

CITY OF GEARHART

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

BEFORE THE PLANNING COMMISSION OF THE CITY OF GEARHART

IN THE MATTER OF A PERMIT FOR A)	FINAL FINDINGS
NEIGHBORHOOD CAFÉ CONDITIONAL USE)	AND ORDER
CITY FILE #17-001 CU)	

This is an **APPROVAL** of a Conditional Use Permit to remodel the east side of the former Pop's Sweet Shop for a neighborhood café offering lunch, dinner, wine and select grocery items. The re-opening of the adjoining soda fountain business is a permitted use and not a part of this request.

Applicant: Traci Williams
Sweet Shop LLC
PO Box 2337
Gearhart, Oregon 97138

Property Owner: Cloverhart Properties LLC
PO Box 2337
Gearhart, Oregon 97138

Location: 567 Pacific Way; Tax Lots 5900 & 6000 Map 06N10W09AA

Completeness:	11-28-16
Notice Mailed:	12-23-16
Notice Published:	12-23-16
120-day deadline:	03-28-17

Exhibits:

- Application submitted by Sweet Shop Gearhart LLC, 11-18-16

- Gearhart Fire Chief, no concerns by email dated 12-01-16
- Gearhart Building Inspector, restrooms & septic approval required - email dated 11-02-16
- Gearhart Police Chief, no concerns by letter dated 12-06-16
- Gearhart Public Works, no concerns
- Gearhart City Manager, unsure how to account for “need”, by email dated 12-05-16
- Letters of objection from Dianne Widdop 11-28-17, Allen Smock 12-28-16, Steve & Kathy Roos 1-11-17, Lisa Cerveney 1-9-17
- Letters in support from Marie & David House 1-10-17, Katy Smith 1-11-17, Joy Sigler 1-12-17, Mary Murphy, 1-11-17, Craig Weston 1-11-17, Robert Ames 1-11-17, James Folk 1-11-17, Maria Hall & Walter McMonies 1-11-17

Gearhart Zoning Code Review Criteria:

- GZO Section 1.030 Definitions
- GZO Section 3.4 Neighborhood Commercial C-1 Zone
- GZO Section 6.130 Off-Street Parking Requirements
- GZO Section 8.040 Conditional Use Review Criteria
- GZO Section 8.060 Additional Modification of Standards for CUP
- GZO Article 13 Application, Notice & Hearing Procedures

I. FINDINGS

- A. Background: The applicant owns the building and is in the process of remodeling the interior space to utilize both sides. The west side of the building is being renovated to re-open the soda fountain. The east side of the building, most recently used for storage, is proposed to offer lunch and dinner dining and limited grocery sales. An interior doorway opening is planned between the two spaces. The tentative name of the café is The Salon, reminiscent of the hair salon that once occupied the space. There is an existing apartment in the rear of the building where the applicant/owner lives. See applicant’s floor plans.

Site information: The subject parcel is an established historical commercial building located in the heart of Gearhart. The building covers the entire lot (38’ x 100’). The building has two existing separate entrances from a common front porch on Pacific Way. Outside on the west side of the building is a garden with benches for customer seating. The garden area is also the location of the building’s septic system that was installed in 2003. The septic system is regularly serviced under contract by Septech.

- B. Article 13 Administrative Provisions: The application for a Conditional Use Permit is a quasi-judicial decision made by the Planning Commission. The applicant submitted the required forms and materials. The public hearing was advertised at least 20-days before

the hearing and notices were mailed to properties within 200 feet of the subject parcel. The public hearing was conducted in accordance with Section 13.050. A party to the decision by the Planning Commission may appeal the decision to the City Council.

- C. Plan and Zone Standards: The site is designated Commercial by the Gearhart Comprehensive Plan and is designated Neighborhood Commercial C-1 by the Gearhart Zoning Ordinance. The C-1 allows a "Soda Fountain" as a permitted use. The remodel of the Sweet Shop is permitted by a Building Permit and septic approval from Clatsop County. Therefore, the Sweet Shop remodel is not a part of this approval request.

The request is for of a Conditional Use Permit to operate a neighborhood café in the east side of the building. The applicant proposes interior improvements to the vacant space by remodeling the restroom, installing a ramp for handicapped access, providing an entry with seating, some display shelving and coolers for food items, 3 bar stools at marble top wi-fi stations, and one dining table with an estimated 8 seats.

