

## Gearhart Planning Commission Minutes for October 9, 2025

MEMBERS: Virginia Dideum, Russ Taggard, Don Frank, Eric Halperin, Emerson Fisher, John Mesberg, and Jennifer Grey

STAFF: Chad Sweet, Garrett Phillips, and Angoleana Torres

### Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, October 9, 2025, was called to order at 6:00 p.m. by President Virginia Dideum. *All Members and staff were present except Mesberg who was excused.*

#### COMMISSIONER EXCUSED

On MOTION by Taggard, 2nd by Fisher, to excuse John Mesberg from this meeting.

6 - Approved (Dideum, Frank, Taggard, Halperin, Grey, Fisher)

0 – Opposed

#### CONSENT AGENDA

On MOTION by Grey, 2nd by Halperin, the consent agenda was approved as presented. Said agenda approved Minutes for September 11, 2025, financial report for September 24, 2025, Correspondence from David Bowes – Post Office.

6 - Approved (Dideum, Frank, Taggard, Grey, Halperin, Fisher)

0 – Opposed

#### STAFF REPORT

Phillips reported that staff have been monitoring recent FEMA meetings related to the National Flood Insurance Program to stay informed about upcoming requirements. He noted that in the coming years, new rules will need to be adopted as a follow-up to the PICEM Endangered Species Ordinance currently under consideration, which represents the pre-implementation compliance phase. Phillips also shared that DLCD's Housing Accountability and Production Office recently released a detailed summary of this summer's housing-related legislation. Staff are reviewing how these new state housing laws may impact Gearhart's zoning ordinance or local practices and will report back to the commission once that analysis is complete. In addition, Phillips noted that the department has been extremely busy with customer service, pre-development applications, and permit reviews, as reflected by the three public hearings on the agenda that evening.

Sweet reported that the city council continues to address the public safety building issue, emphasizing that inaction is not an option due to the building's unsafe condition. A new community survey featuring

updated options, including a potential remodel of the existing facility, is expected to be released within the next week or so, and residents are encouraged to participate. He also discussed ongoing concerns regarding “No Trespassing” signs in the estuary area within the R-1 zone. The city is working with the state to resolve the matter under estuary and public trust laws, and Sweet clarified that no final decision has been made about whether the signs will remain. Additionally, he noted that the police and fire departments are operating well; however, the fire department is in the process of hiring one new firefighter to replace a recently departed employee. The department continues to maintain around 25 volunteers and remains busy responding to calls.

Sweet requested that the discussion regarding the vacation rental permit appeal be moved down on tonight’s agenda to allow time for further staff research by the city attorney Gollehon.

COMMISSIONERS REPORT – None

VISITORS COMMENTS – None

### PUBLIC HEARINGS

Dideum opened the public hearing at 6:07 p.m. on File #25-08ZTA – Zoning Text Amendment to Article 1 Definitions and Article 6 Supplementary Provisions, to prohibit pickleball use in residential zones and within 300 feet of dwellings, and to require a conditional use permit for pickleball in other areas. The (city) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected areas and may change the value of your property.

Dideum read the hearing disclosure and asked if any commissioners need to declare a conflict of interest in ex parte contact or personal bias. - No conflict.

Dideum asked the audience if there were any concerns or challenges regarding the commission's ability to render an impartial decision. - No Challenges.

Phillips explained that the planning commission was considering a legislative text amendment to the Gearhart Zoning Ordinance, with its decision serving only as a recommendation to the city council, which would later hold its own hearing and issue the final decision subject to appeal to the Land Use Board of Appeals. He reviewed the origins of the proposal, noting that in summer 2025 some residents requested that pickleball be prohibited in residential zones due to noise impacts, prompting council direction for staff and the planning commission to draft amendments. The proposed ordinance would define pickleball, prohibit courts in all residential zones, and allow them only in limited commercial areas if located more than 300 feet from any dwelling or residentially zoned lot and approved through a conditional use permit. Phillips described staff’s noise research at existing courts and comparisons with other cities, concluding that the 300-foot separation would reasonably keep noise below the city’s 55-decibel nuisance standard. He stated that the amendments do not conflict with the Comprehensive Plan, which supports recreation generally but does not prevent regulation when impacts occur, and also noted an exception allowing the city’s existing downtown courts to remain, with any expansion requiring a conditional use permit. Phillips emphasized that residents have expressed a need for the amendments

and that the current hearing provides an opportunity for additional testimony. He concluded by outlining the commission's options, recommend approval, recommend denial, or request modifications before forwarding the proposal to the city council.

