

CITY OF GEARHART STAFF REPORT

To: Gearhart City Council

From: Garrett Phillips, City Planner

February 26, 2024

City File #23-06ZTA Zoning Text Amendment Request

Application Purpose: An application by the owner for a Zoning Text Amendment regarding the R-2 Medium Density Residential Zone.

Decision Type: Legislative Text Amendment

Property Owner: Pacific Cottages, LLC
Attention: Nathan Sasaki
415 NW 11th Avenue
Portland, OR 97209
503-595-2843

Applicant's Representative: Mackenzie
Attention : Brian Varrichione
1515 SE Water Avenue, Suite 100
Portland, OR 97214
971-346-3742
bvarricchione@mcknze.com

Location: The proposed text amendment is applicable to properties in the R-2 Medium Density Residential Zone. As described in the applicant's report, the amendment is intended to affect the Drifhaven Inn property at 67 N Cottage Avenue, Gearhart OR, 97138

Preapplication Conference: April 16, 2023
Notice Published: January 16, 2024
Planning Commission Hearing: February 8, 2024
City Council Hearing: March 6, 2024

Exhibits: Applicant Exhibits:

- Applicant Report (Proposed amendment on pages 6 to 8)
- Gearhart Hotels
- Short Term Rentals
- Oregon Historic Sites

Planning Commission Exhibits:

- Minutes of February 8th Hearing

Review Criteria: GZO Section 3.2 Medium Density Residential Zone R-2
GZO Article 11 Amendments
GZO Article 13 Application, Notice and Hearing Procedures
Gearhart Comprehensive Plan

Public Comments: No public comments were made prior to completing this report, including the time prior to and during the Planning Commission Hearing,

Agency Comments: City staff were invited to comment on the application. Staff did not provide comments.

Planning Commission Recommendation: On February 8th, 2024, the Planning unanimously recommended that the City Council approve the applicant's proposed amendments.

I. INTRODUCTION

Proposed Amendment Summary

The proposed amendments are provided on pages 6 to 8 of the applicant's report, as the pages are numbered at the bottom of each page of the report.

The proposal is to amend the standards of Gearhart Zoning Ordinance Section 3.2 Medium Density Residential Zone. Proposed amendments are to Section 3.230, which is the list of uses that may be permitted with a conditional use permit, and to Section 3.245 General Exceptions to Lot Size Requirements

The proposed amendment to Section 3.230 would add to the list of uses that may be permitted with a conditional use permit, so that the following use could be permitted:

"A hotel legally established prior to the adoption of the Zoning Ordinance of October 1994 (October 11, 1994) shall be considered a conditional use. A hotel may continue even if it is nonconforming with respect to the standards of Section 3.240, provided it does not increase the degree of nonconformity. If such use is discontinued for a period of one year it may be reestablished upon approval of a new Conditional Use Permit."

The applicant and staff have only identified one hotel use in Gearhart's R-2 zone that was established prior to October 11, 1994, the Drifhaven Inn. Therefore the effect of the proposed amendment would be to make the Drifhaven Inn eligible for a conditional use permit for hotel use, and that there would not be an effect on any other properties zoned R-2.

Section 3.245 provides that permitted uses on lots that do not conform to minimum lot size requirements may continue. The proposed amendment to Section 3.245 would make the section applicable to uses permitted conditionally in the R-2 zone, whereas the existing section could be interpreted to only apply to uses that are permitted in the R-2 zone.

Therefore the anticipated overall effect of the proposal would be that the hotel use can be permitted as a conditional use. Any future hotel expansion or increases in hotel use intensity (greater number of rooms) could only be permitted through a conditional use permit process. Any future additional uses on the property accessory to the hotel use would require a conditional use permit if GZO Section 3.2 lists them as permitted or conditionally permitted. Other uses not so listed would continue to be not permissible.

Proposed Amendment Purpose:

The Drifthaven Inn is a hotel and is zoned R-2 Medium Density Residential. The R-2 Zone does not permit hotels as a permitted use or as a conditional use. The Drifthaven Inn eastern parcel may also be considered non-conforming as to the R-2 zone's minimum 7,500 square foot lot size, because it is about 5,000 square feet. The Drifthaven Inn is a nonconforming use, subject to the limitations of GZO Article 10.

The application indicates that the purpose of the zoning amendment is to limit risks associated with hotel financing and the uncertainty associated with the Drifthaven Inn's current nonconforming status and to make it easier to perform structural upgrades, repair fire damage, or similar changes if needed in the future without violating the rules for nonconforming uses.

Later sections of the report describe how the proposal satisfies a public need.

GZO Article 11 Amendment Procedures and Approval Criteria

Proposed amendments to the Zoning Ordinance are legislative and may be initiated by the Planning Commission, the City Council, or a property owner. After providing public notice the City reviews and decides on the amendment following GZO Article 11 Amendment Criteria and Article 13 Administrative Provisions.

FINDINGS: The first evidentiary public hearing by the Planning Commission occurred February 8, 2024 and the City Council hearing is scheduled for March 6, 2024. A person defined as a "party" to the amendment process may appeal the City Council decision to the state Land Use Board of Appeals (Article 12). Anyone who sent a letter or testified at the hearings will be notified of the decisions.

GZO Section 11.040 Amendment Approval Criteria

Findings shall be made: 1) assuring the amendments are consistent with the goals and policies of the Comprehensive Plan, the Statewide Planning Goals and, 2) there is a public need for the amendments.

GZO Section 11.040 Amendment Criterion 1: Comprehensive Plan Compliance

The City shall illustrate how the amendments comply with relevant Comprehensive Plan policies. There are nineteen statewide goals and policies in the Comprehensive Plan as well as General Development Goals for Gearhart.

General Development Goals

It is the general goal of the Comprehensive Plan to preserve the low density, semi-rural character of Gearhart and to ensure that development occurs in a manner that is in harmony with the sensitive coastal environment that defines Gearhart.

Residential and Commercial Development Policies

- a. The City will preserve and maintain the predominately residential character of Gearhart through appropriate zoning and land use development regulations.
- b. The City will implement the City's land use development regulations through the continued development of Gearhart as a residential community.
- c. The City will recognize the importance of the City's residential neighborhoods and the need to protect them from the negative impacts of transient rental of property, and to discourage increased levels of traffic and similar disruptions.

d. 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.

e. 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

f. 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.

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

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

I, 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.

j. The City w;// achieve a compact town center in the vicinity of Pacific Way and Cottage Avenue.

k. The City will establish Zoning Ordinance standards to protect residential uses from adjacent commercial development.

FINDINGS: The proposed amendment would not result in new commercial development. While the proposed amendment provides new opportunity to expand or intensify the existing Drifhaven Inn use on its existing site following the issuance of a conditional use permit, any such expansion would have to specified and authorized in a new conditional use permit.

(Continuation of Comprehensive Plan Policies Findings)

Citizen Involvement, Revision, Implementation and Process Goals LCDC Goal 1 & 2

Comprehensive Plan Goals I & 2 policies establish a process and implementation mechanism for land use planning and regulation to assure citizen involvement is provided in the amendment process when adopting new or revised standards.

The City's planning framework ensures information is available to citizens, that the Planning Commission and City Council represent the wide diversity of views and interests in the community. Citizen involvement and an open review process are provided to ensure the citizens receive responses to their comments at meetings in the meeting minutes or in writing, and that the city will maintain a record of meetings. The procedures require an advertised public hearing process with a recommendation by the Planning Commission and a decision by the City Council based on findings that there is a public need for the amendments and that the amendments are in compliance with the Gearhart Comprehensive Plan and Statewide Planning Goals. When considering zoning ordinance revisions, the goals and policies of the Plan provide the underlying principles to measure the amendments against. The policies assure when revisions are made that the broader community interest is served by the modification. Plan policies set forth guidance to assure that development standards remain effective and consistent over time. The zone standards implement the plan policies.

FINDINGS: The prior finding in this report responding to GZO Article 11 Amendment Procedures and Approval Criteria summarizes the overall decision process for this amendment. That process and the more particular procedures for providing public notices and conducting hearings ensure that the proposed amendment would be consistent with Comprehensive Plan policies and related Statewide Land Use Planning Goals for public involvement. Findings made by the City regarding the proposal's consistency with the comprehensive plan ensure that the proposal is consistent with the statewide goal for Land Use Planning.

(Continuation of Comprehensive Plan Policies Findings)

**Open Space, Scenic Areas, Historic and Natural Resources (LCDC Goal 5)
Air, Water, and Land Resource Quality (LCDC Goal 6)**

FINDINGS: The amendments do not relate to these Comprehensive Plan Goals.

(Continuation of Comprehensive Plan Policies Findings)

Geology and Geologic Hazards; Flood Hazards (LCDC Goal 7)

The City's geologic hazard policies discourage or prohibit plan and zoning map amendments that will result in more intensive uses in higher risk tsunami hazard areas.

FINDINGS: The Gearhart Zoning Ordinance includes specific standards to implement the geologic hazard policies, particularly in the case of hotels limiting their size to fifty units in the "M" magnitude tsunami hazard area. The Drifhaven Inn is located in the "M" magnitude area, and only has twelve units. The Drifhaven Inn is not within the flood hazard overlay zone.

(Continuation of Comprehensive Plan Policies Findings)

Recreation (LCDC Goal 8)

FINDINGS: The amendments do not relate to this Comprehensive Plan Goal.

(Continuation of Comprehensive Plan Policies Findings)

Economy and Energy

The City's Economy Goal is to ensure a stable and healthy economy in Gearhart through all available resources. State land use planning Goal 9 requires that land be designated for commercial and industrial uses according to the needs of the local and regional economy, current economic base, workforce, availability of land, and availability of key public facilities.

FINDINGS: The proposed amendment affects the R-2 zone and does not alter any standards related to employment land. The amendments do not relate to the Comprehensive Plan policies regarding energy.

(Continuation of Comprehensive Plan Policies Findings)

Housing

The City's housing goal is To ensure decent, affordable housing and housing availability for all residents of the Gearhart area.

FINDINGS: The amendment does not authorize and will not lead to the development of new hotels on vacant or redevelopable land that would otherwise be used for housing. The amendment does not change standards for housing development.

(Continuation of Comprehensive Plan Policies Findings)

Public Facilities and Services (LCDC Goal 11)

Transportation (LCDC Goal 12)

Urban Growth (LCDC Goal 14)

Necanicum Estuary (LCDC Goals 16 & 17)

Coastal Shorelands (LCDC Goal 16 & 17)

Beaches and Dunes (LCDC Goal 18)

Ocean Resources (LCDC Goal 19)

FINDINGS: The City finds the amendments do not relate to these Comprehensive Plan Goals

Amendment Criterion #2 Demonstration of Public Need

FINDINGS: The applicant's report describes the public need for the proposed amendments in two paragraphs at the bottom of the applicant's report page 21 and top of page 22. The public need is to avoid the risk of the Drifhaven Inn having to permanently close, and thereby avoid the risk of an associated loss of guest spending in the local economy. It would be reasonable to find that the amendment serves a public need for these reasons and in order to avoid risking loss of transient room tax and property tax revenue associated with the hotel use. Furthermore, the Drifhaven Inn contributes to local economic activity, supports the commercial zone in the center of the City that provides for the needs of residents, is a living part of Gearhart's history, and provides lodging accommodations to guests that might otherwise demand vacation rental accommodations.

In considering whether the public purposes identified above would be better served by a zoning map amendment to make the Drifhaven Inn property part of a zone that allows hotels, it is important to consider that such a rezoning would make a variety of uses and site configurations permissible, whereas the proposed amendment is relatively narrow in scope and effect, providing additional certainty and control to the City of Gearhart and its citizens regarding the site's future potential impacts on surrounding properties. Finally, the text amendment and the site's subsequent status as a conditional use will provide additional relative clarity to staff, the applicant, and the public about what uses are permitted at the site, compared with the site's current status as a non-conforming use.

