	No	Yes
j. Other Administrative Permits (Construction Permits)		E or NE	No	Yes	No	No	Varies	Varies	No	Yes
CC – City Council CE – City Engineer CED – Community and Economic Development										
HE – Hearing Examiner DOE – Department of Ecology E or NE – Exempt or Nonexempt PC – Planning Commission										

<b>Permit Type - II Quasi-Judicial</b>	<b>Code Requirement</b>	<b>SEPA Review</b>	<b>Staff Recommend</b>	<b>Staff Decision</b>	<b>Open Record Hearing</b>	<b>Closed Record Hearing</b>	<b>Decision Body</b>	<b>Open Record Appeal</b>	<b>Closed Record Appeal</b>	<b>Court Appeal</b>
k. Public Agency/Utility Exemption	14.05.085	No	Yes	No	HE	No	HE	No	No	Yes
l. Reasonable Use CAO Exemption	14.05.085	No	Yes	No	HE	No	HE	No	No	Yes

Permit Type - II Quasi-Judicial	Code Requirement	SEPA Review	Staff Recommend	Staff Decision	Open Record Hearing	Closed Record Hearing	Decision Body	Open Record Appeal	Closed Record Appeal	Court Appeal
m. Shoreline Conditional Use	14.20.680	E or NE	Yes	No	HE	No	HE	No	State Shoreline Board	Yes
n. Shoreline Substantial Development Permits	14.20.670	E or NE	No	Yes	No	No	CED	No	State Shoreline Board	Yes
o. Shoreline Variances	14.20.690	E or NE	Yes	No	HE	No	HE	No	State Shoreline Board	Yes
p. Mobile Home Parks	16.12.005	E or NE	<u>No</u> <u>Yes</u>	<u>Yes</u> <u>No</u>	<u>No</u> <u>HE</u>	No	<u>CED</u> <u>HE</u>	No	No	Yes
q. Preliminary Plat	17.12	Yes	Yes	No	HE	No	HE	No	No	Yes
r. Final Plat	17.16	No	Yes	No	No	CC	CC	No	No	Yes
s. Conditional Use Permits	18.24.020	E or NE	Yes	No	HE	No	HE	No	No	Yes
t. Variances	18.26.030	E or NE	Yes	No	HE	No	HE	No	No	Yes
u. Comprehensive Plan and Development Regulation Amendments	20.08.050	E or NE	Yes	No	PC	No	CC	No	No	Yes
v. Special District, Master Plan, and Master Plan Amendments	18.13	E or NE	Yes	No	HE	No	HE	No	No	Yes
CC - City Council CE - City Engineer CED - Community and Economic Development HE - Hearing Examiner DOE - Department of Ecology E or NE - Exempt or Nonexempt PC - Planning Commission										



## **Staff Report and Planning Commission Recommendation for the Development Agreement with the Middle Fork Property Development LLC**

**Meeting Date:** August 7, 2024

**Proponent:** Seattle Commercial Development Corporation

**Staff Recommendation:** A Motion to recommend City Council approval of a Development Agreement with Middle Fork Property Development LLC for development of parcel number 132308-9020 of approximately 35 acres, zoned EP-2, located at SE 140<sup>th</sup> Street and 468<sup>th</sup> Avenue SE.

### **I. Purpose of proposed development agreement:**

The City is proposing to enter into a Development Agreement (DA) with Middle Fork Property Development LLC for development of a property at King County parcel number 132308-9020 of approximately 35 acres, zoned EP-2, located at SE 140<sup>th</sup> Street and 468<sup>th</sup> Avenue SE.

A DA may be authorized under City Council approval pursuant to the process in North Bend Municipal Code Chapter 18.27.