Commissioners asked clarifying questions about how the proposed text amendment would apply to specific situations, beginning with a concern raised by a South Ocean resident who had originally brought the pickleball noise issue to the city after seeing a nearby tennis court being resurfaced with pickleball striping; staff confirmed that although the resident initiated the discussion, the amendment itself is a city-led legislative text change. Another commissioner sought clarification on whether the Highlands HOA pickleball courts, located within the urban growth boundary but outside city limits, would fall under the zoning amendment. Staff confirmed that the zoning code applies within the UGB, meaning those courts would become legal nonconforming uses allowed to continue but not revert from tennis back to pickleball if they ceased operation. Additional clarification established that the city's public courts near downtown are in a park zone and would also remain allowed. After confirming that the Highlands courts were actually outside the UGB and thus unaffected, commissioners stated they had no further questions before moving on to the next portion of the hearing.

#### Proponents:

Brad Wenger, 1459 North Cottage: He spoke in support of the proposed amendment, noting he had previously submitted a letter and attended earlier discussions at both the planning commission and city council. He endorsed the written comments submitted by Terry Graff and emphasized that pickleball noise clearly violates the city's noise ordinance. Wenger argued that a zoning amendment is the appropriate and effective way to address the issue, rather than relying on the city to monitor noise complaints on a case-by-case basis. He explained that in his neighborhood, particularly near the undeveloped lots along North Cottage and Meadow, there is potential for new courts that could create significant noise impacts, which motivates his support for the proposal. Wenger urged the commission to adopt the amendment, or a similar version of it, and forward it to the city council for action.

Terry Graff 302 South Ocean: He spoke in strong support of the proposed amendment, noting he had appeared before the commission twice already and expressing appreciation for the commission's time and effort on the issue. He reminded commissioners that the last pickleball-related request, an application to convert a second tennis court into a pickleball court, had generated overwhelming public opposition, with roughly 25 people testifying and around 70 written comments submitted against it. Graff stated that this widespread concern remains the prevailing sentiment in Gearhart, emphasizing that pickleball creates significant noise impacts. He reiterated his full support for the commission's proposal and thanked them again for their work.

#### Opponents:

Kathy Gardner 2416 Pine Ridge Drive: She spoke in opposition to the proposed amendment, emphasizing that she plays pickleball on her personal driveway, which is part of a large lot, and that the activity is limited by weather, making it seasonal and infrequent. She noted that her neighbors are aware of and unbothered by her playing and argued that banning pickleball on private property is unnecessary, especially given other sources of noise in the neighborhood, such as leaf blowers, chainsaws, basketball courts, the golf course, and e-bikes. Gardner stressed that the city's existing noise ordinance is sufficient to regulate disturbances and expressed concern about overreach in restricting recreational activities, arguing that pickleball is a legitimate and reasonable activity that should not be prohibited.

Carla Gram 295 S Ocean Ave: spoke in a neutral-to-opposed position regarding the amendment. She lives two houses from a tennis court that is being converted to a pickleball court and expressed concern because the court is private property that has existed long before she lived in Gearhart and is used only occasionally by the family who owns it. Graham emphasized that the refurbishment of the court was a legitimate improvement to private property and questioned the fairness of restricting its use. She noted that while noise could be a concern, this court is not a public facility used for tournaments or large gatherings, but rather for limited family use, suggesting that the proposed amendment may unnecessarily limit private recreation.