The application states the public need as follows.

"The public need for the proposed Zoning Ordinance amendment arises from the current regulations, which leave longstanding community institutions (existing hotels in the R-2 zone), in a state of zoning uncertainty due to the nonconforming use status created when the R-2 zoning was applied. It is possible that future economic conditions could lead to closure of existing nonconforming hotels in the R-2, and under current rules a discontinuance exceeding one year eliminates the ability for nonconforming uses to reopen. To protect against such possibilities, it is in the public interest to provide regulatory support for this class of hotels by eliminating the nonconforming status, thereby smoothing the way for these facilities to continue to operate and attract guests to stimulate spending in the local economy.

Providing clear definition in the Zoning Ordinance improves the public's understanding and expectation for hotel use in the R-2 zone, including the manner in which potential future modifications would be reviewed by the City. Clarifying that existing hotels older than 1994 are allowed conditional uses, and that conditional use approval is required for modifications, provides a level of compromise that balances community concern for maintaining a residential feel with economic considerations for hotel Owners. Sustaining existing hotels supports the local economy and benefits the City financially through the continuing remittance of transient room tax and through continuing property tax payments. Adopting a narrowly-focused amendment prevents the construction of new hotels in the R-2 zone, eliminating the possibility of impacts from such new construction on nearby residences.”

DECISION/RECOMMENDATION OPTIONS

On February 8th, 2024, the Planning unanimously recommended that the City Council approve the applicant's proposed amendments.

City Council may consider taking any of the actions below.

- Move to approve the proposed zoning ordinance text amendment, and direct staff to prepare the ordinance and schedule a first reading.
- Move to deny the proposed zoning ordinance text amendment, based on alternate findings that identify how the proposal does not comply with one or more approval criteria.
- Move to continue the hearing to a certain date.

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Gearhart Planning Commission Minutes for February 8, 2024

MEMBERS: Virginia Dideum, Russ Taggard, Don Frank, Eric Halperin, Paulina Cockrum, Judy Schector, and John Mesberg

STAFF: Chad Sweet, Peter Watts, Garrett Phillips, and Angoleana Torres

Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, February 8, 2024, was called to order at 6:00 p.m. by President Virginia Dideum. All *Members and staff were present.*

ELECTIONS

On **MOTION** by Taggard, 2nd by Cockrum, Dideum was nominated as Planning Commission President. All in favor, 6 – Frank, Schector, Halperin, Cockrum, Taggard, Mesberg
Abstain, 1 - Dideum

On **MOTION** by Frank, 2nd by Schector, Taggard was nominated as Planning Commission Vice President. All in favor, 6 – Frank, Schector, Halperin, Cockrum, Dideum, Mesberg
Abstain, 1 - Taggard

CONSENT AGENDA

On **MOTION** by Taggard, 2nd by Cockrum, the consent agenda was approved. Said agenda approved Minutes for November 9, 2023, financial report for January 31, 2024.
No Correspondence
7 - Approved - Frank, Schector, Halperin, Cockrum, Taggard, Dideum, Mesberg,

STAFF REPORT

Sweet spoke about an upcoming town hall scheduled for the 26th of this month, indicating the City Council's dedicated efforts. The discussion will focus on starting over regarding the public safety building, including potential fire and police stations. The mayor has been actively involved, emphasizing the importance of hosting numerous town halls to foster open discussions about the decision-making process, needs assessments, and suitable locations. It's essential to note that no decisions have been finalized, and the city is embarking on a fresh start, ensuring a thorough and inclusive public engagement process. The next opportunity for participation is at 6:00, and they will be meeting at the fire station. Additionally, there will be a work session on the twelfth to further delve into the outcomes of the previous town hall and provide updates to the City Council.

Watts spoke about the viewpoints among council members regarding the tree ordinance review seem to be mixed. Some councilors express a desire for clarity and objectivity, appreciating the changes made, such as converting diameter to circumference, which simplifies qualification criteria and aids in assessments. On the other hand, there appears to be one member advocating for a more regulatory approach, prompting an interest in researching what other cities are implementing, particularly concerning the current allowance for five trees per property. Additionally, there are a couple of council members seeking to explore alternative options. While Garrett mentioned urban forestry, it seems only a few councilors are genuinely considering this avenue. It's acknowledged that significant effort has been invested in

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understanding tree regulations, particularly by John and Russ, whose input is valued. As for upcoming matters, there's an intriguing application to discuss, providing an opportunity for thorough examination and discussion. The hope is for a fruitful conversation leading to a comprehensive understanding of the topic by the end of the evening.

Phillips expanded on what Watts mentioned. Some of the feedback the staff received targeted specific issues that he believes the commission can efficiently address, and which he doesn't anticipate will be too controversial or lead to significant disagreement. At the very least, they will aim to present a revised ordinance to the City Council that tackles these issues, and potentially some of the other differences Watts mentioned regarding desires for increased protection versus concerns about property rights. In any case, we will introduce an agenda item at the next meeting with additional information and various options for the next steps.

Second, the city has a residential development, a fourplex, which has been permitted east of Highway 101 between Cutler Lane and Sea Ridge Road, just east of the 5th Avenue intersection with US 101N. Access to this development is via a private road that connects to US 101 N, and this road requires a name. Currently, Gearhart does not have an established process for naming private roads outside of subdivision procedures. Therefore, the staff's proposal is to collaborate with the planning commission to name the road, leveraging their expertise in road naming through the subdivision process and using Clatsop County's Road naming standards as a guideline. These standards prioritize common-sense principles, such as ensuring the road name is distinct from others and consists of no more than three words. The primary objective is to ensure that a private road serving more than three residences is named to facilitate efficient navigation for emergency responders. This will be addressed at the next meeting and estimate potentially needing two sessions: one for a detailed review of the process and naming standards, and another where ideas for street names can be proposed and decided upon.

Regarding Gearhart's lack of policy on naming streets, Phillips asked if commissioners believed we should consider drafting an ordinance or policy to establish a more comprehensive process for naming streets beyond just subdivisions? As he believed it would be wise to develop the city's own process that isn't solely tied to subdivision scenarios.

COMMISSIONERS REPORT - None

GOALS LIST - None

VISITORS COMMENTS - None

PUBLIC HEARINGS

Dideum opened the public hearing at 6:05 p.m. on File #23-06ZTA. The proposed legislative text amendment would amend the Gearhart Zoning Ordinance Article 3 (Listing of Outright or Conditional Uses Permitted in Residential and Commercial

Dideum read the hearing disclosure, and asked if any commissioners need to declare a conflict of interest in ex parte contact or personal bias. – None

Dideum asked the audience if anyone challenged the commission's ability to make an impartial decision. No Challenges.

Phillips began his overview of the staff report. by explaining that the proposed zoning ordinance amendment concerning the Drift Haven Inn is initiated by the owners rather than the city of Gearhart

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itself. He clarified that the decision ultimately lies with the city council, and tonight's planning commission hearing seeks a recommendation to present to the council.

The amendment aims to address the situation where the Drift Haven Inn, an established use predating the zoning ordinance, is nonconforming within its zone. The proposed change would allow the inn to become a conditional use in its current location.

The amendment consists of two parts: the first part focuses on allowing hotels established prior to the ordinance to be permitted as conditional uses in the R2 zone, primarily applying to the Drift Haven Inn property. The second part clarifies that both permitted and conditionally permitted uses on lots not meeting minimum lot size requirements can continue.

Phillips emphasized that the proposed amendment does not permit expansion or intensification of the hotel use beyond its current status. He noted that the overall impact of the amendment is limited and geographically targeted.

Regarding the criteria for approving the amendment, Phillips explained that it must align with the comprehensive plan and serve a public need. While most comprehensive plan policies are not directly applicable, the amendment would not designate additional property for commercial development and would not allow for any increase in hotel units.

In terms of demonstrating public need, the applicant argues that the amendment is necessary to ensure the hotel's continued operation, thus preserving tax revenue and providing a service to visitors. Staff finds this argument reasonable and supports moving forward with the amendment.

Overall, staff are open to hearing further input but are inclined to recommend approval of the text amendment to the city council.

During the commission's discussion and questions for Phillips, the city planner, several points were raised regarding the proposed zoning ordinance amendment for the Drift Haven Inn.

One commissioner raised a question about the verification of the applicant's claims regarding public need, expressing concern about the reliance solely on the applicant's statements without independent verification.

Another commissioner highlighted the potential financial implications for the property owners due to the nonconforming status and the impact on their ability to secure financing.

There was a discussion about the uniqueness of the situation, with Phillips explaining the rarity of such cases in Gearhart and emphasizing the limited scope of the proposed amendment.

Questions were also raised about terminology and potential future applications, with commissioners seeking clarification on the definitions of "hotel" and potential implications for other properties in different zones.

The discussion touched upon the benefits of the proposed amendment, including providing clarity for future operations and potential future projects, while also addressing concerns about unintended consequences and maintaining control over future developments.

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Finally, there was a query about the placement of the language within the zoning ordinance, with commissioners discussing the advantages of placing it within the conditional use section for greater control over future applications.

APPLICANTS TESTIMONY

Matt Cole, 415 NW 11th, Portland OR. 97209 - As a member of the ownership group spoke of the hotel purchased in 2021 provided an update. They highlighted the extensive remodeling done on the hotel and the successful reopening of the business. However, they expressed concerns about financing and insurance issues due to the property's nonconforming status. They emphasized the need to secure the ability to rebuild the hotel as it currently stands in case of damage or to facilitate future financing. Their goal is to continue operating the hotel without making significant changes. Then, they handed over the discussion to Varricchione for technical details.

Brian Varricchione, 1515 SE Water Ave, Portland OR. – As the applicant having a background in city planning, provided some insights into the proposed text amendment. He discussed the careful considerations taken to address the concerns of both the hotel owners and the city. The amendment aims to address financing and rebuilding concerns for the existing hotel without allowing new hotels to be built in residential areas.

The applicant explained that rezoning the property to a more intense zoning category was not preferred as it could lead to undesirable developments without much city control. Instead, they proposed a text amendment specific to existing hotels in the R2 zone, which is limited to just one property, ensuring minimal impact on the community.

They also highlighted the additional level of control provided by placing the amendment under conditional use rather than permitted use, allowing the city more discretion over future changes to the property. The applicant communicated that supporting an existing long-standing business like the hotel contributes to the public benefit and promotes clarity in city planning.

They concluded by stating that they have addressed the necessary criteria and are requesting the Planning Commission's recommendation for approval to the City Council.

A commissioner inquired about why short-term rentals were included in the report. The applicant clarified that the inclusion of short-term rentals was meant to provide contrast and emphasize that the proposed code change specifically applies to hotels and not to short-term rentals. They wanted to ensure that there was no confusion regarding the scope of the amendment, highlighting that short-term rentals have their own separate permitting process and regulations that are not affected by this proposed change. The list of short-term rentals was included to demonstrate that they are distinct from the hotels mentioned in the proposal.

The question was raised regarding the language of the proposal and its potential implications for the second lot associated with the motel property. Specifically, they inquired whether the language would allow for additional construction on the smaller lot adjacent to the motel. The applicant clarified that while the language does not allow outright expansion, it could potentially permit expansion in the future through the conditional use process, however the septic system is currently located on the smaller lot.