Land designated C-1 is a small geographic area consisting of 13 parcels in the city center at Pacific Way and Cottage Avenue. Except for a vacant corner lot and the subject vacant storefront, parcels are primarily occupied by retail or office use. A neighborhood cafe is specifically listed as a conditional use in the C-1 zone, which is the zone's land use category most comparable to the proposed business. There are two approved neighborhood cafes in the C-1 zone.

The definition of a neighborhood café is:

Section 1.030 Definition #122 Neighborhood Café: A business devoted to the serving or prepared food to the public where food is consumed on the premises while customers are seated at tables and having no more than 1300 square feet of eating area or seating at tables for no more than 40, whichever is less. Service may also include the sale of wines and malt beverages on the premises, where appropriate OLCC licenses have been obtained.

According to the applicant the proposed café has a total of 1,230 square feet in which 590 square feet provide a dining area for 16 customers. The proposal is under the size and seating limitations allowed for a neighborhood café. An approval for the sale of wines and malt beverages on the premises is subject to OLCC approval.

- D. Agency Coordination: The proposal was referred to city departments. No objections were raised. Clatsop County Health Department approval of the existing septic system for the new use is required.

E. GZO Section 3.4 C-1 Neighborhood Commercial Zone

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

FINDINGS: The City finds there are no structural changes or architectural conflicts proposed to the exterior of the historic building. Existing streets, parking and circulation of vehicles in the vicinity will remain the same. It is not expected that traffic patterns will change as a result of the new business. The parcel of land is fully occupied by the building therefore no new off- street parking can be made available on-site. The City supports small businesses that provide services to nearby residents.

Section 3.420 C-1 Conditional Uses. This section of the code permits Planning Commission approval of a neighborhood cafe as a conditional use subject to specific café conditions and compliance with the provisions of Article 7 Conditional Use.

F. GZO Section 8.020 Planning Commission Authority

This section provides that the Planning Commission shall have the authority to approve, approve with conditions or disapprove Conditional Use Permits in accordance with the approval criteria. Oregon land use courts have held that a conditional use is a permitted use subject to ameliorating conditions.

G. GZO Section 8.040 General Conditional Use Review Criteria

A conditional use approval shall find that the use will comply with the following standards:

1. The proposed use is consistent with the policies of the Comprehensive Plan;

The Comprehensive Plan and the Zoning Code designate the subject property C-1 Neighborhood Commercial. The following Comprehensive Plan policies are relevant to locating a neighborhood cafe in a portion of the subject building:

Existing Plan Policies

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

FINDINGS: The amount of land devoted to commercial zones is not affected by the proposal because the site is already zoned commercial. The type of use proposed is a small neighborhood cafe. The size of the space and the amount of seating is limited

and in itself increase the level of commercial activity to such an extent as to be incompatible with Gearhart's residential character.

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

FINDINGS: The City created zone regulations to limit the amount of tourist development west of the highway to two very small geographic areas in which all but one parcel is built on and occupied. The commercial uses allowed by the C-1 zone are strictly limited, including seating and hours of operation restrictions. The proposal does not enlarge the zone and it puts a new use in an unoccupied portion of the building. The proposed cafe use could attract additional tourists from outside Gearhart coming for a meal, beverages, or take-out food. But the proposed amount of seating for only 16 customers limits the number of residents and tourists able to frequent the café. There is no evidence that tourism will increase to an incompatible level with potentially three neighborhood cafes in the C-1 zone.

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

FINDINGS: The City finds the size and scale of the proposed use is not a use that serves a regional commercial role or provides a major tourist attraction.

- d. The City will maintain a commercial zone in the center of the City that provides for the needs of residents;*

FINDINGS: The C-1 zone limits land uses so as to accommodate only a limited level of tourist development. The zone narrowly lists outright retail commercial uses for the convenience of nearby residents, and "these uses are limited to grocery, drug, a soda fountain, barber or beauty shops. Non-retail uses are limited to offices or a post office and a home occupation in a residence. The zone specifies only two conditional uses, including a neighborhood café and a variety store. The proposal coincides with the neighborhood café use category. There are three variety stores, and this request will result in three cafes.