Laura Chester 523 Railroad Avenue: She spoke in opposition to the proposed amendment, emphasizing that she owns over an acre of property where her family has long engaged in recreational activities. She described a 40x60 pole barn and surrounding fields used for basketball, volleyball, croquet, horseshoes, soccer, and fencing, and expressed concern about how the amendment would affect her family's ability to play pickleball on her property. Chester questioned whether the ordinance would apply to activities conducted indoors on private property, noting the inconsistency of limiting pickleball while other recreational noises, such as basketball or volleyball, already occur on her property. She framed her remarks as a concern for maintaining private recreational freedoms for her grandchildren and great-grandchildren.

Thomas Baughman 251 South Ocean: He spoke on behalf of himself and his family, opposed the proposed amendment restricting pickleball use at 251 South Ocean, where a repurposed tennis court exists. He explained that the court has been used by his family for decades for tennis, basketball, skateboarding, and occasionally pickleball, noting that pickleball activity has historically been infrequent and minimally impactful on neighbors. Baughman emphasized that the recent refurbishment of the court was necessary for safety and maintenance, and he expressed concern about being restricted from using his family's property. While acknowledging neighbors' noise concerns as valid, he suggested reasonable compromises, such as limiting hours of play, using noise-mitigating equipment, or implementing a permit system with occasional review, rather than imposing a full ban.

Whitney Nye 389 Second Street: an avid player on second street behind the pickleball courts, She spoke in opposition to the proposed amendment restricting pickleball. She emphasized her support for

homeowners being able to build and use their own courts, provided permitting requirements are met, and expressed concern that the amendment could unnecessarily limit recreational opportunities in Gearhart. Nye noted that while noise limits, such as a 55-decibel standard, may be reasonable, other common neighborhood noises, like gas-powered leaf blowers, are often louder, highlighting inconsistencies in noise concerns. She also stressed the community benefits of pickleball, including increasing participation and enjoyment, and suggested reasonable time restrictions rather than outright bans. Overall, she advocated balancing regulations with maintaining recreational access and growth for the community.

Bob Morey 271 D Street and owner of the Gearhart School: He spoke in opposition to the proposed amendment requiring conditional use permits for pickleball. He emphasized that indoor play, such as in the gymnasium, generates negligible noise outside when doors are closed, making a permit unnecessary. Morey supported private homeowners' rights to use and maintain their own courts, citing the Price family's resurfaced tennis court and personal use as examples. He noted that occasional pickleball use on private property has historically been minimal and posed little disturbance to neighbors. Morey also raised concerns that imposing restrictions could open the city to legal challenges regarding property rights and criticized the amendment as unnecessarily restrictive. Overall, he advocated for protecting private property rights and maintaining reasonable access to recreational activities.

Michael Beaman of Beaman Architecture, 707 North Cottage: He spoke in opposition to the proposed pickleball amendment, emphasizing that his concern is not personal use but the principle of restricting legal recreational activities. He questioned the fairness of banning or limiting activities after they have been established, particularly on existing properties, suggesting that mitigation measures, such as noise-attenuating paddles and softer balls, could address concerns without prohibiting the activity. Beaman highlighted that abandoning or banning a legal leisure activity due to perceived noise is unnecessary and cautioned against imposing rules retroactively on existing uses, advocating instead for reasonable accommodations that balance recreation with noise management.

Neutral: None

#### APPLICANTS TESTIMONY

Phillips, speaking on behalf of the city as the applicant, outlined that the amendments regarding pickleball were introduced following prior discussions in September, with the goal of gathering public input and feedback on potential regulations. He emphasized that the process had been successful in generating "interesting input" from the community and that the planning commission now had the option to either forward the amendments to city council as drafted or to propose adjustments. Phillips discussed several potential approaches, including designating pickleball as a conditional use in the relevant zones, with the possibility of imposing time limits or expiration periods on conditional use permits. He highlighted that applicants could submit proposals outlining mitigation measures to address noise concerns, which might include professional noise analyses and specified equipment or playing practices to reduce sound. Phillips also explained that the amendments were intended to be a practical and responsive measure to balance public concerns about noise with the rights of property owners, while

avoiding a lengthy or overly complicated process similar to prior zoning deliberations, such as those related to tree ordinance amendments. He concluded by emphasizing staff's readiness to implement the commission's direction and adapt the regulations to meet community and council expectations while keeping the process simple and efficient.