Another commissioner expressed concern about a potential broader interpretation of the language, particularly in relation to the exceptions to standards or conditionally permitted uses in the R1 and R2 zones. They raised the issue of whether the inclusion of certain language might inadvertently open up a wider range of possibilities beyond the intended scope of the proposal. The applicant explained their

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interpretation, emphasizing that the intent was to ensure consistency between the R1 and R2 zones regarding conditionally permitted uses, without necessarily expanding the scope of permissible activities beyond what is already allowed in the respective zones.

Garrett Stephenson, 1211 SW 5th Ave, Suite 1900, Portland, OR. 97204 - During the discussion, a commissioner raised concerns about the language of the proposal and its potential implications for the specific zoning code associated with the motel property applying to other zones. Stephenson provided explanations, citing the intent to clarify the property's status based on its development prior to certain ordinances and to ensure consistency within the specified zone.

There was a debate regarding the interpretation of the language, with differing views on whether it would apply to other zones. The applicant emphasized their understanding of the paragraph's applicability only to the zone in question and highlighted the importance of addressing nonconforming lot issues to ensure legal compliance.

It was argued that the proposed amendment aimed to maintain the status quo and resolve potential land use issues, citing examples from past experiences and emphasizing the importance of maintaining existing uses while ensuring attractiveness and compliance with regulations.

The applicant expressed the careful considerations they took in addressing concerns and reiterated the intent to maintain the current state of the property within the bounds of legal compliance, emphasizing the narrow focus and tailored nature of the proposal. They emphasized the need to consider both the land use aspect and the legal lot issue for comprehensive resolution.

Proponents: None

Opponents: None

Neutral: None

Dideum closed the public hearing at 7:21 pm.

Summary of Commissioners Discussion:

The commissioners discuss zoning regulations and the specific case at hand, which involves a property that may have been misclassified in terms of its zoning designation. They clarify the zoning hierarchy, noting that what is allowed in R-1 zoning is also permitted in R-2 and R-3, with R-2 being allowed in R-3 but not vice versa. The discussion references a past issue with Shamrock Pines Apartments, which faced challenges due to zoning regulations. The commissioners express understanding for the need to address zoning discrepancies and ensure legal standing for businesses in such situations. They commend the presentation made by the property owners and express support for maintaining the status quo. Overall, the commissioners emphasize the need for clarity and adherence to regulations while expressing appreciation for the cooperation of the property owners.

On MOTION by Taggard, 2nd by Cockrum, to recommend council to approve the application as presented.

- Outcome: The motion passed with all members in favor.
7 in Favor - Frank, Taggard, Cockrum, Mesberg, Dideum, Halperin, Schector
0 – Opposed

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UNFINISHED BUSINESS - None

NEW BUSINESS – None

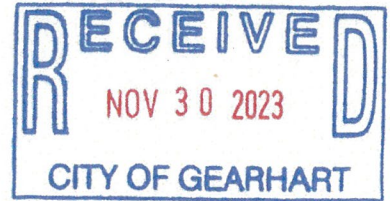
CONCERNS OF THE COMMISSION - None

QUESTIONS FOR LAND USE ATTORNEY - None

The meeting was adjourned at 7:31 p.m.

Angoleana R. Torres, Secretary,

Approved



CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

APPLICATION BEFORE THE CITY OF GEARHART PLANNING COMMISSION

PLANNING COMMISSION
2ND THURSDAY, 6:00 PM

DATE RECEIVED November 30, 2023

1. APPLICANT: Pacific Cottages LLC, Att: Nathan Sasaki PHONE: 503.595.2843
MAILING ADDRESS: 415 NW 11th Avenue, Portland, OR 97209
EMAIL ADDRESS: nathan@apexcre.com CELL PHONE: _____
2. PROPERTY OWNER: Pacific Cottages LLC, Att: Nathan Sasaki PHONE: 503.595.2843
MAILING ADDRESS: 415 NW 11th Avenue, Portland, OR 97209
EMAIL ADDRESS: nathan@apexcre.com CELL PHONE: _____
Land Use Planner
3. ~~SURVEYOR/ENGINEER~~: Mackenzie, Att: Brian Varricchione PHONE: 971.346.3742
MAILING ADDRESS: 1515 SE Water Avenue Suite 100, Portland, OR 97214
EMAIL ADDRESS: bvarricchione@mcknze.com CELL PHONE: _____
4. LEGAL COUNSEL: Schwabe, Williamson & Wyatt, Att: Garrett Stephenson PHONE: 503.796.2893
MAILING ADDRESS: 1211 SW Fifth Avenue, Suite 1900, Portland, OR 97204
EMAIL ADDRESS: gstephenson@schwabe.com CELL PHONE: _____
5. PROPERTY LOCATION: 67 N Cottage Avenue, Gearhart OR 97138
6. LEGAL DESCRIPTION OF PROPERTY:
(A) ASSESSORS PLAT AND TAX LOT: 61010BB03901, 61010BB04200
(B) ADDITION, BLOCK, AND LOT: Gearhart Park Block 5, Lots 1, 2, 6, & 8

PER SEC 13.080 OF THE GEARHART ZONING CODE ACTUAL EXPENSES INCURRED BY THE CITY DURING THE PROCESS OF TECHNICAL EVALUATION OF AN APPLICATION SHALL BE BORNE BY THE APPLICANT, IN ADDITION TO THE FILING FEES ESTABLISHED BY RESOLUTION. UNPAID PENALTIES, FINES OR INCUMBRANCERS OWED TO THE CITY OF GEARHART ARE GROUNDS FOR WITHHOLDING ISSUANCE OF A PERMIT. DO YOU OWE ANY MONEYS TO THE CITY OF GEARHART? (CIRCLE) YES NO

7. SIGNATURE (APPLICANT) _____ DATE: _____
PRINT _____

8. SIGNATURE (OWNER) Nathan L DATE: 11/10/23
PRINT _____

NOTICE: ALL ITEMS MUST BE COMPLETED IN ORDER FOR THE APPLICATION TO BE DEEMED COMPLETE AND READY FOR PROCESSING.

TO BE COMPLETED BY STAFF
DOES APPLICANT OWN ANY MONEY TO THE CITY? NO IF SO, AMOUNT N/A
FOR _____ ACCOUNT # _____ DEPARTMENT STAFF AS (INITIAL)



CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 736-9385

\$ PAID ^{AS}
TO OR
CHK # 7397701
1/29/24

ZONING AMENDMENT APPLICATION

APPLICANT: Pacific Cottages LLC

APPLICATION FEE: \$3500.00 PD

\$ PAID ^{\$}
3500.00
CHK # 7178959
12/27/23

TEXT AMENDMENT

- PAGE AND SECTION TO BE AMENDED Sections 3.230 and 3.245
- TEXT AMENDMENT REQUESTED: Allow hotels legally established prior to the passage of the Zoning Ordinance of October 1994 as conditional uses in the R-2 zone.
- REASON FOR REQUEST: Limit financial risk and avoid nonconforming status to make it easier to perform structural upgrades, repair fire damage, or similar changes if needed in the future without violating the rules for nonconforming uses.
- HOW IS THE PROPOSED REQUEST CONSISTENT WITH THE COMPREHENSIVE PLAN?
See attached narrative.
- IS THERE A PUBLIC NEED FOR THE PROPOSED REQUEST, PLEASE EXPLAIN:
See attached narrative.

ZONE MAP AMENDMENT

- CHANGE OF ZONE FROM _____ TO _____
- HOW IS THE PROPOSED REQUEST CONSISTENT WITH THE COMPREHENSIVE PLAN?

- HOW WILL THIS AMENDMENT MEET A LAND USE NEED? _____
- EXPLAIN HOW THE PROPOSED AMENDMENT WILL BE COMPATIBLE WITH THE LAND USE DEVELOPMENT PATTERN IN THE VICINITY OF THE REQUEST _____
- IS THE LAND PHYSICALLY SUITABLE FOR THE USES TO BE ALLOWED IN TERMS OF SLOPE, SOILS, FLOOD HAZARDS AND OTHER RELEVANT CONSIDERATIONS? PLEASE EXPLAIN: _____
- ARE THE PUBLIC FACILITIES AND SERVICES, INCLUDING TRANSPORTATION SYSTEMS AND ACCESS AVAILABLE TO ACCOMMODATE THE PROPOSED USE? PLEASE EXPLAIN _____

IF ZONING MAP IS TO BE AMENDED SHOW AREA ON MAP (ATTACHED)
PLOT PLAN MUST ACCOMPANY APPLICATION IF REQUIRED.

NOTICE: ALL ITEMS MUST BE COMPLETED IN ORDER FOR THE APPLICATION TO BE DEEMED COMPLETE AND READY FOR PROCESSING.

MACKENZIE.

ZONING ORDINANCE TEXT AMENDMENT

To
City of Gearhart

For
Drifthaven at Gearhart

Dated
November 13, 2023

Project Number
2220324.00



MACKENZIE
Since 1960

RiverEast Center | 1515 SE Water Avenue, Suite 100, Portland, OR 97214
PO Box 14310, Portland, OR 97293 | T 503.224.9560 | www.mcknze.com

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ATTACHMENTS

1. Application forms
2. List of Gearhart Hotels
3. List of Gearhart Vacation Rental Dwellings
4. Historic Sites Map

I. PROJECT SUMMARY

Applicant: Pacific Cottages, LLC
Attention: Nathan Sasaki
415 NW 11th Avenue
Portland, OR 97209
503-595-2843

Request: Amend the Zoning Ordinance to allow hotels legally established prior to the adoption of the Zoning Ordinance of October 1994 (October 11, 1994) as conditional uses in the R-2 zone.

Project Contact: Mackenzie
Attention: Brian Varricchione
1515 SE Water Avenue, Suite 100
Portland, OR 97214
971-346-3742
bvaricchione@mcknze.com

II. INTRODUCTION

Background Information

Gearhart's hotels are located in multiple zoning designations including C-2 (General Commercial), R-1 (Low Density Residential), and R-2 (Medium Density Residential). A tabulation of these hotels is included in Attachment 2. Commercial lodging establishments in Gearhart contribute transient room taxes that benefit the community by funding City operations including local emergency services.

In its current form, the Gearhart Zoning Ordinance (GZO) authorizes hotels¹ in the R-3 and C-2 zones upon issuance of a Conditional Use Permit (CUP) and does not authorize hotels in any other zone. The Tsunami Hazard Overlay zone prohibits hotels with more than 50 units in those areas subject to inundation from the "M" (medium) magnitude local source tsunami event, as set forth on the Tsunami Inundation Map Series (TIMs).

Per GZO Article 10, uses which existed prior to the adoption of the GZO (Ordinance #684, October 1994) or prior to subsequent amendments are classified as nonconforming uses. The GZO allows these uses—which include preexisting hotels in the R-1 and R-2 zone—to continue, provided they meet certain conditions. The GZO provisions make nonconforming use rights expire after a period of inactivity (one year for nonconforming uses with a structure, six months for nonconforming uses without a structure).

The GZO also disallows reconstruction of nonconforming structures if the exterior framing is intentionally destroyed or dismantled by more than 40%. In case of unintentional destruction, Owners have a two-year window in which to reconstruct (even if it exceeds 40%), as noted in GZO 10.060:

SECTION 10.060 DESTRUCTION OF A NONCONFORMING STRUCTURE OR USE

Should the exterior framing of a nonconforming use of non-conforming portion of a structure be destroyed or dismantled to an extent of more than 40%, the structure shall not be reconstructed except in conformity with the provisions of this ordinance. In the event the destruction of the exterior framing was accidental and exceeds the above percentage, the City shall issue a building permit within two years of the date of destruction to reconstruct the non-conforming portion of the structure in the same location provided that the original non-conforming dimensions, setbacks, and floor area are not exceeded.