Existing uses in the C-1 zone are as follows:

- U.S. Post Office
- By the Way variety store

- Windemere Real Estate and Eagle Financial Group offices/ Gallery
- The Lowenburg neighborhood café under construction
- Pacific Crest Cottage variety store
- The Natural Nook variety store
- Pacific Way Café
- Jennifer's Barber Shop
- Ter Har Real Estate and mortgage offices

Based on the permitted uses in the zone, the subject space could either be an office, a hair salon, a barber shop or a grocery store, or by conditional use a variety store or café. The owner has determined that residents need another food service option in the neighborhood that is accessible on foot or bicycle. The applicant provided a business plan and evidence that the city could support another neighborhood café.

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

FINDINGS: The small size of the C-1 zone limits the number of businesses that can locate in the city center. The proposed neighborhood cafe would provide 16 seats for an alternative sit-down food and beverage service for Gearhart residents, as well as tourists and vacationers. It is not expected that the business will attract more tourists than residents are currently accustomed to.

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

FINDINGS: The proposed interior remodel will replace an existing underutilized commercial space with a small café connected to a soda fountain. The Comprehensive Plan promotes a central, compact commercial zone at Pacific Way and Cottage Avenue. The proposal reuses an existing commercial space in the compact C-1 zone, therefore maintaining the compact character and occupying an existing vacant storefront.

- g. The City will establish Zoning ordinance standards to protect residential areas from adjacent commercial development.*

FINDINGS: The residential uses in the vicinity will continue to be adequately separated from commercial use of the subject building. The building has historically been occupied by commercial uses. The City established zoning standards to protect residential areas from commercial development after the subject building was

constructed. Initial zoning districts buffered the low density residential R-1 areas by surrounding the C-1 zone with a medium density R-2 zone buffer. The applicant owns the adjoining garden space of the Sweet Shop, which is zoned R-2. The garden area cannot be built on because of the underlying septic system for the Sweet Shop. In addition the owner lives in the building which provides full time oversight of the business and its impacts on residents in the vicinity.

h. It is a goal of the City to ensure a stable and healthy economy in Gearhart through all available resources, both human and natural resources.

FINDINGS: The subject café space has been used for storage for over two years. The reuse of an existing building by a local resident for a small service business opportunity that will provide an estimated 5 jobs will help to ensure a stable and healthy city center business district in accordance with the above plan policy.

Plan Compliance Summary: It can be found that the proposed café is in compliance with all of the relevant Comprehensive Plan policies and the intent of the C-1 zone. The 16-seat neighborhood cafe is not expected to increase traffic, parking problems, odors or noise. The limited size of the space and the limited hours of operation would provide some assurance that the use will maintain compatibility with the low-key residential character of Gearhart. Use of the vacant space would revitalize the building and contribute to a healthy city center business district by adding an estimated 5 jobs.

2. A demand exists for the use at the proposed location. Several factors which shall be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitable zoned sites for the use;

FINDINGS: There is currently one café and one pending café in the C-1 Zone. The applicant provided evidence that there is a demand for the proposed café.

It can be found that:

- Accessibility: The building space is accessible to employees and all customers with the same on-street parking, loading and pedestrian access currently adjoining the site. The applicant will increase accessibility by adding a new ADA ramp.
- Other C-1 sites: There are no other empty storefronts in the C-1 zone. The applicant bought the subject building for the opportunity to live in the rear apartment, to re-open the soda fountain and to expand her food business into the

vacant portion. Only in this building can the owner live and also develop the kind of business plan in which she has the experience to operate.

- Other commercial zones: The C-2 zone is the only commercial zone in the city that allows a café as an outright use without a conditional use permit. The Gearhart Golf Links property is zoned C-2 and it includes the Sandtrap restaurant with dining and drinking service. There are no vacant properties in that vicinity. There are also five restaurants on Hwy 101 zoned C-2 that offer eating and drinking. There are vacancies in the C-2 zone on the highway which do not require a conditional use permit for the proposed neighborhood café. But the speeding highway traffic, the large lots, the non-cohesive neighborhoods and the lack of bicycle and pedestrian accessibility are undesirable conditions for a neighborhood café intended to serve a compact population within walking distance.

FINDINGS: There are vacant properties on Highway 101 where a café is permitted, but the highway location is not desirable for the use in terms of size, scale, accessibility and historic character. There is currently one café and one pending café in the C-1 Zone. The applicant provided evidence of demand for her business and the Commission found it will not negatively tip the balance of compatibility with the residential character of the neighborhood.