Dideum closed the public hearing at 6:56 pm.

Commissioners noted that pickleball meetings are consistently popular and that public court hours are limited to daylight due to the absence of lights. They highlighted that while a formal "good neighbor policy" exists for short-term rentals, no such policy applies broadly to residential areas, and suggested that informal neighborly agreements regarding noise might be more appropriate than a zoning text amendment change, which was viewed as potentially heavy-handed. Concerns were raised that the proposed ordinance would not effectively address noise from existing courts or informal play and that it is a poor tool for mitigating noise issues. Commissioners also emphasized challenges in enforcement, noting that pre-existing courts would remain non-conforming uses and that city staff would face burdensome oversight if required to monitor noise or equipment use. Overall, the discussion acknowledged the popularity and recreational value of pickleball while debating the practicality and fairness of regulating it through zoning, with a focus on balancing community enjoyment with potential noise impacts.

The commission reviewed three potential paths, recommending the current draft ordinance to city council, revising it with additions or subtractions, or continuing to review it with further study and a potential new hearing in December. One commissioner suggested limiting the ordinance specifically to outdoor courts, reasoning that indoor courts would not create a noise nuisance. The idea of a conditional use permit for private outdoor courts was discussed, which would allow recreational play but require the use of noise-dampening equipment, potentially including panels and specialized balls. Concerns were raised about enforcement, including how to define acceptable sound-dampening equipment and decibel levels, and the commission noted that existing courts would be grandfathered in and not affected by new restrictions.

In discussing the motion, one commissioner proposed continuing the hearing to a future date to allow time to gather more information on the effectiveness of sound-dampening equipment, establish decibel limits, and clarify regulations for existing courts. The motion was seconded, and it was clarified that the continuation does not need to specify all interim considerations, only that the hearing would be extended. Additional input included the possibility of regulating hours of use or public court activity through a separate ordinance, acknowledging that public courts are a significant source of noise complaints. The commission agreed that continuing the hearing would provide time to refine the ordinance and address both private and public court concerns before making a final recommendation.

On MOTION by Taggard, 2nd by Frank, to continue the hearing to a certain date in the future.

6 - Approved (Dideum, Taggard, Grey, Halperin, Frank, Fisher)

0 - Opposed

Dideum opened the public hearing at 7:28 p.m. on File #25- 25-07APPL – Appeal of expiration of a Vacation Rental Permit submitted by Jeff Miller, located at 101 5th St. and further described as Assessors Plat 6.10.04DD, Taxlot 07500. Said request is to reinstate the expired permit.

Dideum read the hearing disclosure and asked if any commissioners need to declare a conflict of interest in ex parte contact or personal bias. - No conflict.

Dideum asked the audience if there were any concerns or challenges regarding the commission's ability to render an impartial decision. - No Challenges.

Phillips presented a staff report regarding an appeal of a short-term rental permit expiration. He explained that under Zoning Ordinance Section 13.060, the planning commission must determine whether to uphold or reverse staff's decision based on the proper interpretation of the ordinance or potential due process issues. In this case, the permit expired automatically on its expiration date because it was not renewed, as outlined in the ordinance. Staff issued a notice of decision and provided ample advance notification to the permit holder, including records of communications at least 30 and 60 days prior to expiration. The appellant submitted an appeal with supporting documentation but did not identify any error in ordinance interpretation or due process violations. Phillips noted that staff did not find grounds to reverse the permit expiration, though the hearing allows the commission and appellant to discuss any additional points or evidence. He highlighted Article 7, Section 9 of the Gearhart Zoning Ordinance regarding annual renewal as central to the staff's decision.