Drifthaven at Gearhart

The Drifthaven at Gearhart (formerly Tyberg's Motel & Apartments and then the Gearhart Ocean Inn) is located at 67 N Cottage Avenue. The property consists of two contiguous parcels at the southeast corner of N Cottage Avenue and 1st Street, one block north of Pacific Way (Clatsop County tax lots 61010BB03901 and 61010BB04200), with a combined site area of approximately 0.46 acres. See Figure 1.

¹ Per the GZO, "Hotel" means "A building or group of buildings used for transient residential purposes containing guest rooms which are designed to be used, or which are used, rented or hired out for sleeping purposes."

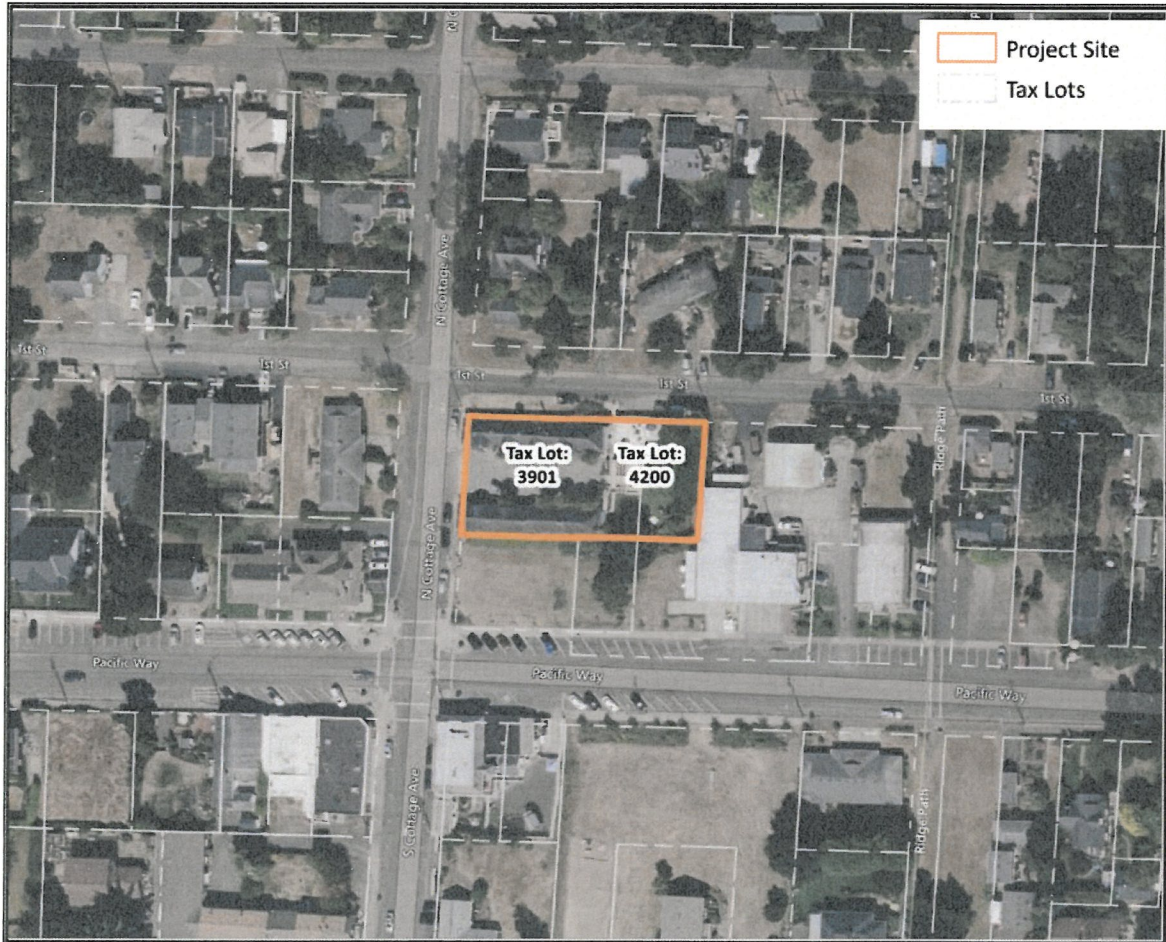


Figure 1: Aerial Photo

The property is zoned R-2. Adjacent parcels are zoned R-2 to the west, R-1 to the north and northwest, Public and Semi-Public (P-SP) to the east and southwest, and C-1 to the south and southwest. See Figure 2. County Assessor records indicate that the Drifhaven building was originally constructed in 1942, and the hotel was established prior to the City's application of the R-2 zone in 1994. Because hotels are not permitted or conditionally permitted within the R-2 zone, the Drifhaven is a nonconforming use under the GZO.



Figure 2: Zoning Map

The Drifhaven is relatively small, consisting of 12 units, so it has a relatively low impact on neighbors and is consistent with the hotel size limitations specified in the Tsunami Hazard Overlay zone.

To limit risks associated with hotel financing and the uncertainty associated with the hotel’s current nonconforming status, the Owners of the Drifhaven have explored options for ways in which the City could allow the hotel in the R-2 zone without classifying it as a nonconforming use. Changing to a conforming status would make it easier to perform structural upgrades, repair fire damage, or similar changes if needed in the future without violating the rules for nonconforming uses.

The Owners contemplated requesting that the City re-zone the property to R-3 or C-2 (which permit hotels with a Conditional Use Permit) but rejected that option because those zones also allow other uses that could potentially increase development intensity of the site, and the Owners’ intent is to preserve the existing use and scale.

Instead, the applicant is proposing a minor amendment to the text of Section 3.2 Medium Density Residential of the GZO to classify existing hotels in the R-2 zone as conditional uses in limited circumstances.

Proposed Zoning Ordinance Amendment

The full text of the applicant’s proposed Zoning Ordinance text amendment is included in Section III of this report, and would categorize hotels legally established prior to the adoption of the Zoning Ordinance of October 1994 as conditional uses in the R-2 zone. The amendment is narrowly crafted to ensure the

text change does not lead to construction of new hotels; as written, the proposed text amendment only affects hotels in the R-2 zone in existence before October 11, 1994. As detailed in Attachment 2, only one hotel (the Drifhaven) falls into this category.

The proposed amendment would not change the City's rules regarding Vacation Rental Dwellings² as codified in Article 7 of the GZO. The City's list of permitted Vacation Rental Dwellings is included as Attachment 3.

Public Services Impact Analysis

The proposed text amendment by itself does not cause impacts on public services (utilities, parks, police, fire and rescue, and transportation) as it does not authorize new development. Following passage of the text amendment, if the applicant were to propose a modification of the existing use, the modification would be governed by GZO Article 8 (Conditional Uses) and subject to Planning Commission review. In such a situation, the burden of proof would be on the applicant to demonstrate that the affected public facilities are adequate.

Oregon Transportation Planning Rule

The Oregon Transportation Planning Rule (TPR) requires cities to analyze whether a proposed amendment to a land use regulation would have a significant effect on the transportation system. If the analysis demonstrates that a significant effect would occur, then the City must either deny the application or require mitigation to offset the traffic impact. Determinations of significance are made by the City in consultation with the roadway authority (which in some instances may be the City, Clatsop County, or Oregon Department of Transportation).

Since the proposed text amendment does not authorize new development, approval of the application would not have a significant effect on the transportation system. Full discussion of the TPR is provided in Section IV of this report.

² Per the GZO, "Vacation Rental Dwelling" means "Any Structure, or any portion of any structure, which is occupied or offered or designed for transient occupancy for less than 30 days for dwelling, lodging or sleeping purposes; and includes houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, that are used for temporary human occupancy, provided such occupancy is for less than a 30-day period."

III. PROPOSED ZONING ORDINANCE TEXT AMENDMENT

The applicant proposes the following amendment to certain portions of Section 3.2 of the GZO. In the text below, only those sections of the GZO with proposed amendments are listed. Proposed language additions are double underlined.

Article 3 Listing of Outright or Conditional Uses Permitted in Residential and Commercial Zones

Section 3.2 Medium Density Residential

Section 3.210 Purpose

The purpose of the R-2 Medium Density Residential 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.

Section 3.220 Outright Uses Permitted

A permitted use is a use which is permitted outright subject to the applicable provisions of this code. If a use is not listed as a permitted use, it may be held to be a similar unlisted use under the provisions of Section 13.091.

In an R-2 Zone the following uses and their accessory uses are permitted outright.

1. *A use permitted outright in an R-1 Zone.*
2. *Two-family dwelling or duplex.*
3. *Triplex or Fourplex.*
4. *Home occupations (See Section 6.050).*
5. *Manufactured dwelling in accordance with Section 6.100.*
6. *Manufactured dwelling, recreation vehicle, or construction office used during the construction period of a permitted or conditional use for which a building permit has been issued but not to exceed one year.*

Section 3.230 Conditional Uses Permitted

A conditional use is a use the approval of which is at the discretion of the Planning Commission as set forth in Article 8 Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Section 13.091.

In an R-2 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 8 and standards in Section 3.240.

1. *Conditional use permitted in an R-1 Zone.*
2. *Manufactured Dwelling Park.*
3. *Manufactured Dwelling Subdivision.*
4. *A hotel legally established prior to the adoption of the Zoning Ordinance of October 1994 (October 11, 1994) shall be considered a conditional use. A hotel may continue even if it is nonconforming with respect to the standards of Section 3.240, provided it does not increase the degree of nonconformity. If such use is discontinued for a period of one year it may be reestablished upon approval of a new Conditional Use Permit.*

Section 3.235 Prohibited Uses

A prohibited use is one which is expressly prohibited in the zone. In addition, uses not specifically listed as permitted or conditional in the zone, or deemed to be similar uses permitted to Section 13.091 are also prohibited.

1. *The sale or holding out for sale or allowing others to sell or hold out for sale, more than (1) new or used vehicle, motor home, trailer, recreational vehicle, motorcycle, or boats at any one time on a tax lot.1*
2. *Prohibited uses as defined in Section 3.14 Tsunami Hazard Overlay Zone*

Section 3.236 Additional Use Restrictions

Development as defined in Section 1.030 #53 may be restricted by an overlay zone. A relevant overlay zone may include one or more as follows: Section 3.10 Flood Hazard Overlay Zone; Section 3.11 Aquatic Conservation Zone; 3.12 Beaches and Dunes Overlay Zone; Section 3.13 Freshwater Wetland and Lake Overlay Zone; Section 3.14 Tsunami Hazard Overlay Zone; Section 3.15 Airport Overlay Zone.

Section 3.240 R-2 Zone Standards

In an R-2 Zone the following standards shall apply.

1. *Lot Size:
Lot area shall be a minimum of 7,500 square feet. The minimum lot size for residential uses shall be as follows: single family dwelling, 7,500 square feet; duplex, 10,000 square feet; triplex, 12,500 square feet; Fourplex, 15,000 square feet.*
2. *Front yard:
A front yard shall be at least 15 feet.*
3. *Side yard:
A side yard shall be at least 5 feet on one side and 9 feet on the other, except where the onsite waste disposal facility is accessible from a right-of-way or easement (then 5 feet both side yards). Except on corner lots a side yard abutting the side street shall be at least 10 feet.*
4. *Rear yard:
A rear yard shall be at least 15 feet, except accessory buildings may extend to within 5 feet of a rear property line.*
5. *Height restriction:
Maximum height of a structure shall be 30 feet.*
6. *Lot coverage:
Maximum area that may be covered by a dwelling structure and accessory buildings shall not exceed 35% of total area of the lot.*
7. *Off street parking
As specified in Section 6.060, Off Street Parking Requirements.*
8. *Transportation Improvements
As specified in Article 4, Transportation Improvements and Access Management.*
9. *Sign Requirements:
As specified in Section 6.020, Sign Requirements.*
10. *Neacoxie Creek Setback:*

All structures and uses shall be setback fifty (50) feet from Neacoxie Creek unless direct water access is required in conjunction with a water dependent use. The setback shall be measured from the mean higher water line on estuarine portions and the line of ordinary high water for non-estuarine portions of the creek. Riparian vegetation within the setback shall be protected as specified by Section 6.070(5).