3. The location, size, design and operating characteristics of the proposed use are such that the development will have a minimum impact on surrounding properties;

FINDINGS: The long term commercial use of the historic building is evidence that the location, size and operating characteristics have had little adverse impact on surrounding properties. Most recently the east side of the building was a hair salon and an antique store, followed by closing the space and utilizing it for storage. Adapting the use to a café and small grocery will bring customers back to the empty space for light dining and take-out primarily from mid-day to evening. The café may be open until 10 p.m. but the applicant indicates it will close at 8 pm. Truck deliveries and garbage service will continue to serve the use as before. There may be pleasant but not odorous impacts from the business. The limited size of the space and the type of operation will have minimal impacts on surrounding properties.

4. The use will not generate excessive traffic when compared to the traffic generated by uses permitted outright and adjacent streets have the capacity to accommodate the traffic generated.

FINDINGS: The small 1,230 square foot space was originally designed for commercial use and associated customer traffic. The scale of the space and the limited number of dining seats will help to control the amount of traffic generated by the café. As with most uses in the C-1 central city zone, the café and soda fountain will continue to attract a significant amount of foot and bicycle travel and is not solely dependent on vehicle access.

5. Public facilities and services are adequate to accommodate the proposed use:

FINDINGS: The subject vacant portion of the building has existing connections and access to public facilities and services that will be re-established and re-permitted by the city and Clatsop County Health prior to occupancy.

6. The site's physical characteristics in terms of topography, soils and other pertinent considerations are appropriate for the intended use; and:

FINDINGS: The site has functioned appropriately for limited commercial activity since the building was originally approved and constructed decades ago. There are no known constraints related to topography or soil conditions on the parcel.

7. The site has adequate area to accommodate the proposed use. The site layout has been designed to provide appropriate access points, on site drives, parking area, loading areas, storage facilities, setbacks, buffers, utilities or other facilities which are required by City ordinance or desired by the applicant.

FINDINGS: The site has previously been shown to have adequate area for small commercial uses. The adjoining sidewalk, street furniture, garbage facilities and outdoor garden are well designed to serve customers. The applicant is the owner, resident and the operator of the business providing full time management of the site. The building has historically operated effectively with the existing on-street parking spaces because many customers arrive on foot or by bicycle. An additional bicycle rack near the entry is an appropriate condition of approval.

H. Section 8.050 Conditions for a Neighborhood Café

If approved, a neighborhood café shall conform to the following standards:

1. *A public need exists for the use at the proposed location. The following factors shall be considered in determining whether a public need exists: availability of similar uses, availability of other appropriately zoned locations, particularly those not giving*

call for a conditional use approval; and availability of other suitably zoned sites for the use.

FINDINGS: The owner provided evidence there is a need for an additional food service option to serve Gearhart residents and visitors. The C-1 zone does not include standards by which to measure or determine a public need. Of the 13 properties in the C-1 zone there are two approved neighborhood cafes and no other vacancies. A variety store is the only other permitted conditional use in the C-1 zone. There are currently three variety stores.

There are building vacancies on Highway 101 which is zoned C-2 and allows eating and drinking establishments without a conditional use permit. However, the purpose of the two zones are different, whereby the Neighborhood Commercial C-1 zone is a very limited-use commercial zone designed to serve nearby neighborhoods. In contrast, the General Commercial C-2 zone allows a broader list of commercial uses designed to serve tourists and travelers passing through Gearhart in vehicles, or at the golf course. The C-1 parcels are small while the C-2 parcels are generally large in comparison. The C-2 zone on the highway relies on exposure to fast-moving vehicles. The C-1 zone does not depend on highway exposure and signage to attract customers. The C-1 zone encourages customers to arrive by foot or bicycle while the C-2 zone and its highway environment do not. Although there are vacancies for a café in the C-2 zone that does not require Planning Commission approval, the Commission found the owner's planned concept for the business is more compatible with the purpose of the C-1 zone "to provide a location for needed small businesses and services in the City Center for the convenience of nearby residents that fit into the residential character of the neighborhood" than with the purpose of the C-2 zone "to provide a broad range of commercial uses and activities to serve the needs of the City and its visitors."