Commissioners asked questions about the renewal process for vacation rental permits. One commissioner noted that Section 9 largely addresses permit issuance but does not provide clear instructions for renewal beyond paying taxes. Sweet clarified that after payment is made, the permit holder must submit proof of payment through the city's online portal, and these instructions are provided in the 30- and 60-day notices issued prior to permit expiration. Commissioners then examined the specific timeline in which the appellant could have completed renewal, highlighting a three-week period in July when the portal did not allow renewal. Sweet explained that this was due to the timing of the appellant's room tax payments for the new quarter; prior to that period, renewal was possible because taxes had already been paid. Commissioners also questioned whether the portal interface had changed from previous years, potentially causing confusion, and Sweet indicated that while the process may have appeared different due to tax timing, other permit holders did not encounter the same issue. Finally, commissioners asked whether any legal mechanism, similar to ORCP 71, could excuse mistakes or administrative errors. Gollehon responded that the ordinance does not allow exceptions for administrative or clerical errors, and that ORCP rules for excusable neglect only apply in circuit court proceedings, not to planning commission actions.

#### APPLICANTS TESTIMONY

Jeff Miller 2202 SW Kings Ct, Portland, OR. 97205: He testified that he and his family have owned their waterfront property for 45 years and historically rented it primarily to friends and relatives to help cover maintenance costs. He explained that after significant property improvements, they engaged a rental management company, Vacasa, to assist with rentals. Miller detailed their attempts to renew the short-term rental permit, stating that his assistant tried twice, once in June and again on July 7, but was instructed to wait until the city posted the required taxes, which occurred on July 18, just two business days before the permit expiration. Despite following instructions, they did not receive confirmation of payment from the city. When they attempted to submit the renewal two business days after expiration, the system denied the application. Miller emphasized that these well-documented efforts to renew on time should prevent cancellation, noting that the permit lapse disrupted longstanding family vacation

arrangements spanning generations. He appealed to the commission to allow the permit renewal based on these circumstances.

**Proponents:**

Ellen Gadsby 2666 Southwest Upper Drive Place in Portland, 872 wellington: She spoke in support of Mr. Miller, emphasizing that he clearly intended to renew his permit but became entangled in issues related to taxes, which are paid by the third-party management company Vacasa, not the homeowner directly. She noted that the homeowner has limited control over this process and expressed her opinion that if there is a grace period for late tax payments, there should likewise be a grace period for permit renewal. She urged the commission to recognize the intent to comply and to approve the renewal of Miller's permit.

**Opponents: None**

**Neutral: None**

Halperin asked the applicant why, knowing that the permit expired on July 23, 2025, and that taxes needed to be paid, no one ensured the renewal was completed before that deadline. The applicant responded that due to ongoing communications with Vacasa and the city, they believed everything would be handled correctly, but they missed the two-business-day window because of a weekend. He confirmed that they were aware of the expiration date.

Dideum closed the public hearing at 7:53 pm.

Commission discussed the applicant's missed renewal deadline and the city's role in notifying the property owner. Commissioners noted conflicts between the city's timeline and Mr. Miller's account but agreed that the city had fulfilled its responsibility to notify and work with the applicant. They emphasized that the ordinance is intentionally stringent, offering no grace period, and expressed concern that making an exception could create precedent for other cases. While acknowledging the applicant's good faith effort and history of timely renewals, the commission concluded that the ordinance did not allow them to grant relief administratively. Several commissioners expressed sympathy for the situation and recognized the applicant's frustration but agreed that the only recourse available would be to appeal to the city council. There was also discussion about potentially revisiting the ordinance in the future to consider small grace periods or other administrative flexibility, but for this case, the commission felt constrained by the current rules.

On MOTION by Grey, 2nd by Fisher, to affirm this permit expiration based on the staff report findings.

5 - Approved (Dideum, Taggard, Grey, Halperin, Fisher)

1 - Opposed (Frank)

Dideum opened the public hearing at 7:28 p.m. on File #25-09ZTA – Zoning Text Amendment to Section 3.10 Flood Hazard Overlay Zone to implement Endangered Species Act Pre-Implementation Compliance Measures (ESA PICM). The (city) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the Flood Hazard Overlay Zone, and may change the value of your property. The amendment does not change the boundaries of the Flood Hazard Overlay Zone.