11. *Buffer Requirements:
The sand dune ridge located adjacent to the improved portion west of Railroad Avenue shall be maintained. This ridge shall not be breached or reduced in size.*
12. *Other applicable accessory use provisions as specified in Article 6.*

EXCEPTIONS TO STANDARDS

Section 3.245 General Exceptions to Lot Size Requirements

If a lot or the aggregate of contiguous lots in residential and commercial zones held in a single ownership are recorded in the office of the County Clerk at the time of the passage of Ordinance 477 (dated January 24, 1978) has an area or dimension which does not meet the respective lot size requirements, the holdings may be occupied by a use permitted or conditionally permitted in this zone subject to the other requirements of this zone, provided that, if there is an area deficiency, residential use shall be limited to a single-family dwelling. However, no dwelling shall be built on a lot with less area than 4,000 square feet. However, an owner is entitled to an exception only if his property is isolated. If the owner of an undersized holding owns another lot adjacent to it, he is not entitled to an exception. Rather, he must combine the two holdings to form one which will meet, or more closely approximate the area requirements of this ordinance.

Section 3.250 General Exceptions to Yard Requirements

The following exception to the front yard requirements for a dwelling is authorized for a lot in any residential zone:

1. *The required front yard for a dwelling need not exceed the average depth of the nearest front yard of a dwelling within 100 feet on either side of the proposed dwelling and the required front yard for the zone, provided the minimum depth shall not be less than eight (8) feet.*

Section 3.255 General Exceptions to Building Height Limitations

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.

IV. NARRATIVE & COMPLIANCE

This action proposes a zoning ordinance text amendment as detailed in Section III. Text amendments are required to meet standards set forth in Article 11 of the GZO. Therefore, the following addresses the applicable GZO criteria, together with Statewide Planning Goals, Oregon Administrative Rules, and the Gearhart Comprehensive Plan. Pertinent goals and standards are cited either in their entirety or in a summation and are followed by a response.

Statewide Planning Goals

Goal 1, Citizen Involvement

Goal: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Response: Goal 1 broadly requires that local governments have mechanisms in place which solicit public participation in both legislative and quasi-judicial land use decisions. The City's acknowledged Comprehensive Plan contains Citizen Involvement Policies (addressed below), and the Gearhart Zoning Ordinance includes citizen involvement procedures with which the review of this application complies. This process allows for citizens to communicate their input into the Zoning Ordinance text amendment review conducted by the City at public hearings or by submitting written comments. The Planning Commission will review the proposed amendment and make a recommendation to the City Council regarding the application. Within the Zoning Ordinance amendment process, public notice is published in the newspaper, and public hearings are held. This process complies with the Goal.

Goal 2, Land Use Planning

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

Response: Goal 2 requires that each jurisdiction have a comprehensive plan and implementation measures such as a zoning ordinance. As a legislative land use action, the proposed Zoning Ordinance amendment is based on its conformance with relevant elements of Gearhart's Comprehensive Plan and considerations related to that plan's established zoning districts.

The procedural requirements for the proposed Zoning Ordinance amendment involve assessment of the application's merits, public notice, and public hearings. The proposal is to amend the text of the zoning ordinance in limited circumstances affecting urban land within City Limits, in compliance with Goal 2. Notice of the proposed amendment is provided by the City to the Oregon Department of Land Conservation and Development (DLCD) as required. Other agencies such as the Oregon Department of Transportation and Clatsop County may also be provided the opportunity to comment. The City's decision is based on findings of fact. The review process for the proposed Zoning Ordinance text amendment is consistent with this Goal.

Goal 3, Agricultural Lands

Goal: To preserve and maintain agricultural lands.

Response: This Goal is not applicable because the Comprehensive Plan does not designate any Agricultural Lands within the Gearhart Urban Growth Boundary or City Limits. The Zoning Map does identify some areas as Rural Agricultural, but the Zoning Ordinance identifies that as a residential zone. Furthermore, the scope of the proposed amendment is focused on the R-2 zone, an urban residential land designation. The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 4, Forest Lands

Goal: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Response: This Goal is not applicable because the Comprehensive Plan does not designate any Forest Lands within the Gearhart Urban Growth Boundary or City Limits. Furthermore, the scope of the proposed amendment is focused on the R-2 zone, an urban residential land designation. The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources

Goal: To protect natural resources and conserve scenic and historic areas and open spaces.

Response: Goal 5 is a wide-ranging policy initiative intended to protect natural and historic resources and is most commonly implemented through sensitive lands/critical areas ordinances that protect streams, riparian corridors, trees, wildlife habitat, and open space. The proposed amendment does not affect the City's existing regulations pertaining to protection of these areas, as the R-2 zone is not designated scenic or open space. Goal 5 considerations could apply to a specific development proposal, but that is not proposed as part of this amendment.

Examination of the Drifhaven site, which is affected by the proposed Zoning Ordinance text amendment, reveals that the National Wetlands inventory map³, dated May 7, 2023, does not identify wetlands on the site. Similarly, the Statewide Wetlands inventory map does not identify wetlands on site.⁴ Likewise, the Local Wetlands Inventory, dated October 2011, does not identify significant or non-significant wetlands groups on this property.⁵

The State of Oregon's Historic Sites Map (Attachment 4) depicts several properties eligible for listing in the National Register of Historic Places in the immediate vicinity of the Drifhaven, but none of them is listed within the Register.

The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 6, Air, Water and Land Resources Quality

Goal: To maintain and improve the quality of the air, water and land resources of the state.

Response: Goal 6 requires local governments to establish plans which:

- Designate suitable sites for development which is likely to cause pollution discharge;
- Designate urban and rural residential areas only where appropriate sewer services are available;
- Buffer incompatible uses; and
- Consider the carrying capacity of affected airsheds and watersheds.

³ National Wetlands Inventory Map <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>

⁴ Statewide Wetlands Inventory Map <https://maps.dsl.state.or.us/swi/>

⁵ City of Gearhart Local Wetlands Inventory (LWI), October 2011

Furthermore, development must be consistent with Federal and State standards related to air and water pollution and with City regulations regarding off-site impacts to minimize potential harmful effects on air, water, and land resource quality.

The proposed amendment does not affect any of the City’s existing regulations pertaining to preservation of air, water, and land resources. Goal 6 considerations could apply to a specific development proposal, but that is not proposed as part of this amendment. The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 7, Areas Subject to Natural Disasters and Hazards

Goal: To protect people and property from natural hazards.

Response: Pursuant to Goal 7, comprehensive plans include measures to reduce risk to people and property from natural hazards such as floods, tsunamis, and landslides. The proposed amendment does not affect any of the City’s existing regulations pertaining to natural disasters and hazards. Goal 7 considerations could apply to a specific development proposal, but that is not proposed as part of this amendment. The proposed Zoning Ordinance text amendment does not conflict with this Goal.

According to the Oregon Department of Geology and Mineral Industries (DOGAMI) Tsunami Inundation Map (TIM), the Drifthaven site—which is affected by the proposed Zoning Ordinance text amendment—is located within an inundation area subject to a “M” magnitude local source tsunami event; therefore the 12 units at the Drifthaven conform to the 50-unit maximum established by the Tsunami Hazard Overlay zone. According to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map 41007C0368F, dated June 20, 2018, the site is not within a mapped Special Flood Hazard Area.

The proposed Zoning Ordinance text amendment does not conflict or affect compliance with this Goal.

Goal 8, Recreational Needs

Goal: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Response: Given the City’s location on the Pacific Ocean shore, it is sought out for recreation by residents and tourists alike. The Comprehensive Plan and Zoning Map designate specific sites with the Parks and Open Space (P) Zone. The proposed amendment affects property zoned R-2 and does not alter any standards related to the P zone. The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 9, Economic Development

Goal: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Response: Goal 9 requires that land be designated for commercial and industrial uses according to the needs of the local and regional economy, current economic base, workforce, availability of land, and availability of key public facilities. Goal 9 encourages communities to preserve employment land. The proposed amendment affects property zoned R-2 and does not alter any standards related to employment land. The proposed Zoning Ordinance text amendment does not conflict with this Goal and would have no significant impact on the City’s planning for commercial or industrial economic activity.

Goal 10, Housing

Goal: To provide for the housing needs of citizens of the state.

Response: The proposed Zoning Ordinance text amendment would designate hotels that have existed since 1994 within the R-2 residential zone as conditional uses. However, since the amendment does not authorize new hotels, it would not lead to the development of new hotels and would not enable consumption of vacant residential buildable land in the R-2 zone for nonresidential use. Housing will continue to be permitted outright in the R-2 zone. Therefore, the proposed amendment would have no effect on compliance with this Goal.

Goal 11, Public Facilities and Services

Goal: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Response: Goal 11 is primarily implemented by the City, which has adopted public facilities plans and standards. It is therefore not directly applicable to Zoning Ordinance amendments which do not entail significant changes in public facilities plans. The proposed text amendment would designate hotels that have existed since 1994 within the R-2 zone as conditional uses, thereby making them eligible for modification pursuant to City rules for conditional uses as codified in GZO Article 8.

At the Drifhaven site, which is affected by the proposed Zoning Ordinance text amendment, the small site size and the R-2 dimensional standards limit the potential scope and scale of any future modification. Therefore, any approved modifications would result in only minor changes to public facilities service needs. Insofar as future hotel modifications will be subject to CUP review (which includes an evaluation of affected public facilities and services), the proposal is consistent with Goal 11.

Goal 12, Transportation

Goal: To provide and encourage a safe, convenient and economic transportation system.

Response: This Goal requires the City to prepare and implement a Transportation System Plan (TSP), which creates a functional classification system and establishes levels for acceptable transportation operations. Since the proposed Zoning Ordinance amendment does not authorize development of new hotels, the effect of the amendment on the transportation system is anticipated to be minimal and would not require amendments to the TSP.

The Drifhaven site, which is affected by the proposed Zoning Ordinance text amendment, is located along a Collector street (N Cottage Avenue) and near another Collector (Pacific Way) as designated in the Gearhart TSP. Allowing the existing hotel to continue would not necessitate any change in functional classification.

The proposed Zoning Ordinance text amendment would designate hotels that have existed since 1994 within the R-2 residential zone as conditional uses, thereby allowing those existing hotels to be eligible for modification pursuant to City rules for conditional uses as codified in GZO Article 8. However, given the relatively restrictive dimensional standards in the R-2 zone, any potential modification would be small-scale and result in only minor changes to existing traffic levels. Any future development proposals would be subject to transportation review under applicable provisions of the City's TSP.

Furthermore, as discussed below in the findings related to the Oregon Transportation Planning Rule (TPR) codified at OAR 660-012-0060, cities need to analyze whether a proposed amendment to a land use regulation would have a significant effect on the transportation system. In this instance, since the

proposed text amendment does not authorize new development, approval of the application would not have a significant effect on the transportation system.

The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 13, Energy Conservation

Goal: To conserve energy.

Response: The proposed Zoning Ordinance amendment would change the status of certain longstanding hotel facilities in the R-2 zone from a nonconforming use to a Conditional Use, making it possible for them to consider making improvements or expansions subject to City review and approval. The amendment will allow efficient continued use of existing sites without triggering development of vacant sites located on the periphery of the community.