Middle Fork Property Development LLC is requesting the following in DA:

- **Impact Fee Reduction:** A fifty percent reduction in impact fees for transportation and stormwater infrastructure improvements that mitigate for the development of the property for a period of five (5) years. The calculation of the impact fees for transportation and stormwater infrastructure improvements shall be calculated at the time of the effective date of the DA and the City shall collect 50% from Middle Fork Property Development LLC prior to building permit issuance.
- **Impact Fees Credits Offset.** The remainder of the transportation and stormwater impact fees, 50%, are to be offset with sales taxes generated from businesses locating and relocating to the property for a period of ten years commencing on the effective date of the DA. If the dollar amount of the sales taxes obtained by the City from the property is not equal to or greater than the total impacts fees credits provided for the property for five (5) years, Middle Fork Property Development LLC will reimburse the City for the balance of the impact fee credits received.
- **Water Service to the Property.** The property is located in North Bend's water service district. Middle Fork Property Development LLC may obtain public water utility service for the property from Sallal Water Association ("Sallal"), and the City agrees not to raise objections to Sallal serving the Property, and this includes the City refraining from negatively commenting to applicable local, state, and federal agencies regarding any proposal for Sallal to serve the Property with water.

The obligations under the DA with Middle Fork Property Development LLC, would be to December 31, 2044, in order to match the estimated completion date of the proposed development. The draft DA is attached as Exhibit A.

Middle Fork Property Development LLC will submit a master plan for the property, per the Master Plan Overlay District requirement, after City Council approval of the DA.

## **II. CONCLUSION AND STAFF RECOMMENDATION:**

The property is considered to be a prime development opportunity for the City of North Bend that would generate good jobs, opportunity, and amenities for North Bend residents. Development of the property would assist North Bend's economic development goals by supporting fiscal sustainability to meet existing and future financial obligations and provide essential services to current and future residents as well as strengthening and diversifying the economic base. In addition, the development of the property supports the economic development strategy recommendation to redevelop Trucktown and the surrounding properties.

City staff recommends approval of the new DA with Middle Fork Property Development LLC. Following consideration of any testimony that may be provided to you at the public hearing at your August 7, 2024, meeting, staff requests your recommendation to the City Council as to whether to approve the DA.

## **III. PLANNING COMMISSION RECOMMENDATION**

*Based on the findings above and public comments received, the North Bend Planning Commission recommends **approval** of Development Agreement with Middle Fork Property Development LLC, attached as Exhibit A.*

Exhibit A: Draft DA with Middle Fork Property Development LLC

**DEVELOPMENT AGREEMENT**

**BETWEEN THE CITY OF NORTH BEND**

**AND MIDDLE FORK PROPERTY DEVELOPMENT LLC**

This Development Agreement (the “Agreement”) is made and entered into by and between the City of North Bend, a Washington municipal corporation (hereinafter referred to as the “City”), and Middle Fork Property Development LLC, a Washington corporation (hereinafter referred to as “Owner”).

**RECITALS**

**WHEREAS**, Owner owns or controls certain real property which is located within the City’s municipal boundary and which is more fully described in the attached Exhibit “A” (hereinafter referred to as the “Property”); and,

**WHEREAS**, the City and the Owner recognize this Property will develop over a period of years and wish to provide predictability about the impact fees that will apply to the Property over the course of its full development by the Owner; and,

**WHEREAS**, the City is a Washington municipal corporation with land use planning and permitting authority over all land within its corporate limits; and,

**WHEREAS**, the Washington State Legislature has authorized the execution of development agreements between local governments and a person having ownership or control of real property within its jurisdiction pursuant to RCW 36.70B.170(1); and,

**WHEREAS**, pursuant to RCW 36.70B.170 and North Bend Municipal Code (“NBMC”) chapter 18.27, a development agreement is authorized which may set forth specific development provisions that shall apply to the Property development within the duration specified in the agreement; and

**WHEREAS**, the parties recognize the importance of jobs and commercial development within the City and particularly within the area that includes the Property; and,

**WHEREAS**, for the purposes of this Agreement, “Development Standards” includes, but is not limited to, all of the standards listed in RCW 36.70B.170(3), NBMC Titles 17, 18 and 19, and any development standards provided herein;

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and provisions set forth herein, the receipt and adequacy of which consideration is hereby acknowledged, the parties hereto agree as follows:

## **AGREEMENT**

**Section 1. Incorporation of Recitals.** The recitals set forth above are true and correct and are incorporated by reference as if fully set forth herein.

**Section 2. Development Agreement.** This Agreement is a Development Agreement to be implemented under the authority of and in accordance with RCW 36.70B.170 through RCW 36.70B.210 along with chapter 18.27 of the NBMC, and it shall become a contract between the Owner and the City upon its approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170 and NBMC 18.27.025 and upon execution by all parties.

