



Staff Report

For City Council Meeting - 8/6/2025

Subject - Ordinance/Resolutions - Ordinance #949 - An Ordinance Amending The Zoning Map for the City of Gearhart by Applying a Floating Zone to Change 5,000 Square Feet of Property from R-2 (Medium Density Residential) to C-1 (Neighborhood Commercial)

Synopsis: Garrett's staff report is embedded below.

TO: Gearhart Planning Commission
FROM: Garrett Phillips, City Planner
DATE: July 24th, 2025
RE: #25-05 FZMA Zoning Map Amendment Request

File #: 25-05 FZMA

Application Purpose: An application for Zoning Map Amendment from R-2 Medium Density Residential Zone to C-1 Neighborhood Commercial Zone for the front 5,000 square feet of tax lot 61009AA05900. The amendment would apply 5,000 square of floating C-1 zone established by Ordinance 860.

Decision Type: Quasi-judicial zone change. The Planning Commission made a recommendation to the City Council, who will approve or deny the request.

Property Owner: Megan Masterson, Candi Robison
P.O. Box 2113 Gearhart, OR 97138

Applicant's Representative: Hyland Durant
hyland@hdurantlegal@gmail.com

Location: 567 Pacific Way, Gearhart, OR
Tax lot 61009AA05900
Portion of Lots 16 and 17, Block 7,
Redondo Addition to Gearhart Park

Preapplication Conference: None
Completeness: May 27, 2025
Notice Mailed: June 21, 2025
Notice Published: June 21, 2025
120-day deadline September 24, 2025

Planning Commission Hearing: July 10, 2025

Exhibits: Application Materials
Ordinance 860
Conditional Use Permit #17-001

Review Criteria: GZO Section 3.2 Medium Density Residential Zone R-2
GZO Section 3.4. Neighborhood Commercial Zone
GZO Section 3.14 Tsunami Hazard Overlay Zone
GZO Section 6.330 Transportation Impact Analysis
GZO Article 11 Amendments
GZO Article 13 Application, Notice and Hearing Procedures
Gearhart Comprehensive Plan, 1994
Gearhart Transportation System Plan, 2017
Gearhart Parks and Recreation Master Plan, 2022

Public Comments: No public comments were received prior to writing this report.

Agency Comments: State agency comments were not requested.

Building Official –	No Comments
Fire Marshall –	No Comments
Police –	No Comments
Public Works –	No Comments
City Administrator –	No Comments

Planning Commission Recommendation:

On July 10th Planning Commission recommended approval without conditions.

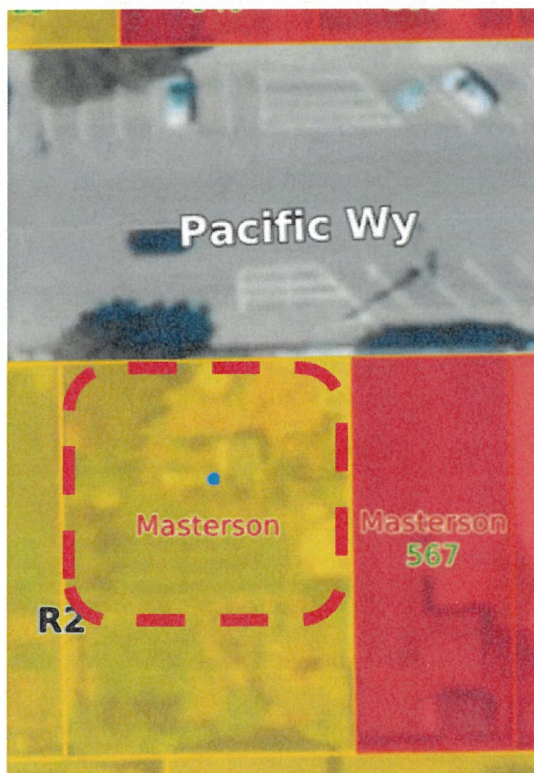
Planning Commission deliberations clarified that outdoor seating for a neighborhood café, which is the existing and continuing use of the subject property, continues to be a conditional use

subject to new conditional use permits when modifications are made that could increase impacts on the City or surrounding area. The existing conditional use permit #17-001 would remain effective for the current use (neighborhood café outdoor seating) under this rezone, and its legitimacy is clarified and reinforced by this rezone.