The Drifhaven site, which is affected by the proposed Zoning Ordinance text amendment, is located near complementary commercial uses, potentially leading to trip sharing, carpooling, and/or combined deliveries, thereby increasing energy efficiency. The proposed Zoning Ordinance text amendment is consistent with this Goal.

Goal 14, Urbanization

Goal: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Response: The proposed Zoning Ordinance amendment affects property within City Limits and does not amend the Urban Growth Boundary. The amendment would continue to make efficient use of land and promote the City's livability by relieving a class of long-established existing hotel use from nonconforming-use status. The proposed Zoning Ordinance text amendment would not negatively affect the City's Goal 14 compliance.

Goal 15, Willamette River Greenway

Goal: To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Response: The City of Gearhart is not located along the Willamette River, so Goal 15 is not applicable.

Goal 16, Estuarine Resources

Goal: To recognize and protect the unique environmental, economic and social values of each estuary and associated wetlands; and

To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

Response: The proposed amendment does not affect any of the City's existing regulations pertaining to preservation of estuarine resources. Goal 16 considerations could apply to a specific development proposal, but that is not proposed as part of this amendment.

The Drifhaven site, which is affected by the proposed Zoning Ordinance text amendment, is not located in an estuary or associated wetland (see response to Goal 5). The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 17, Coastal Shorelands

Goal: To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and

To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Response: The proposed amendment does not affect any of the City's existing regulations pertaining to preservation of coastal shorelands. Goal 17 considerations could apply to a specific development proposal, but that is not proposed as part of this amendment.

The Drifthaven site, which is affected by the proposed Zoning Ordinance text amendment, is removed from direct access to the Coastal Shorelands by several blocks, and it provides appropriate benefits to the community without hindering the protection of coastal shorelands. The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 18, Beaches and Dunes

Goal: To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and

To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

Response: The proposed amendment does not affect any of the City's existing regulations pertaining to preservation of beaches and dunes. Goal 18 considerations could apply to a specific development proposal, but that is not proposed as part of this amendment.

The Drifthaven site, which is affected by the proposed Zoning Ordinance text amendment, is not located directly on the beach or dunes. The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Goal 19, Ocean Resources

Goal: To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.

Response: The proposed amendment does not affect any of the City's existing policies pertaining to protection and conservation of marine resources. Goal 19 considerations could apply to a specific development proposal, but that is not proposed as part of this amendment.

The Drifthaven site, which is affected by the proposed Zoning Ordinance text amendment, is not located directly along ocean shoreland. The proposal does not include or allow any development change that would hinder the conservation of ecological resources under Goal 19. The proposed Zoning Ordinance text amendment does not conflict with this Goal.

Oregon Administrative Rules

Transportation Planning Rule

OAR 660 Division 12 – Transportation Planning

660-012-0060 Plan and Land Use Regulation Amendments

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

Response: The proposed text amendment would not change the functional classification of an existing or planned transportation facility.

- (b) *Change standards implementing a functional classification system; or*

Response: The proposed text amendment would not change any transportation standards that implement a functional classification system.

- (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection. If a local government is evaluating a performance standard based on projected levels of motor vehicle traffic, then the results must be based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

- (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*

- (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*

- (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

Response: The proposed text amendment makes a class of existing hotels a conditional use rather than a nonconforming use but would not allow the establishment of new hotels in the R-2 zone. Therefore, it would not lead to types or levels of traffic that result in any of the effects listed in paragraphs (A) through (C).

Nevertheless, Transportation Planning Rule analysis requires examination of a theoretical “reasonable worst case” scenario. The Drifhaven site, which is affected by the proposed Zoning Ordinance text amendment, would become eligible for modification pursuant to City rules for conditional uses as codified in GZO Article 8. However, given the relatively restrictive dimensional standards in the R-2 zone, any modification would be limited in scope and scale. Therefore, the reasonable worst-case scenario for the site would yield only minor changes to existing traffic

levels and the amendment would not result in any of the effects listed in paragraphs (A) through (C).

Gearhart Comprehensive Plan

General Development Goals

Residential Development Policies

1. *The City will preserve and maintain the predominately residential character of Gearhart through appropriate zoning and land use development regulations.*

Response: Gearhart has enacted multiple residential zoning districts to create areas suitable for residential use. To preserve the scale and function of existing residential development, the proposed Zoning Ordinance text amendment is narrowly crafted to ensure it does not lead to construction of new hotels in residential zones. The amendment only affects the R-2 zone, making hotels constructed prior to 1994 eligible for modification or expansion through the Conditional Use Permit procedure to ensure adequate review by the Planning Commission.

The Drifhaven site is affected by the proposed text amendment. Following passage of the text amendment, if the applicant were to propose a modification of the existing use, the modification would be governed by GZO Article 8 (Conditional Uses) and subject to Planning Commission review. The amendment is consistent with this policy.

2. *The City will implement the City's land use development regulations through the continued development of Gearhart as a residential community.*

Response: The proposed amendment respects the residential character of the City by ensuring that the revised provisions of the R-2 zone would not allow creation of a new hotel or other new commercial use. The amendment is consistent with this policy.

3. *The City will maintain the present residential density levels in established neighborhoods.*

Response: The proposed Zoning Ordinance text amendment does not alter allowable residential density levels. The proposed amendment to the R-2 zone would alter the status of certain existing hotel use(s) in operation since prior to the adoption of the Zoning Ordinance but would not authorize new hotels in the R-2 zone, thereby maintaining existing density levels. The amendment is consistent with this policy.

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.*

Response: The proposed amendment affects the status of existing hotel operation(s) in the R-2 zone that were constructed before 1994 but would not change the City's Vacation Rental rules specified in GZO Article 7. The amendment is consistent with this policy.

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.*

Response: The proposed Zoning Ordinance text amendment applies to the Medium Density Residential (R-2) zone, not to a commercial zone. While the amendment would affect certain existing hotels in the R-2 zone, it would not authorize the construction of any new hotels in the R-2 zone or elsewhere. Therefore,

the amendment is consistent with the policy of ensuring that commercial development is compatible with residential use.

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.*

Response: Certain existing hotels within the R-2 zone—such as the Drifhaven, which would be affected by the amendment—are longstanding establishments that provide accommodations for a limited number of tourists. The proposed Zoning Ordinance text amendment does not seek to expand available land within the R-2 zone for tourists and does not authorize new hotels. Therefore, the proposed amendment is consistent with this policy by allowing limited amounts of economic development already taking place within the zone to continue as an authorized use.

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.*

Response: The proposed amendment seeks to support certain existing, long-established, small-scale hotel uses in the R-2 zone. This measure would not authorize new hotels or in any other way establish or provide an avenue for the establishment of regional commercial centers or major tourist destination facilities. Consistent with this policy, authorizing existing hotels as conditional uses would allow limited levels of tourism to continue as they have for many years and would continue to support economic opportunity.

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

Response: The proposed Zoning Ordinance text amendment would not designate additional property for commercial development. The proposed amendment is consistent with this policy.

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

Response: The proposed Zoning Ordinance text amendment does not change areas presently zoned C-2 to C-3. The proposed amendment is consistent with this policy.

6. *The City will maintain a commercial Zone in the center of the City that provides for the needs of residents.* The proposed amendment is consistent with this policy.

Response: The proposed Zoning Ordinance text amendment does not alter the extent of the land designated for commercial zoning.

7. *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.* The proposed amendment is consistent with this policy.

Response: The proposed Zoning Ordinance text amendment does not affect the number of businesses in the C-1 zone.

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

Response: The proposed Zoning Ordinance text amendment would support certain existing, long-established small-scale hotel uses in the R-2 zone. The Drifhaven site, which would be affected by the amendment, is located on Cottage Avenue near Pacific Way. Consistent with this policy, the proposed amendment would sustain the existing compact town center by supporting existing hotel use in this area while not expanding the town center.

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

Response: The proposed amendment does not authorize new commercial development but rather designates certain existing hotel usage in the R-2 zone as a conditional use. Consistent with this policy, the amendment would not negate any existing residential protections.

Citizen Involvement Policies

1. *The City will ensure that citizens, including residents and property owners, have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies.*
3. *The City will ensure that technical information, such as the Plan background data, the Goals and Policies and City ordinances be available to the public at nominal cost.*

Response: The proposed Zoning Ordinance text amendment will be evaluated by the Planning Commission and the City Council during public hearings that provide an opportunity for members of the public to participate in the legislative process. The City will publish advance notice of the hearings and make the applicant's materials available for public review and consideration. The application review process is consistent with these policies.

Geology and Geologic Hazards

General Plan Policies

To protect life, minimize damage and facilitate rapid recovery from a local source Cascadia Subduction Zone earthquake and tsunami, the City will:

3. *Use the Oregon Department of Geology and Mineral Industries (DOGAMI) Tsunami Inundation Maps applicable to Gearhart to determine tsunami hazard resiliency measures.*
4. *The Tsunami Hazard Overlay Zone identifies tsunami hazard areas to implement land use measures addressing tsunami risk.*
7. *Require a tsunami hazard acknowledgement and disclosure statement for new development in tsunami hazard areas.*

Response: In accordance with these policies, the Tsunami Hazard Overlay Zone prohibits several uses in specific risk areas, including prohibition of hotels with more than 50 units in areas identified as subject to inundation from the "M" magnitude local source tsunami event as set forth on the Tsunami Inundation Map Series (TIMs). The proposed Zoning Ordinance text amendment does not alter this regulation. The proposed amendment is therefore consistent with these policies to protect life, minimize damage, and facility recovery from earthquake and tsunami.

The Drifhaven site, which is affected by the proposed amendment, is within the "M" magnitude area but the facility has only 12 units, so it does not exceed the 50-unit maximum.

Policies Related to Reducing Development Risk in High Tsunami Risk Areas

1. *Prohibit comprehensive plan or zone map amendments that would result in increased residential densities over 10 dwelling units per acre, or more intensive uses in tsunami hazard areas unless adequate mitigation is implemented. Mitigation measures should focus on life safety and tsunami resistant structure design and construction.*

Response: The proposed Zoning Ordinance text amendment does not amend the Comprehensive Plan map or Zoning Map, does not increase residential density, and applies to a class of long-established existing hotels rather than allowing construction of new hotels. The proposed amendment is consistent with this policy.

3. *Prohibit the development of certain essential facilities and special occupancy structures within the "L" tsunami inundation area.*

Response: The proposed Zoning Ordinance text amendment affects a limited set of properties with established hotel uses in the R-2 zone. The proposed amendment does not contradict this policy.

The Drifthaven, which is affected by the proposed amendment, is located within the "M" tsunami inundation area rather than the "L" tsunami inundation area.

Flood Hazards

Policies

1. *Development in areas subject to ocean flooding shall be prohibited.*
2. *The City will rely on the requirements of its Flood Hazard Overlay Zone to regulate development in flood hazard areas to ensure that provisions of the National Flood Insurance program are met.*

Response: The proposed Zoning Ordinance text amendment does not authorize development in areas of ocean flooding and does not contradict any provisions of the Flood Hazard Overlay Zone. The proposed amendment is consistent with this policy.

Per FEMA Flood Insurance Rate Map 41007C0368F, dated June 20, 2018, the Drifthaven, which is affected by the proposed amendment, is not within a mapped Special Flood Hazard Area so it is not regulated by the Flood Hazard Overlay Zone.

Economy & Energy

GOAL: To ensure a stable and healthy economy in Gearhart through all available resources, both human and natural Resources.