**Section 3. Effective Date and Duration of Agreement.** This Agreement shall commence upon the effective date of the City Council resolution approving this Agreement (the “Effective Date”), and shall continue in force for a period of twenty (20) years unless extended or terminated as provided herein.

**Section 4. SEPA.** Pursuant to the State Environmental Policy Act (“SEPA”), piecemeal environmental review is discouraged. The Owner has not completed the Master Plan development process under NMBC Chapter 18.13, and therefore, SEPA review will not be conducted as part of this Agreement. The SEPA review will be tied to the development proposal and Master Plan.

**Section 5. Land Use Fees and Impact Fees.** Except as described in Sections 6 and 7 herein, the Owner shall pay 100% of the impact fees, connection fees, mitigation fees, charges, and future fees and charges required by the City for the Property. Owner acknowledges and agrees that land use,

transportation, stormwater, parks, building, fire, public works and other fees and charges adopted by the City may be increased by the City from time to time, and are applicable to permits and approvals for the Property, as long as such fees apply to similar applications and projects in the City.

**Section 6. Impact Fees Credits.** Upon the Effective Date of the Agreement, the parties agree that the impact fees for transportation and stormwater infrastructure improvements that mitigate for the development of the Property shall be reduced by fifty percent (50%) for a period of five (5) years. The calculation of the impact fees for transportation and stormwater infrastructure improvements shall be calculated at the time of the Effective Date of this Agreement and the City shall collect 50% from the Owner prior to building permit issuance.

**Section 7. Impact Fees Credits Offset.** It is intended that the impact fees credits described in Section 6 herein will be offset with sales taxes generated from businesses locating and relocating to the Property upon its development pursuant to the Master Plan. If during a period of ten (10) consecutive years commencing on Effective Date of this Agreement, the dollar amount of the sales taxes obtained by the City from the Property is not equal or greater than the total impacts fees credits provided for the Property for five (5) years pursuant to Section 6 herein, the Owner shall, upon request from the City, directly and promptly reimburse the City for the balance of the impact fee credits received by the Owner.

**Section 8. Water Service to the Property.** Owner may choose, but is not required, to obtain public water utility service for the Property from Sallal Water Association (“Sallal”), and the City agrees not to raise objections to Sallal serving the Property, and this includes the City refraining from negatively commenting to applicable local, state and federal agencies regarding any proposal for Sallal to serve the Property with water.

## **Section 9. Termination.**

**9.1.** This Agreement shall expire and be of no further force and effect if:

**9.1.1.** The development contemplated in this Agreement and in associated permits and/or approvals issued by the City are not

substantially underway prior to expiration of such permits and/or approvals. Nothing in this Agreement shall extend the expiration date of any permit or approval issued by the City; or

**9.1.2.** Owner does not construct the project as contemplated by the Master Plan and permits and approvals obtained for the Property and this Agreement, or submits applications for development of the Property that are inconsistent with this Agreement.

**9.2.** This Agreement shall terminate either (1) upon the expiration of the term identified in Section 3 above, or (2) when the Property has been fully developed *and* all of Owner's obligations in connection therewith are satisfied as determined by the City, whichever first occurs. Upon termination of this Agreement, the City shall record a notice of such termination in a form satisfactory to the City Attorney.

**9.3.** This Agreement shall terminate upon Owner's abandonment of development of the Property. Owner shall be deemed to have abandoned development of the Property if a complete application for a master plan has not been received by the City within six (6) months of the effective date of this Agreement consistent with NBMC 18.13.020(E) or if no building permit for construction of the Master Plan is submitted to the City within 2 years of the Effective Date noted above.

**Section 10. Effect of Termination.** Upon termination of this Agreement, the entitlements, conditions, limitations and any other terms and conditions vested herein shall no longer be vested hereby with respect to the Property (provided that vesting of such entitlements, conditions or fees may be established for the property pursuant to then-existing planning and zoning laws).

**Section 11. Remedies and Venue.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of Washington. Should a disagreement arise between the City and Owner regarding the interpretation and application of this Agreement, the parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting

proves unsuccessful to resolve the dispute, the disagreement may be resolved by judicial action for which the parties agree to venue in the Superior Court for King County, State of Washington.