The Planning Commission's staff report had offered two potential conditions of approval that Planning Commissioners found unnecessary. Short term vacation rentals are not permitted in the C-1 zone, so a condition of approval on vacation rentals is unnecessary. Second, given staff's findings that the floating C-1 zone and associated traffic impacts on the City's transportation system already exist, and that GZO gives staff authority to require traffic impact analysis for future changes of use or development that could increase trip generation, a condition of approval regarding traffic impact analysis is not necessary.



Street View



Existing Zoning, and Rough Illustration Boundary of Rezone Area in Red Dashed Outline.

I. SITE ANALYSIS & GZO ZONING STANDARDS

- A. Background: Ordinance 860 rezoned 30,000 square feet of vacant land on Pacific Way west of US 101 across from City Hall. 5,000 square of the land was C-1 Neighborhood Commercial Zone, and Ordinance/Findings established that area of C-1 zone as a floating zone. In doing so the findings stated that “The City Comprehensive Plan currently does not permit the city to create additional commercial zone property, so commercial zone property is a finite resource. In this rezone request the City will retain the right to replace the 5,000 square feet of C-1 Zone commercial zone property through an additional map amendment process.”

The applicant requests a Comprehensive Plan and Zone Map amendment for the 5,000 square feet of the subject property closest to Pacific Way. A metes and bounds description of the area to be rezoned is attached to the application. The application is to apply 5,000 square feet of floating C-1 zone established by Ordinance 860.

- B. Site information:

The rezone area is currently used as outdoor seating for the adjacent establishment. Conditional Use Permit 17-001 (attached) permitted a neighborhood café on the lot to the east and the associated outdoor seating area on the subject property. The existing seating area occupies about the front 3,000 square feet of the subject property. The septic system for the building on the lot to the east is located on the subject property, south of the seating area.

The site is located at the western end of Gearhart’s C-1 Zone and downtown commercial area on the south side of Pacific Way. The adjacent lot to the east includes the Daughter’s Wine Shop in a building built about to the shared side lot line, in the C-1 Neighborhood Commercial Zone. Adjacent to the south is a multi-family residential building built about to the shared rear lot line, and a single dwelling on the other lot to the south, both in the R-2 Medium Density Residential zone. The adjacent lot to the west is vacant and zoned R-2 Medium Density Residential.

The site is not included in the Flood Hazard Overlay Zone. The City’s Local Wetland Inventory does not identify wetlands on the lot. The site is in the Tsunami Hazard Overlay Zone, Size “Large” area.

C. Plan and Zone Standards:

D. GZO Section 3.1 R-2 Medium Density Residential Zone

The purpose of the R-2 Zone is to provide housing consisting of a mixture of single family, multiple family house. The maximum allowable density shall be six (6) dwelling units per acre. The minimum lot size is 7,500 square feet.

Commercial uses are not permitted as of right or conditionally. Neighborhood Cafés and their associated inclusion of beer and wine sales and unlimited outdoor seating are not listed as permitted or conditionally permitted in the R-2 zone.

FINDINGS: While the existing outdoor seating area for a neighborhood café was permitted by CU 17-0001, and that was a reasonable decision based on findings that the existing septic system on the same lot and built out condition of the lot to the east effectively precluded future residential development consistent with the R-2 zone on the subject lot, business lenders or other potential business partners may reasonably question whether the seating area and the septic system are consistent with the zoning ordinance, located as they are in the R-2 zone. The 7,400 square foot subject lot is non-conforming for lot size. While non-conforming lot size would not alone preclude residential development, it is another factor making the subject lot less suitable for the R-2 zone.