2. *The neighborhood café shall be in operation during a minimum of eleven months in a calendar year.*

FINDINGS: The applicant is aware of this condition and indicated that her business will be open year around. However, the operational requirement shall be a condition of approval.

3. *The neighborhood café shall be closed by 10 p.m.*

FINDINGS: The applicant is aware of this condition and indicated that her business will close at 8 pm seven days a week. However, the closing hour limitation shall be a condition of approval.

4. *The neighborhood café, if located in a new structure, shall provide off-street parking spaces in the proportion of one space per 200 square feet of floor area, plus one per employee.*

FINDINGS: The proposed café is to be located in an existing building on a site with no opportunity to provide off-street parking. Since the above standard only applies to new structures the application is not required to add off-street parking.

I. Section 8.060 Additional Modifications of Standards for Conditional Uses

The Planning Commission may impose additional conditions if necessary to protect the best interest of the City as a whole. These additional conditions may include:

1. Increasing the required lot size or yard dimension;

FINDINGS: This criterion is not applicable since the parcel or the existing building cannot be required to be modified to increase setbacks or property lines.

2. Limiting the height of buildings;

FINDINGS: This criterion is not applicable because the existing building height is not affected by the request.

3. Controlling the location and number of vehicle access points;

FINDINGS: This criterion is not applicable because the location and number of access points is established and not proposed to change.

4. Increasing the street width;

FINDINGS: The City finds the street width is established and adequate for the proposed use.

5. Increasing the number of required off-street parking space;

FINDINGS: This criterion is not applicable because the code does not require off-street parking for a café in an existing structure.

6. Limiting the number, size, location and lighting of signs;

FINDINGS: The applicant has not provided a signage plan, but will be required to locate signage in accordance with C-1 sign regulations. C-1 signs are limited

to flush signs on the front of the building facing the street that are no more than 2 feet in height. Temporary signs with a maximum height of 8 feet may be permitted.

7. Requiring diking, fencing, landscaping or other facilities to protect adjacent or nearby property;

FINDINGS: The City finds no diking, fencing or additional landscaping is required to protect adjacent or nearby property.

8. Designating sites for open space; and

FINDINGS: The subject use is not required to provide designated open space.

9. Hours of use or operation.

FINDINGS: The proposed café is required to close at 10 p.m. which should be a condition of approval for the use.

II. SUMMARY CONCLUSION

The City finds that overall the proposed neighborhood cafe is a use in compliance with the Comprehensive Plan policies, the intent of the C-1 zone and the Zone Code development standards.

III. DECISION

Based on the findings above and the public testimony on January 12, 2017 the Planning Commission APPROVED the neighborhood café City File # 17-001 CU subject to the following conditions:

1. The applicant shall file a sign permit request with the City prior to installation of any signs.
2. The hours of operation may not extend past 10 p.m. The neighborhood café shall be in operation during a minimum of eleven months in a calendar year.
3. The applicant shall provide a bicycle rack in a location approved by the City Manager.
4. Prior to occupancy the applicant shall obtain a license from the OLCC to serve beer and wine.
5. Prior to issuance of a building permit or occupancy permit the applicant shall obtain septic approval from DEQ/Clatsop County and health permit approval from the Clatsop County Health Department.

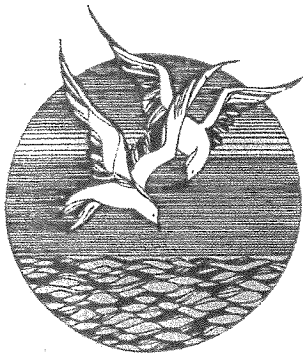
Signed: Virginia Dideum
Virginia Dideum, Planning Commission President

Date: 2/19/17

DATE MAILED: _____

APPEAL

In accordance with the Gearhart Zoning Code Section 13.060, the decision of the Planning Commission may be appealed to the City Council within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information described in Section 13.060.



CITY OF GEARHART

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(503) 738-5501 • (503) FAX 738-9385

July 17, 2025
PUBLIC NOTICE

Notice is hereby given that in accordance with Section 13.030 Administrative Provision of the City of Gearhart Zoning Ordinance, the Gearhart City Council will hold the following public hearing on Wednesday, August 6th, 2025, at 6:00 p.m. in Gearhart City Hall, 698 Pacific Way, via video and teleconference call. You can get participation information at <https://www.cityofgearhart.com/calendar> closer to the hearing date.