**Section 12. Performance and Waiver.** Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the parties' rights hereunder to enforce the same, nor shall any waiver by a party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.

**Section 13. Specific Performance.** The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Agreement by any party in default hereof.

**Section 14. Severability.** If any portion of this Agreement is found to be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

**Section 15. Inconsistencies.** If any provisions of the North Bend Municipal Code are deemed inconsistent with the provisions of this Agreement, the provisions of this Agreement shall prevail.

**Section 16. Binding on Successors.** The rights and obligations created by this Agreement are assignable and shall be binding upon and inure to the benefit of Owner, the City, and their respective successors and assigns. Only Owner and the City or their successors and assigns shall have the right to enforce the terms of this Agreement.

**Section 17. Recording.** Owner shall record, against the real property legally described in Exhibit "A", an executed copy of this Agreement with the King County Auditor, pursuant to RCW 36.70B.190, no later than fourteen (14) days after the Effective Date and shall provide the City with a conformed copy of the recorded document within thirty (30) days of the Effective Date.

**Section 18. No Joint Venture.** Nothing in this Agreement is intended to create any type of joint venture relationship between the parties as to the Property or its development.

**Section 19. Amendments.** This Agreement may only be amended by mutual agreement of the parties.

**Section 20. Entire Agreement.** This document contains the entire agreement between the parties with respect to the subject matter of the Agreement.

**Section 21. Voluntary Agreement.** The parties intend and acknowledge that this Agreement is entered into voluntarily without duress and is a voluntary contract binding upon the parties hereto, as well as their successors and assigns.

**Section 22. Indemnification.** The Owner shall protect, defend, indemnify and hold harmless the City and its officers, agents, and employees, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever.

**Section 23. Attorneys' Fees and Costs.** In any judicial action to enforce or determine a party's rights under this Agreement, the prevailing party (or the substantially prevailing party, if no one party prevails entirely) shall be entitled to reasonable attorneys' fees and costs.

**Section 24. Mutual Drafting and Construction.** The parties agree that both parties participated fully in the negotiation and drafting of this Agreement and the rules of construction of ambiguities against the drafter shall not apply to either party.

**Section 25. Headings.** The headings in this Agreement are inserted for reference only and shall not be construed to expand, limit, or otherwise modify the terms and contingencies of this Agreement.

**Section 26. Parties and Authority.** The signatories below to this Agreement represent that they have the full authority of their respective

entities to commit to all of the terms of this Agreement, to perform the obligations hereunder and to execute the same.

**Section 27. Force Majeure.** Neither party shall be deemed to be in default where delays in performance or failures to perform are due to war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, epidemics, pandemics, or other restrictions or bases for excused performance which is not within the reasonable control of the party to be excused.

**Section 28. Correspondence and Notice.** Notices or communications required or desired to be given under this Agreement shall be in writing and sent either by: (a) United States Postal Service first class mail, postage pre-paid; (b) recognized overnight courier service which customarily maintains a contemporaneous permanent delivery record; or (c) by e-mail to the e-mail addresses designated below, if the subject line indicates that the e-mail is formal notice under this Agreement. The notice shall be deemed delivered on the earlier of: (a) Actual receipt; (b) three (3) business days from deposit in the United States mail; (c) the delivery date as shown in the regular business records of the recognized overnight courier service; or (d) the day and time the email message is received by the recipient's email system, provided, however, that emails received between 4:30 PM and 8:30 AM will be considered delivered as of the start of the next business day. Notices shall be addressed as follows:

To CITY:

City of North Bend  
Attn:  
Title  
[Address]  
[email address]

To OWNER:

Middle Fork Property Development LLC  
Attn:  
Title  
Address  
email address

Either party, by written notice to the other in the manner herein provided, may designate an address different from that set forth above.

**Section 29. No Third-Party Beneficiary.** Unless expressly provided for herein, nothing in this Agreement is intended to create any third-party beneficiary relationships.