E. GZO Section 3.4 C-1 Neighborhood Commercial Zone

The purpose of the C-1 Zone is to provide for the location of needed small businesses and services in the City Center for the convenience of nearby residents. Businesses are intended to fit into the residential character of the neighborhood and not create either architectural or traffic conflicts.

FINDINGS: The proposed rezone would support an existing small business in the City Center.

F. GZO Section 3.420 Outright Uses Permitted (C-1)

The following uses are permitted outright in the C-1 zone: Neighborhood Grocery Market, Barber, Salon and Spa Services, Arts and Crafts Gallery and Studio, Home Occupations, Government facility, Offices, Manufactured dwelling.

FINDINGS: The existing/intended use is not permitted outright.

G. GZO Section 3.430 Conditional Uses Permitted (C-1)

The following uses are permitted through a conditional use permit in the C-1 zone: Neighborhood Café, Variety Store, and a residential use permitted in conjunction with a permitted use.

FINDINGS: The existing/intended use is permitted under an existing conditional use permit CU 17-001, consistent with the list of uses permitted conditionally in the C-1 Zone.

H. GZO SECTION 3.440 C-1 Zone Standards

This section includes standards for residential uses, and the following standards for commercial uses: a. No lot size minimum b. No lot coverage maximum c. No minimum or maximum residential density d. No front yard setback minimum e. No side yard setback minimum except when adjoining a residential zone, then the setback is 5 feet. f. A rear yard setback shall be at least 5 feet. g. Building height shall be 30' or two stories, whichever is less. Off street parking is not required. Transportation improvements as specified in Article 4. Sign requirements per GZO Section 6.020.

FINDINGS: The existing/intended site development is consistent with the standards. No development or signs are proposed at this time.

I. GZO Section 3.14 Tsunami Hazard Overlay Zone

...All lands identified as subject to inundation from the XXL magnitude local source tsunami event as set forth on the applicable Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) and adopted by the city are subject to the requirements of this section.

FINDINGS: The subject property is located in the "Large" Tsunami area per Oregon DOGAMI Tsunami Inundation Map (TIM) Series map Tim-Clap-08 Tsunami Inundation Maps for Gearhart - Seaside, Clatsop County, Oregon. This means that Oregon DOGAMI estimates the site would be inundated by a large tsunami, on a scale of small to extra large, and that the property is subject to GZO Section 3.14.

J. GZO Section 3.1450 Prohibited Uses

This section prohibits several uses from occupying some tsunami inundation zones.

FINDINGS: The existing/proposed use is not prohibited in the THO zone.

K. GZO Section 3.1470 THO Zone Required Development Improvements

Evacuation Route Improvement Requirements. Except single-family and duplex dwellings on existing lots and on vacant parcels less than 12,500 square feet, all new development, substantial improvements, and land divisions in the Tsunami Hazard Overlay Zone shall incorporate evacuation measures and improvements, including necessary vegetation management, which are consistent with and

conform to the adopted Gearhart Transportation System Plan (TSP) evacuation route designations.

FINDINGS: The section does not require improvements at the time of rezoning.

L. GZO Section 3.15 Airport Hazard Overlay Zone

Section 3.1530 establishes four (4) airport zones, each with its own use and structure height restrictions. Within the Horizontal Zone, the maximum height allowed of any 'obstruction' is 150 feet above the airport elevation or at a height of 159 feet above mean sea level. There are no use restrictions within the Horizontal Zone. Within the Horizontal Zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground.

FINDINGS: The applicant is not proposing structures and there are no non-conforming structures.

M. GZO Section 4.040 Transportation Improvements

The following types of development are required to construct transportation improvements:

- New single-family dwelling or duplex (if fronting a planned sidewalk/trail)
- New multi-family dwelling
- New commercial development
- Major commercial expansion ($\geq 25\%$ increase in floor area)
- All development in the RCPD zone and subdivisions/partitions per the Subdivision Ordinance

FINDINGS: Transportation improvements are not required at the time of rezoning. The proposal does not include the applicable development types.