Response: The proposed Zoning Ordinance text amendment supports the local economy by reducing or eliminating the uncertainty associated with the current nonconforming use status of certain hotel operation(s) established prior to the City's adoption of the R-2 zone. The purpose of the amendment is to make it possible for qualifying hotels to propose modifications or expansions through the Conditional Use Permit process, and to simplify the approval process for structural upgrades, fire damage repairs, or other actions if and when they are needed in the future. For operators/Owners, the changes would relieve some business risk factors associated with financing, insurance, and other operational needs. In turn, the continuing operation of established hotels stimulates the economy by bringing guests into the City, who spend money at local businesses and support the local populace. The proposed amendment is consistent with this goal.

Housing

GOAL: To ensure decent, affordable housing and housing availability for all residents of the Gearhart area.

Response: The proposed Zoning Ordinance text amendment would revise the provisions of the R-2 zone to authorize existing hotels constructed prior to 1994 as conditional uses. Since the amendment would not authorize new hotels, it would not lead to consumption of residential land for hotel use. Therefore, the amendment has no impact on the supply of available residential land or residences and is consistent with this goal.

Policies

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

Response: The proposed Zoning Ordinance text amendment would not limit the construction of needed housing, as it does not authorize new hotels in the R-2 zone. Therefore, the amendment has no impact on the supply of available residential land or residences and is consistent with this policy.

Transportation

Policies

- 2.6. *Protect the function of existing and planned roadways as identified in the adopted Transportation System Plan by ensuring that all development proposals, plan amendments, and zone changes are consistent with the planned transportation system.*

Response: The proposed text amendment would not allow the establishment of new uses, but it would make a class of long-established existing hotel operations in the R-2 zone conditional rather than nonconforming uses. Therefore, the effect of the amendment on the transportation system is anticipated to be minimal and would not require alterations to the City's transportation system or necessitate any change in functional classification. The amendment is consistent with this policy.

The Drifhaven site, which is affected by the proposed Zoning Ordinance text amendment, is located along a Collector street (N Cottage Avenue) and near another Collector (Pacific Way) as designated in the Gearhart TSP. Allowing the existing hotel to continue would not necessitate any change in functional classification.

- 2.7. *Consider the impacts on existing or planned transportation facilities in all discretionary land use decisions and require applicable development proposals, as defined in the Zoning Ordinance, to prepare a traffic impact analysis unless a waiver is granted by the City Manager or designee.*

Response: The application is not a development proposal but rather a Zoning Ordinance text amendment that would classify existing hotels in the R-2 zone originally constructed before 1994 as conditional uses. Given the relatively restrictive dimensional standards in the R-2 zone, any potential modification of hotels affected by the amendment would be small-scale and result in only minor changes to existing traffic levels. Any future development proposals would be subject to transportation review based on the Traffic Impact Analysis standards in GZO Section 4.070 and the CUP review procedure (which includes an evaluation of traffic impacts) as codified in GZO Article 8. The amendment is consistent with this policy.

Urban Growth

Policies

10. *Restrict the development of lodging facilities and higher density residential housing in tsunami inundation zones or require the implementation of protective measures.*

Response: As discussed in the response to the Geology and Geologic Hazards policies, the proposed Zoning Ordinance text amendment does not alter the City's tsunami-related regulations codified in the Tsunami Hazard Overlay zone. The overlay prohibits hotels with more than 50 units in areas identified as subject to inundation from the "M" magnitude local source tsunami event. As the amendment would not alter this regulation or allow new hotels, the amendment is consistent with this policy.

The Drifhaven site, which is affected by the proposed amendment, is within the “M” magnitude area but the facility has only 12 units, so it does not exceed the 50-unit maximum.

Gearhart Zoning Ordinance

Article 11 Amendments

Section 11.010 Authorization to Initiate Amendments

An amendment to the text of this ordinance or the zoning map may be initiated by the City Council, by the Planning Commission or by the property owner. To obtain such a change a property owner may initiate a request for an amendment to this ordinance by filing an application with the City Auditor, using forms prescribed by Section 13.020.

Response: The applicant is a property Owner within the City of Gearhart. The applicant has provided the required application forms and supporting documentation. This standard is met.

Section 11.020 Classification of Amendment Action

- 1. *The following amendment actions are considered legislative under this Ordinance:*
 - A. *An amendment to the text of this Ordinance, the Comprehensive Plan or the zoning Map.*
 - B. *A zone change action that the City Auditor has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that processing the request as a quasi-judicial action would be inappropriate.*

Response: The applicant has proposed a Zoning Ordinance text amendment, which is classified as a legislative decision by this provision. This standard is met.

Section 11.030 Amendment Procedures

- 1. *The following procedure shall be followed for amendments determined to be legislative:*
 - A. *Notice of public hearings shall be in accordance with Sections 13.030. However, notice of the hearing need not include a mailing to property owners when the matter at issue does not relate to a specific geographic area.*
 - B. *The review of the proposed amendment shall be in accordance with Section 13.050. Both the Planning Commission and the City Council shall hold a public hearing on the proposal. After the Planning Commission hearing, the Planning Commission shall forward its recommendation to the City Council.*

Response: Notice is published by the City in accordance with this section and with Oregon Administrative Rules. The application is subject to Planning Commission recommendation and a City Council decision. This standard is met.

Section 11.040 Amendment Criteria

- 1. *Before an amendment to the text of the Zoning Ordinance is approved, findings will be made that it is consistent with the policies of the Comprehensive Plan and there is a public need for the proposed amendment.*

Response: Demonstration of consistency with the Comprehensive Plan is provided in the findings above. Nonconforming uses are not favored by the Zoning Ordinance, and the proposed amendment would reduce the number of nonconforming uses by converting a class of nonconforming uses into conditional uses. The public need for the proposed Zoning Ordinance amendment arises from the current regulations,

which leave longstanding community institutions (existing hotels in the R-2 zone), in a state of zoning uncertainty due to the nonconforming use status created when the R-2 zoning was applied. It is possible that future economic conditions could lead to closure of existing nonconforming hotels in the R-2, and under current rules a discontinuance exceeding one year eliminates the ability for nonconforming uses to reopen. To protect against such possibilities, it is in the public interest to provide regulatory support for this class of hotels by eliminating the nonconforming status, thereby smoothing the way for these facilities to continue to operate and attract guests to stimulate spending in the local economy.

Providing clear definition in the Zoning Ordinance improves the public's understanding and expectation for hotel use in the R-2 zone, including the manner in which potential future modifications would be reviewed by the City. Clarifying the existing hotels older than 1994 are allowed conditional uses, and that conditional use approval is required for modifications, provides a level of compromise that balances community concern for maintaining a residential feel with economic considerations for hotel Owners. Sustaining existing hotels supports the local economy and benefits the City financially through the continuing remittance of transient room tax and through continuing property tax payments. Adopting a narrowly-focused amendment prevents the construction of new hotels in the R-2 zone, eliminating the possibility of impacts from such new construction on nearby residences.

This standard is met.

2. *Before an amendment to the Zoning Map is approved, findings will be made that the following standards have been satisfied:*
 - 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.*

Response: The applicant has not requested an amendment to the Zoning Map. This standard does not apply.

Section 11.050 Limitation of Reapplication

No application of a property owner or local resident for an amendment to the text of this Ordinance or to a zone boundary shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request. The Planning Commission may permit a new application if, in the opinion of the Planning Commission, substantial new evidence or a change of circumstances warrant reconsideration.

Response: The applicant has not submitted an application for a Zoning Ordinance within the past year. This standard does not apply.

Section 11.070 Consistency with Transportation System Plan

Proposals to amend Comprehensive Plan or Zoning Map shall demonstrate the proposal is consistent with the adopted Transportation System Plan and the planned function, capacity and performance standards of the impacted facility or facilities. Proposals shall be reviewed to determine whether they significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012- 0060 (Transportation Planning Rule - TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility,

the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

Response: While the applicant has not requested to amend the Comprehensive Plan or Zoning Map, discussion of compliance with the TPR is included above under the heading “Oregon Administrative Rules.” No significant effect on transportation facilities has been identified since the proposed Zoning Ordinance text amendment would not authorize new development. This standard is met.

Article 13 Administrative Provisions

Section 13.010 Types of Land Use Decisions

Classification of Application Types:

3. *Legislative Decisions: include a Comprehensive Plan Amendment including adoption of Park, Transportation and Public Facility Master Plans, a Zoning Code Text Amendment, a multiple parcel Zone Map Amendment, UGB or City limit amendment. The application is first heard by the Planning Commission who sends a recommendation to City Council who renders a decision by ordinance.*

Response: The applicant has proposed a Zoning Ordinance text amendment, which is classified as a legislative decision subject to Planning Commission recommendation and a City Council decision.

Section 13.050 Public Hearing Procedure and Requirements

3. *Burden and Nature of Proof*

The burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this Ordinance, especially the specific criteria set forth for the particular type of decision under consideration.

Response: The applicant has provided the burden of proof in the form of this narrative and the attached supporting documentation to demonstrate compliance with the approval criteria outlined in GZO Section 11.040. This standard is met.

V. CONCLUSION

The proposed Zoning Ordinance amendment would change the status of certain longstanding hotel facilities in the R-2 zone from a nonconforming use to a Conditional Use. This action would support existing business in a manner consistent with the Comprehensive Plan and the Statewide Planning Goals. Based on the information presented and discussed in this narrative and the attached supporting documentation, this application meets applicable standards necessary for land use approval. The applicant respectfully requests approval by the City.

Gearhart Hotels
8/11/2023

Hotel Name	Location	Clatsop County Tax Lot(s)	Owner (per assessor data)	Zoning	Year Built (per assessor data)
Drifthaven	67 N Cottage Avenue	61010BB03901 & 61010BB04200	Pacific Cottages LLC	R-2	1942
The Lodge at Little Beach	715 H Street	61010CB04109	Strange F & E Family Prtshp 1	R-1	1936
McMenamins Gearhart Hotel	1157 N Marion Avenue	610030000100	Gearhart Partners LLC	C-2	2000
Windjammer Inn	4253 N Hwy 101	61003BA00900	Kim Bauske	C-2	1950

Sources: City of Gearhart, Clatsop County

Note: This list excludes Vacation Rental Dwellings as defined by the Gearhart Zoning Ordinance.