Dideum read the hearing disclosure and asked if any commissioners need to declare a conflict of interest in ex parte contact or personal bias. - No conflict.

Dideum asked the audience if there were any concerns or challenges regarding the commission's ability to render an impartial decision. – No Challenges.

Phillips provided a detailed staff report to the planning commission regarding a proposed amendment to the city's zoning ordinance, designed to implement FEMA's model ordinance for the 100-year floodplain and protect endangered species. He explained that the amendment is nearly identical to one reviewed earlier in 2025, which the commission and city council had previously recommended delaying adoption until FEMA issued guidance clarifying compliance with Oregon's housing laws. Council had instead adopted the Oregon Model Floodplain Ordinance to address basic flood hazard overlay issues but later requested reconsideration after receiving new guidance from the city attorney, highlighting potential risk to the city's continued participation in the National Flood Insurance Program if deadlines were missed.

Phillips outlined that the ordinance includes mitigation requirements for specific development impacts in the floodplain, including tree removal, addition of impervious surfaces, and floodplain volume obstruction that could interfere with fish habitat. While development is not prohibited, these mitigation measures are necessary to maintain environmental and regulatory compliance. He noted that staff had added guidance to the ordinance to clarify how property owners can claim mitigation credit over time or across properties, ensuring a defensible and clear system for residents.

The report also addresses the ordinance's consistency with comprehensive plan policies and establishes a public need for adopting the amendments. Phillips emphasized that the ordinance follows the Oregon Model Floodplain Ordinance with FEMA-required modifications for endangered species protection, considering landscape characteristics such as trees, impervious surfaces, and floodplain hydrology. The commission's recommendation would then go to city council for a new hearing, where additional evidence or testimony could be considered before a final decision, which could ultimately be appealed to LUBA. Phillips concluded by offering to answer detailed questions regarding mitigation and implementation.

Commissioners asked Phillips and Gollehon clarifying questions regarding the ordinance's adoption process and timeline. Phillips explained that ordinances typically require two readings by city council before taking effect, but he was unsure whether this was mandated by state law or city code. Gollehon added that under statute, an ordinance could be adopted as an emergency if there is unanimous approval, allowing it to take effect immediately, but otherwise, the standard process requires a waiting period of approximately 90 days, which includes the time for two city council meetings. Phillips emphasized that the city had not yet received a formal 90-day notice from FEMA, but staff wanted to be prepared in case such notice was issued.

Proponents: Robert Tate, did not speak, he had left.

Opponents: None

Neutral: None

Dideum closed the public hearing at 8:22 pm.

Commissioners reflected that the ordinance under consideration was essentially the same as the version prepared several months earlier, with the difference being the inclusion of additional provisions to protect salmon habitat. Phillips confirmed that certain areas, specifically Zone X, were not part of the flood hazard overlay or FEMA's Special Flood Hazard Area, and therefore the ordinance would not apply there. Commissioners discussed the procedural options, including recommending approval, denial, or continuing the hearing, and generally indicated support for forwarding the proposed amendments to city council for consideration. Gollehon provided statutory context earlier in the meeting regarding ordinance adoption timelines, which informed the commission's understanding of the process.

On MOTION by Fisher, 2nd by Taggard, to recommend the city council approve the amendments.

6 - Approved (Dideum, Taggard, Grey, Halperin, Frank, Fisher)

0 - Opposed

UNFINISHED BUSINESS – None


NEW BUSINESS

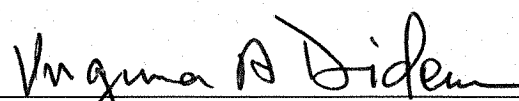
INFORMATION / DISCUSSION

CONCERNS OF THE COMMISSION

QUESTIONS FOR LAND USE ATTORNEY – None

The meeting was adjourned at 8:26 p.m.

 12/12/2025  
Angolana R. Torres, Planning Assistant

  
Virginia Dideum, Commission President