N. GZO Section 4.060 Access Management Standards

Section 4.060 includes requirements for driveway access to public roads. It refers to Transportation System Plan requirements for driveway spacing,

FINDINGS: The proposal does not include new driveway access and does not increase the use of an existing driveway.

O. GZO Section 4.070 Traffic Impact Analysis

Section 4.070.2 requires a Traffic Impact Analysis (TIA) when a change in zoning will generate more trip ends, more than 25 trips during the AM and PM peak hours or more than 300 daily trips; or has potential impacts to residential areas

and local roadways and intersections.

FINDINGS: C-1 zoning could generate more vehicle trips for this particular location in the future, however the 5,000 square feet of C-1 zoning already exists as floating zone in the downtown area, and therefore application of the C-1 zone to this location does not represent an increase in the number of trips in the area. GZO 4.070 also gives staff the authority to require TIA for a future change in use or development on the site. Planning Commission recommended that a TIA is not required at this time and does not need to be addressed in conditions of approval.

II. GZO ARTICLE 11 AMENDMENTS

A. GZO Section 11.040 AMENDMENT CRITERIA

A decision must be based on adequate findings demonstrating compliance with each of the following Zone Map Amendment approval criteria, A - E.

- A. The amendment shall be consistent with the Comprehensive Plan.
- B. The amendment will meet a land use need.
- C. The uses permitted by the amendment are compatible with the land use development pattern in the vicinity of the request.
- D. The land is physically suitable for the uses to be allowed in terms of slope, soils, flood hazards and other relevant considerations.
- E. Public facilities and services, including transportation systems and access, are available to accommodate the uses proposed.

A. The amendment shall be consistent with the Comprehensive Plan.

FINDINGS: Comprehensive Plan policies relevant to this zone change request are provided in the section below, along with their related findings. Those findings support an overall finding that the amendment is consistent with the Comprehensive Plan. The Comprehensive plan sections below did not include policies that were relevant to the proposal.

- Open Space, Scenic Areas, Historic And Natural Resources Policies
- Air, Water, And Land Resource Quality Policies
- Geology And Geologic Hazards Policies:
- Flood Hazard Policies:
- Recreation Policies
- Economy And Energy Policies
- Urban Growth Policies
- The Necanicum Estuary
- Coastal Shorelands

- Beaches and Dunes

Residential Policies

1. The City will preserve and maintain the residential character of Gearhart through appropriate zoning and land use development regulations.
2. The City will implement the City's land use development regulations through the continued development of Gearhart as a residential community.
3. The City will maintain the present residential density levels in established neighborhoods.
4. The City will recognize the importance of the City's residential neighborhoods and the need to protect them from the negative impacts of the transient rental of property, and to discourage increased levels of traffic and similar disruptions.

FINDINGS: In response to the above Comprehensive Plan residential policies: The zone change to C-1 acknowledges existing constraints preventing residential use of the site under the current zoning, including an existing septic system for the adjacent built out commercial lot, and a conditional use permit that approved the current use. The City has 5,000 square feet of existing C-1 zoning to apply to a location in downtown Gearhart. In terms of minimizing the impact on residential areas of applying C-1 zoning somewhere in downtown Gearhart, this site is a reasonable location because it fronts Pacific Way, is across the street from commercial uses, is adjacent to a commercial use on one side and a vacant residentially zoned property on the other and is currently used for commercial use. Vacation rentals are not allowed in the C-1 zone.

Commercial Development Policies.

1. The City will limit commercial activity in the City, in terms of both land devoted to commercial uses and the types of uses permitted in commercial zones, to a level that is compatible with Gearhart's residential character.

FINDINGS: The 5,000 square feet of commercial zoning already exists as a floating zone, so approving the rezone does not create more potential for commercial activity.