**Section 30. Counterparts.** This Agreement may be executed in as many counterparts as may be deemed necessary or convenient, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates set forth below:

MIDDLE FORK PROPERTY  
DEVELOPMENT LLC

CITY OF NORTH BEND

By

By

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

—

STATE OF WASHINGTON )  
                          ) ss.  
COUNTY OF KING       )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument and acknowledged it as the \_\_\_\_\_ of Middle Fork Property Development LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_, 2024.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
NOTARY PUBLIC for the State of Washington, residing in the County of King  
My Commission Expires: \_\_\_\_\_

STATE OF WASHINGTON )  
                          )  
                          ) ss.  
COUNTY OF KING      )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument and acknowledged it as the \_\_\_\_\_ of the CITY OF NORTH BEND, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_, 2024.

NOTARY PUBLIC for the State of  
Washington, residing in the County of  
King  
My Commission Expires:

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DRAFT

## ATTACHMENT A

King County parcel number 132308-9020 of approximately 35 acres, zoned EP-2, located at SE 140th Street and 468th Avenue SE.





## Community and Economic Development Department Staff Report

**Proposal:** Amendments to the Accessory Dwelling Units (ADUs) Performance Standards in NBMC 18.10.050 section 1.52.

**Date:** August 7, 2024

**Proponent:** City of North Bend

## A. PROPOSED AMENDMENTS:

Amendments are proposed to the City of North Bend Land Use Performance Standards concerning Accessory Dwelling Units (ADUs) in NBMC 18.10.050 Section 1.00, Subsection 1.52, and associated amendments to NBMC 18.10.041. The amendments are intended to increase the number of ADUs permitted per lot up from one to two, increase the maximum size of ADUs from 800 square feet to 1000 square feet, permit the sale and/or subdivision of ADUs, revise setbacks applicable to ADUs, and associated minor amendments.

The proposed code amendments are in response to recent legislative amendments to RCW 36.70A.680 and 681 passed by the legislature through House Bill 1337, which updates standards and laws that local governments can impose on ADUs. Subject to the amendments to RCW 36.70A.681 under HB1337, cities:

- Must allow two (2) ADUs per single family residential lot in any configuration of attached or detached, or through conversions of existing structures,
- May not require the owner to occupy the property, and may not prohibit sale as independent units,
- Must allow an ADU of at least 1,000 square feet and must adjust zoning to be consistent with the bill for things such as height, setbacks, and other regulations.
- May not require the provision of off-street parking for ADUs within one-half mile of a major transit stop (not applicable in North Bend),
- May not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an ADU.

This gives the City of North Bend the opportunity to update its own standards and regulations on ADUs to help meet housing and affordability goals by enabling lots in the LDR zone to contain more housing at a more affordable price.

Staff are therefore proposing amendments to the performance standards for ADUs, including the number of units permitted per lot, maximum size of the units, sale/subdivision of the units from principal dwelling, and placement of the units to ultimately allow for the construction/availability of more housing stock at a relatively affordable price when compared to a typical single-family home.

Associated amendments to NBMC 18.10.041 are provided to remove regulations pertaining to ADUs from this section, so that all ADU provisions are addressed in 18.10.050 subsection 1.52, and NBMC 18.10.041 only addresses residential accessory structures and uses (and not ADUs).

The proposed municipal code amendments are provided within the attached Exhibit A.

## B. FINDING AND ANALYSIS:

1. **Public Hearing:** A public hearing is scheduled for the August 21 Planning Commission Meeting.
2. **Municipal Code Amendment Process:** Municipal code amendments are governed by NBMC 20.08.070 through 20.08.110, evaluated below.
  - a. **Impacts of Proposed Amendment**

NBMC 20.08.070 and .080 requires that municipal code amendments be evaluated for their environmental, economic and cultural impacts, as well as impacts to surrounding properties. These impacts are evaluated below.

    - i. **Environmental Impacts.** No environmental impacts are anticipated from revising the land use performance standards concerning ADUs. Regulations protecting critical areas, managing storm water runoff (including maximum impervious surface limits per property based on zoning), and controlling floodplain impacts are governed by the Critical Area Regulations in NBMC Title 14, and apply regardless of development that occurs on a site. Such review will occur upon submittal of an application for development.
    - ii. **Economic Impacts.** The amendments have a positive economic impact for the City of North Bend by making the development of ADUs less restrictive and therefore encouraging the development of more ADUs that can provide the city with more housing stock at more affordable prices. This is particularly important for many people who work in North Bend, particularly within the retail and service industries, who cannot find local housing that they can afford. New residents/tenants would also be added to the city's tax base, supporting local businesses.
    - iii. **Cultural Impacts.** No significant cultural impacts are anticipated from the proposed amendments. ADUs provide a form of housing stock that is largely lacking in the City of North Bend, allowing people from a wide range of incomes the opportunity to live in the city, as well as increasing housing options for households with elderly parents or grown children.