Gearhart Vacation Rental Dwellings, 11/13/23 (Source: City of Gearhart)

Permit Number	Expiry date	Registered Address	Registered Unit Number	Permit Holder Name 1	Contact Phone	Emergency Contact Name	Emergency Contact Phone	Permit Parking Spots	Max Occupancy
STR20-00276	2024-05-20 05:00 PM	101 13th Gearhart OR 97138 US	219	Susan Taylor	(212) 873-0711	VACASA Representative	(208) 954-6887	2	4
STR20-00273	2024-12-03 04:00 PM	101 13th Gearhart OR 97138 US	204	Karyl Fox	(503) 358-5636	VACASA Representative	208-954-6887	1	2
STR20-00285	2024-07-23 01:49 PM	101 5th St		101 5th Street LLC Jeffrey L. Miller	(503) 222-2234	VACASA Representative	(208) 954-6887	5	10
STR20-00143	2024-04-25 05:00 PM	102 Spruce Ave		Baumann Jennifer B Trustee	(503) 327-4546	Erin Barker	(503) 440-1168	2	4
STR20-00017	2024-05-10 05:00 PM	1039 Marion Ave		Marion House Holdings LLC - Jayne Bond	(503) 939-2466	Paul Tice	(503) 738-8331	6	8
STR20-00137	2024-06-27 05:00 PM	104 S Marion Ave		KFT Properties LLC - David Knudsen	(512) 924-1020	iTrip	(503) 230-0534	4	8
STR20-00148	2024-04-26 05:00 PM	124 S Marion Ave		Cap Three LLC	(503) 539-2562	Erin Barker	(503) 440-1168	5	10
STR21-00003	2024-08-30 05:00 PM	1250 N Ocean Gearhart OR 97138 US	210	Evaley Hantelman	(408) 209-1529	VACASA Representative	208-954-6887	1	2
STR20-00281	2024-01-16 04:00 PM	1250 N Ocean Gearhart OR 97229 US	203	Karyl Fox	(503) 358-5636	VACASA Representative	208-954-6887	1	2
STR20-00286	2024-07-23 01:49 PM	155 5th St Gearhart, OR 97138, USA		Walen Family Trust Walen Mark H Trustee	(503) 502-8602	Jimmy Griffin	(503) 901-3839	3	6
STR20-00030	2023-11-20 04:00 PM	155 8th St, Gearhart, OR 97138, USA		CEM Chicken House LLC	(503) 887-5960	Theresa Stanley	(503) 739-5049	3	6
STR20-00157	2024-03-14 05:00 PM	161 S Cottage Ave		Liberty Anderson	(541) 380-1399	Cheri Nahstoll	(503) 791-9115	4	8
STR20-00154	2024-05-08 05:00 PM	194 Dylan Ct		Wolfard Gimre Kathryn Rachel	(503) 780-8333	Aimee V. Lathon	(503) 440-2851	6	12
STR20-00087	2024-07-13 05:00 PM	197 3rd St		Wood Beach House LLC	(503) 246-0071	Coco Underhill	(503) 739-4631	4	8
STR20-00081	2024-07-13 05:00 PM	198 3rd St		Ocean Gearhart LLC	(541) 386-4400	VACASA Representative	(208) 954-6887	9	12
STR20-00058	2024-04-07 05:00 PM	202 5th St		Fox James Neil	(503) 577-3455	Shelley Brown	(503) 717-2447	6	10
STR20-00041	2024-08-29 05:00 PM	202 7th St, Gearhart, OR 97138, USA		LaTourette Charles/LaTourette CS	(503) 730-9897	VACASA Representative	208-954-6887	4	8
STR20-00097	2024-10-12 05:00 PM	226 Ridge Dr, Gearhart, OR 97138, USA		Robert J Carson	(509) 527-5224	Erin Barker	(503) 440-1168	3	6
STR20-00173	2024-07-22 05:00 PM	231 S Marion Ave, Gearhart, OR 97138, USA		Peter A Maguire	(415) 298-5358	Connie Colbert	(206) 948-4404	3	6
STR20-00284	2024-07-23 01:49 PM	266 6th St		McCormick William P Rev Liv Trst McCormick Gail / Willi	(503) 702-4779	Seaside Vacation Homes	(503) 738-0982	6	12
STR20-00260	2024-04-11 05:00 PM	277 7th St		Amy Bullard	(503) 522-9224	Erin Barker	(503) 440-1168	4	8
STR20-00291	2024-07-23 01:49 PM	282 S Ocean Ave		McCleary Marcia Trustee Beach House Trust	(503) 312-1239	Jaeme Wrege	(503) 440-0891	5	10
STR20-00288	2024-07-23 01:49 PM	288 1st St		VACASA Representative Muffie Latourette Scanlan Muffi	(503) 260-3662	VACASA Representative	208-954-6887	4	8
STR20-00219	2024-08-28 05:00 PM	357 G St, Gearhart, OR 97138, USA		VACASA Heuser Family Trust	(503) 680-1768	VACASA Representative	(208) 954-6887	4	8
STR20-00183	2024-04-26 05:00 PM	374 Nita		Newell Minton J	(415) 517-6919	Colleen Brady	(503) 739-2210	3	6
STR20-00181	2024-05-17 05:00 PM	395 S Marion Ave		Cutler Beverlee K	(503) 341-9678	VACASA Representative	208-954-6887	4	8
STR20-00264	2024-04-02 05:00 PM	395 S Ocean Ave		Lance Inouye	(503) 442-2700	Ramon Anguianos	(503) 440-9659	5	8
STR20-00080	2024-04-26 05:00 PM	398 N Marion Ave		Marshall Nancy W	(503) 929-9405	Erin Barker	(503) 440-1168	4	8
STR20-00120	2024-07-13 05:00 PM	401 Pacific Way		Parkham Hill LLC	(208) 772-2606	Oregon Beach Vacations	(503) 528-7480	4	8
STR20-00189	2024-04-20 05:00 PM	434 S Cottage Ave		Fullerton Ky B	(503) 913-7109	Jodi Underhill	(503) 440-5637	3	6
STR20-00212	2024-11-15 04:00 PM	453 F St, Gearhart, OR 97138, USA		Peter Howe	(503) 807-2952	Jason Palmburg	(503) 791-1603	5	8
STR20-00067	2024-08-24 05:00 PM	498 N Ocean Ave, Gearhart, OR 97138, USA		Gary Roth	(503) 397-8197	Brenda Sandstrom	(971) 407-8395	4	8
STR20-00131	2024-08-28 05:00 PM	52 S Marion Ave, Gearhart, OR 97138, USA		Burr Osburn Margaret M Leathers	(503) 516-7068	Burr Osburn	(503) 440-6945	2	4
STR20-00202	2024-11-15 04:00 PM	523 E St, Gearhart, OR 97138, USA		Macpherson Kevin	(206) 999-5009	Kevin Pool	(503) 440-6693	4	6
STR20-00093	2024-05-01 05:00 PM	567 3rd St		Vanderzanden Joan I	(503) 647-5253	VACASA Representative	208-954-6887	2	4
STR20-00200	2024-04-17 05:00 PM	622 E St		CMD Holdings LLC	(360) 953-7360	VACASA Representative	208-954-6887	3	6
STR20-00193	2024-07-22 05:00 PM	641 D St, Gearhart, OR 97138, USA		D Street Gearhart LLC	(503) 223-8000	VACASA Representative	(208) 954-6887	3	6
STR20-00071	2024-02-12 04:00 PM	652 4th St, Gearhart, OR 97138, USA		Soli Daryl J	(503) 816-9474	Erin Barker	(503) 440-1168	4	6
STR20-00035	2024-05-10 05:00 PM	656 7th St		Riverside Properties NW LLC	(541) 280-5349	VACASA Representative	208-954-6887	4	4
STR20-00161	2024-07-04 05:00 PM	656 B St		Claire Widmark-Wright	(971) 275-3691	Bob Zimmerling	5034408491	4	8
STR20-00047	2024-02-22 04:00 PM	657 N Marion Ave		Christine V Hayward	(503) 292-8020	Andrew Hura	(510) 759-4200	5	8
STR20-00150	2024-06-04 05:00 PM	683 A St		Sasaki Nathan M Rev Trust	(503) 708-3818	Max Caldwell	(503) 505-3023	3	6

STR20-00197	2024-04-17 05:00 PM	688 E St		Connell Wells Carole L	(503) 297-6660	VACASA Representative	208-954-6887	4	8
STR20-00258	2024-01-21 04:00 PM	702 7th St, Gearhart, OR 97138, USA		Blumenauer Jon Scott	(503) 382-7604	VACASA Representative	208-954-6887	2	4
STR20-00004	2024-04-16 05:00 PM	702 Creekside Court		Schulte Arthur A Jr/Ruth E Trustees	(503) 531-9280	VACASA Representative	208-954-6887	4	8
STR20-00112	2023-12-27 04:00 PM	702 Pacific Way, Gearhart, OR 97138, USA		David Savinar	(503) 890-8955	Joy Sigler	(503) 738-6560	2	4
STR20-00102	2024-05-17 05:00 PM	713 2nd St		Thompson Kenneth & Rosemary	(503) 704-6647	VACASA Representative	(208) 954-6887	2	4
STR20-00214	2024-12-27 04:00 PM	721 S Ocean, Gearhart, OR 97138, USA		MPF Properties, LLC	(503) 887-7420	Casey Langmo	(503) 741-6844	5	10
STR20-00074	2024-01-21 04:00 PM	726 4th St, Gearhart, OR 97138, USA		Dehen Joanna M	(503) 916-9295	Lenny Hitchman	503-400-4038	1	2
STR20-00115	2024-01-15 04:00 PM	738 Pacific Way, Gearhart, OR 97138, USA	1	Ryan Blum	503-741-5335	Seaside Vacation Homes	503-738-0982	1	2
STR21-00002	2024-03-08 02:37 PM	738 Pacific Way, Gearhart, OR 97138, USA	2	Ryan Blum	5037415335	Seaside Vacation Homes	503-739-0976	2	4
STR20-00210	2024-11-02 05:00 PM	740 F St, Gearhart, OR 97138, USA		Jacobsen Gay Burnie/ David P	(503) 781-8127	Forrest Goodling	(503) 849-9249	3	6
STR20-00226	2024-01-15 04:00 PM	751 S Marion Ave, Gearhart, OR 97138, USA		Doug Edwards	(503) 572-2868	Malia Jacobsen	(503) 828-9889	4	8
STR20-00032	2024-04-26 05:00 PM	776 Marion Ave		Whittemore James P	(503) 292-4000	Erin Barker	(503) 440-1168	4	8
STR20-00110	2024-08-17 05:00 PM	78 N Cottage Ave Gearhart OR 97138 US		Jones Aaron	(503) 358-5005	Meredith Lodging	877-778-9055	2	4
STR20-00222	2024-06-07 05:00 PM	799 G St		McNamara Thomas F	(503) 705-5140	Julie Stallsworth	5034403856	4	8
STR20-00232	2024-08-28 05:00 PM	801 S Marion Ave, Gearhart, OR 97138, USA		Best Beach Rentals LLC	(206) 979-3511	Malia Jacobsen	(503) 828-9889	4	8
STR20-00234	2024-08-17 05:00 PM	815 S Ocean Ave, Gearhart, OR 97138, USA		William M Corti	(503) 654-0988	Erin Barker	(503) 440-1168	4	8
STR20-00024	2024-08-24 05:00 PM	837 Neacoxie Blvd, Gearhart, OR 97138, USA		NSJ Properties LLC	(503) 229-1850	Christopher Slonecker	(503) 440-6929	5	8
STR20-00239	2024-04-16 05:00 PM	844 Little Beach Dr		Seaside Vacation Homes Andrew Vidourek	(541) 760-9692	Seaside Vacation Homes	5034365035	3	6
STR20-00247	2024-08-28 05:00 PM	871 H St, Gearhart, OR 97138, USA		Best Beach Rentals LLC	(206) 979-3511	Malia Jacobsen	(503) 828-9889	5	8
STR20-00255	2024-04-26 05:00 PM	888 Little Beach Dr		Townsend David	9164517371	Mark Tolan	(503) 738-0982	4	8
STR20-00123	2024-05-02 05:00 PM	95 Summit Ct		Pamela Parks	(503) 738-7282	Rachel Capici	541-418-4074	3	6
STR20-00270	2024-08-17 05:00 PM	96 N Cottage Ave Gearhart OR 97138 US		Jones Aaron	(503) 358-5005	Meredith Lodging	877-778-9055	2	4
STR20-00249	2024-06-05 05:00 PM	961 Little Beach Dr		Kessi Robert K	(503) 320-8631	Mark Tolan	(503) 738-0982	4	8
STR20-00020	2023-12-31 05:00 PM	999 N Marion Ave		Gearhart Getaway LLC	(503) 223-4590	Jim Shipley	(503) 717-0392	6	10

Select Sites / Legend

Select

Legend

- Eligible/Listed
- Eligible
- Not Eligible/Listed
- Not Eligible
- Undetermined/Listed
- Undetermined
- Demolished/Listed
- Demolished

	Resource ID	Name	Address	City	County	Eligibility	Nat. Register Status	Yr Built
🔍	663861	Tyber Motel	67 Cottage N	Gearhart	Clatsop	eligible/contributing		c.1942

Note: Drifhaven Inn was formerly identified as the Tyberg Motel