2. The City will prevent the City from becoming a tourist destination. To achieve this policy the City, through its land-use designations, shall seek to accommodate only a limited level of tourist development.

FINDINGS: The existing and proposed use are not particularly tourist oriented. The uses permitted in the C-1 zone were specifically chosen to

be oriented toward serving local residents in downtown Gearhart.

3. The City will work to achieve a level of commercial development that supports the needs of the residents of Gearhart, rather than serving a regional commercial center role, or providing for major tourist destination facilities.

FINDINGS: The uses permitted in the C-1 zone were specifically chosen to be oriented toward serving local residents in downtown Gearhart.

4. The City shall not designate additional property for commercial development.

FINDINGS: The 5,000 square feet of commercial zoning already exists as floating zone, so approving the rezone does not create more potential for commercial activity.

5. The City shall not redesignate areas presently zoned C-2 to C-3.

FINDINGS: This standard is not applicable.

6. The City will maintain a commercial Zone in the center of the City that provides for the needs of residents.

FINDINGS: The zoning amendment maintains the commercial zone in the center of the City that provides for the needs of residents. This amendment particularly supports the maintenance of the existing business in the existing C-1 zoned property adjacent to the subject property.

8. The City will limit the number of business uses in the C-1 zone so that the zone does not become a destination for tourists.

FINDINGS: The 5,000 square feet of commercial zoning already exists as floating zone, so approving the rezone does not create more potential for being a tourist destination.

9. The City will achieve a compact town center in the vicinity of Pacific Way and Cottage Avenue.

FINDINGS: The amendment applies C-1 zoning adjacent to and across the street from existing C-1 zoning and commercial uses.

10. The City will establish Zoning Ordinance standards to protect residential areas from adjacent commercial development.

FINDINGS: This standard directs the City to establish standards in the GZO, and is not applicable to individual zoning map amendments.

Citizen Involvement, Revision, Implementation And Process Goals 1 and 2

FINDINGS: The City is complying with the policies by issuing public notices and notices to adjacent landowners of the decision hearings, holding hearings and issuing a record of the decision consistent with the Gearhart Zoning Ordinance.

Housing Policies

14. The City, through provisions in its Zoning Ordinance shall allow for needed housing types such as manufactured dwellings, duplexes, multi-family dwellings, and residential care facilities and residential homes.

FINDINGS: The proposed amendment allows for the future development of one dwelling on the site on its own or as a part of a commercial development, based on the lot size and standards of the C-1 zone. In the existing R-2 zone, based on the lot size, one dwelling is permitted. The proposal does not change the number of dwellings allowed on the site, but does increase the potential formats for accommodating residential development, in that the C-1 zone allows for a residence to be a part of a commercial development.

Public Facilities Policies

FINDINGS: The proposed amendment is not expected to negatively impact public facilities.

Transportation Plan Policies:

FINDINGS: The proposal is generally consistent with the transportation plan policies. The Planning Commission may require TIA for changes in use as a condition of approval to address this standard. The existing and proposed use maintain the quality of pedestrian facilities in downtown Gearhart by not introducing new access driveways across the sidewalk. Pacific Way is a Collector Street. The source of the C-1 floating zone was also located on Pacific Way.

Gearhart Parks and Recreation Master Plan

FINDINGS: The plan does not identify the subject property.

- B. The amendment will meet a land use need.

FINDINGS: The proposed amendment clarifies the conforming status of an existing viable business and its outdoor seating area in downtown Gearhart, so in that regard, it is supporting a needed use or a use in demand by the public. The need for 5,000 square feet of C-1 zoning in downtown Gearhart was initially established for the site that Ordinance 860 rezoned out of C-1. It is assumed that the overall need still exists, and that applying the zone to an actual property will meet the need for that 5,000 square feet of C-1 zone.

- C. The uses permitted by the amendment are compatible with the land use development pattern in the vicinity of the request.

FINDINGS: The land use pattern in the site's vicinity is mixed. Adjacent sites include a probable single-family home, a multi-family use, a commercial use, and a vacant use. The amendment is not expected to result in immediate changes to the area.