**b. Impacts to Surrounding Properties.** The proposed amendments are not specific to any particular properties. However, the amendments have the potential to impact the amount of readily available on-street parking if not enough off-street parking is provided for an ADU. The City's parking regulations require 1 parking stall for each ADU (in addition to parking required for the primary home), which should provide sufficient off-street parking to limit impacts to street parking.

### **3. Compatibility of Proposed Amendment with North Bend Comprehensive Plan**

In accordance with NBMC 20.08.070 and .080, applications for municipal code amendments must be evaluated for compliance with the Comprehensive Plan.

The North Bend Comprehensive Plan Housing Element calls for a mix of housing types and densities to help meet housing demands for the region. The Housing Element also calls for the permittance of two ADUs per lot where single-family homes are permitted.

The proposed amendments are consistent with the following Comprehensive Plan Goals and Policies:

Housing Goal 1: Encourage a variety of housing types and densities compatibly located to meet the demands of a diverse population.

Housing Policy 1.2: Encourage the provision of a diversity of housing types and sizes to meet the needs of a wide range of economic levels, age groups and household make-up.

Housing Policy 4.9: Support and allow the development of a variety of housing types that increase the availability of housing affordable to all economic segments of the city's population.

Housing Policy 6.6: Encourage and support accessible design and housing strategies, such as ADUs, that provide seniors the opportunity to remain in their own neighborhood as their housing needs change.

### **4. Compatibility of Proposed Amendment with the North Bend Municipal Code (NBMC)**

In accordance with NBMC 20.08.070 and .080, application for municipal code amendments must be evaluated for compliance with the North Bend Municipal Code.

The amendments, which bring North Bend's municipal code regarding ADUs up to state standards and requirements are consistent with a stated purpose of the Low-Density Residential zone in NBMC 18.10.020(A)(3), which reads, "Accommodate other uses compatible with single-family residences and other types of innovative styles of residential units including accessory dwelling units."

### **5. Consistency with NBMC 20.08.100**

Pursuant to NBMC 20.08.100, the Planning Commission shall consider the proposed amendment against the criteria in NBMC 20.08.100 (B). A staff analysis is provided in *italics* under each criterion below.

1. Is the issue already adequately addressed in the Comprehensive Plan?

*The amendments are to the North Bend Municipal Code and not the Comprehensive Plan. See*

*further description on compatibility of the proposed amendments to the Comprehensive Plan above.*

2. If the issue is not addressed in the Comprehensive Plan, is there a need for the proposed change?

*Yes. As described further under section A, the amendments are proposed to better enable ADUs to be developed both in larger size and quantity within the City of North Bend, which is intended to help fill the need for more housing; The amendments are also needed to meet state requirements when regulating ADUs.*

3. Is the proposed change the best means for meeting the identified public need?

*Yes. The draft amendments are the best means to meet the changes to restrictions on ADUs imposed by the state.*

4. Will the proposed change result in a net benefit to the community

*Yes. The proposed regulations will result in a net benefit to the community by allowing for a higher quantity of alternative housing that serves different needs for housing while also being relatively more affordable than a detached single-family home.*