- D. The land is physically suitable for the uses to be allowed in terms of slope, soils, flood hazards and other relevant considerations.

FINDINGS: The site is gently sloped, and is not in a 100 year floodplain. Like large areas of Gearhart and Gearhart's downtown, the site is located in the Tsunami zone, but the GZO does not prohibit C-1 permitted uses in the "L" size tsunami area.

- E. Public facilities and services, including transportation systems and access, are available to accommodate the uses proposed.

FINDINGS: Public facilities were found to be adequate for the 5,000 square feet of C-1 zoning when it was applied to a specific property, before Ordinance 860 made it a floating zone, and staff did not identify concerns with the adequacy of public facilities to serve C-1 zoning at this particular location.

- Water: Water service is available to properties fronting Pacific Way.
- Transportation: The site has direct access to Pacific Way and the sidewalk.
- Parks and Recreation System: The amendment is not expected to impact the parks and recreation system.

II. COMMENTS:

Testimony to the Planning Commission only included comments in support of the rezone. The comments related to the approval criteria in confirming that the business serves local

residents. Comments were received from: Heather Day, Terry Graf, Shelly_____, and Lynn Claudon

III. CONDITIONS OF APPROVAL

Planning Commission did not recommend conditions of approval. The City Council may require conditions of approval based on findings that they are needed to satisfy specific approval criteria.

IV. RECOMMENDATION OPTIONS

Planning Commission recommended that City Council approve the zone change without conditions of approval.

1. Continue the hearing to the next meeting.
2. Recommend denial of the zone change, or recommend of approval with conditions based on additional findings by City Council.
3. Recommend approval of the zone change.

Council Options:

- Motion to approve Ordinance #949 reading once by the title only;
- Make further changes and motion to approve as amended;
- Take other action desired by Council.

Recommended Motion: Stated above.

Legal Analysis: Stated above.

Financial Analysis: N/A

Respectfully Submitted,

A handwritten signature in blue ink, appearing to be the name 'Chad', written in a stylized, cursive-like font.

Chad



ORDINANCE NO. 949

AN ORDINANCE AMENDING THE ZONING MAP FOR THE CITY OF GEARHART BY APPLYING A FLOATING ZONE TO CHANGE 5,000 SQUARE FEET OF PROPERTY FROM R-2 (MEDIUM DENSITY RESIDENTIAL) TO C-1 (NEIGHBORHOOD COMMERCIAL)

WHEREAS, the Gearhart City Council approved Ordinance No. 860 establishing provisions for floating commercial zoning in limited circumstances; and

WHEREAS, the property owner applied for a zoning map amendment consistent with Ordinance No. 860 to designate a 5,000 square foot portion of their R-2 zoned parcel as C-1; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing and recommended approval of the zoning map amendment; and

WHEREAS, the City Council finds that the criteria for application of the floating zone provisions have been met, and that amending the zoning designation as requested is consistent with the Gearhart Comprehensive Plan and applicable zoning regulations.

NOW, THEREFORE, the City of Gearhart ordains as follows:

Section 1. The City of Gearhart Zoning Map shall be amended to apply a floating commercial zone designation of C-1 (Neighborhood Commercial) to a 5,000 square foot portion of the property described as Tax Lot 5900 on Assessor's Map 61009AA, located west of Cottage Avenue, east of Marion Avenue, and fronting Pacific Way, changing that portion from R-2 (Medium Density Residential) to C-1 (Neighborhood Commercial) in accordance with Ordinance No. 860.

Section 2. This amendment shall be recorded in the City's official zoning map and development records.

Passed by the Common Council of the City of Gearhart this 6th day of August 2025.

YEAS:

NAYS:

ABSENT:

ABSTAIN:

Signed and approved by the Mayor of the City of Gearhart this 6th day of August 2025.

Kerry Smith, Mayor

ATTEST:

Chad Sweet, City Administrator