**Exhibits:**

Exhibit A: Municipal Code Amendments

## Proposed Amendments to NBMC 18.10.050, Section 1.00 Residential Subsection 1.52

1.52 Accessory Dwelling Units (ADUs)	<ul style="list-style-type: none"> <li>a. Single-family detached dwellings, including designated manufactured homes, are permitted to have <del>one-two</del> ADUs. ADUs shall not be permitted in conjunction with any other principal residential use, including but not limited to manufactured homes or mobile homes.</li> <li>b. An ADU may be attached (i.e., located within or attached to a <u>primary dwelling SFDD</u>) or detached (i.e., incorporated in a garage or other outbuilding to the single-family dwelling).</li> <li>c. <del>ADUs shall not be permitted on lots less than 4,000 square feet.</del></li> <li>d. <del>ADUs shall not be larger than 10 percent of the lot area or 800-1,000 square feet, whichever is smaller, and contain a maximum of one bedroom. Studios are allowed on lots less than 5,000 square feet and ADUs shall meet the height requirements of 1.51(b).</del></li> <li>e. <del>ADUs cannot be separated or subdivided in ownership from the principal dwelling.</del></li> <li>f. <del>ADUs may be sold as condominiums subject to preparation of a condominium map per NBMC 17.24.</del></li> <li>g. <del>The primary dwelling unit shall be owner-occupied. Permission for an ADU can only be applied for and granted to the property owner.</del></li> <li>h. <del>The ADUs shall conform to <u>building and impervious surface</u> lot coverage and setback requirements for the LDR district.</del></li> <li>i. <u>ADUs shall conform to the following bulk and dimensional standards:</u> <ul style="list-style-type: none"> <li>i. Attached ADUs shall meet the bulk and dimensional standards applicable to the primary structure.</li> <li>ii. Detached ADUs shall be located in side yard or rear yard areas only.</li> <li>iii. Detached ADUs shall maintain five-foot side yard and ten-foot rear yard setbacks.</li> <li>iv. Detached ADUs shall not exceed 25' in height to the highest point of the structure.</li> </ul> </li> </ul>
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	<p><u>On corner lots, a 10-foot side yard setback is required on the street side.</u></p> <p>v. <u>ADUs do not require additional lot area than that required for a single-family dwelling.</u></p> <p>i.vi. <u>Consistent with RCW 36.70A.681, detached ADUs may be sited at a lot line abutting a public alley that is not routinely plowed by the city.</u></p> <p>g.h. <u>ADUs shall meet all building, electrical, fire, plumbing, <a href="#">parking</a>, <a href="#">design standards</a>, and other applicable code requirements.</u></p>
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### Proposed Amendments to NBMC 18.10.041

#### 18.10.041 Bulk and dimensional standards for residential accessory units, structures and uses.

- A. Accessory dwelling units (ADUs), detached garages, and carports shall be located in side yard or rear yard areas only. All other accessory uses and structures to single-family dwellings, with the exception of fences, shall be located strictly in rear yard areas unless explicitly stated otherwise.
- B. Detached ADUs, detached garages, and detached carports shall maintain five-foot side yard and five-foot rear yard setbacks; however, side or rear yard setbacks may be reduced to zero feet on one side yard lot line if the side yard on the opposite side is a minimum of 15 feet for single-family and 10 feet for cottage. All other accessory uses and structures to single-family dwellings shall maintain five-foot side and rear yard setbacks.
- C. For multifamily dwellings, accessory uses and structures shall be located strictly in rear yard areas, and maintain the same standards in subsections (C)(2) and (3) of this section, except that:
  - 1. Garages may be located under residential units.
  - 2. Clubhouses, recreation centers, pools, or sport courts may be located per site plan review and approval.
  - 3. Fences shall be regulated per NBMC 18.18.175.
- D. On corner lots, to provide a clear view/sight-distance triangle per NBMC 18.18.175, a 10-foot side yard setback is required for accessory structures.
- E. Accessory dwelling units (ADUs) do not require additional lot area than that required for a single-family dwelling, except ADUs are not permitted on lots less than 4,000 square feet.
- F.E. Height of accessory structures shall not exceed 25 feet.
- G.F. Nonconforming Lots and/or Structures. Lots, structures, and/or land uses legally created and/or legally in existence prior to the adoption date of these standards are not subject to the bulk and dimensional standards herein; provided, that any remodeling, reconstruction, or new construction on such lots or to such structures shall meet all bulk and dimensional standards.

EXHIBIT A

H.G. Conflict with Other Code Provisions. Where bulk and dimensional standards conflict with other standards, provisions of NBMC 18.04.020 shall apply.

I.H. Site perimeter landscaping requirements in Chapter 18.18 NBMC shall apply to all sites unless precluded by placement of a building to a conflicting minimum setback distance.

I. Shall comply with NBMC 18.10.050(1.52), Land Use Performance Standards.