File #25-005FZMA – Floating Zone change request submitted by Megan Masterson, located at 567 Pacific Way and further described as Assessors Plat 6.10.09AA, Taxlot 05900. Said request is to change the zoning of the northern 5,000 square feet of said lot from R-2 Section 3.2 Medium Density Residential Zone R-2 to C-1 Section 3.4 Neighborhood Commercial Zone C-1 using 5,000 square feet of C-1 floating zone established by Ordinance 860.

Criteria relevant to the zone change are Zoning Ordinance Section 3.2 Medium Residential Zone, Section 3.4 Neighborhood Commercial Zone, Section 3.14 Tsunami Hazard Overlay Zone, Article 4 Transportation Improvements and Access Management, Article 6 Supplementary Provisions, Article 11 Amendments, Article 13 Administrative Provisions and City of Gearhart Comprehensive Plan.

A copy of the application, all documents, staff reports, evidence relied upon, and applicable criteria pertinent to the requests will be available for review on the previous July planning commission agenda and also may be obtained the Friday prior to the hearing on the city website calendar on the agenda at www.cityofgearhart.com and Gearhart City Hall at the office of Angoleana Torres, 503-738-5501. Copies may be obtained at a reasonable cost. All interested parties are invited to express their opinion for or against the request at the hearing by letter addressed to the Gearhart City Council, P. O. Box 2510, Gearhart, Oregon 97138, or by email at planning@cityofgearhart.com received by the Friday prior to the hearing. The public hearing will be conducted in accordance with Section 13.050 of the Gearhart Zoning Ordinance.

Any person testifying may appeal the decision; however, failure to raise an issue, including constitutional or other issues regarding conditions of approval, with sufficient specificity to afford the City and parties to the request an opportunity to respond to the issues precludes appeal on said issue to the State Land Use Board of Appeals (LUBA), or to seek damages in circuit court due to a condition of approval.

Angoleana R. Torres
Gearhart Planning Commission
City of Gearhart

Mail/Publish 07/17/2025
PH080625

BEFORE THE CITY COUNCIL
FOR THE CITY OF GEARHART, OREGON
ORDINANCE NO. 860

AN ORDINANCE AMENDING THE CITY OF GEARHART ZONING MAP FROM R-2
MEDIUM DENSITY RESIDENTIAL AND C-1 NEIGHBORHOOD COMMERCIAL TO P
PARKS AND OPEN SPACE ON PROPERTY OWNED BY THE CITY OF GEARHART AND
KNOWN AS GEARHART PARK SUBDIVISION Block 6, Lots 5, 6, 8, 10, 11, 12

WHEREAS, on August 25, 2011 the City of Gearhart filed an application for an amendment to the City of Gearhart Zoning Map to amend the zoning of the subject property.

WHEREAS, public notice of this amendment has been provided to the Department of Land Conservation and Development and the public pursuant to law;

WHEREAS, the zoning map amendment was considered by the Gearhart Planning Commission at a public hearing on October 11, 2011 and the Gearhart Planning Commission unanimously recommended approval and forwarded their recommendation to the City Council pursuant to law; and

WHEREAS, on November 7, 2011 the City Council of the City of Gearhart received the Gearhart Planning Commission's recommendations on this request and held a public hearing on December 7, 2011 and unanimously finds that this ordinance complies with the applicable criteria including the Post Acknowledgement rules of the Oregon Department of Land Conservation and Development and the laws of the City of Gearhart pursuant to law; now therefore,

THE CITY COUNCIL OF THE CITY OF GEARHART, OREGON ORDAINS AS FOLLOWS:

SECTION 1 The City of Gearhart Zoning Map is hereby amended.

SECTION 2 In support of this ordinance, the City Council adopts the findings of fact in the City Planner Staff Report dated for the City Council public hearing December 7, 2011 and identified as "Exhibit A: Findings of Fact".

SECTION 3 A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days of the date that the final order is signed. The complete case including the final order is available for review at the City.



Mayor Kent Smith

4 Jan 12
Date

BEFORE THE GEARHART PLANNING COMMISSION
APPLICATION FOR ZONING MAP AMENDMENT #2011-003 MA
City Planner Staff Report Date: 10/05/2011
Anticipated Public Hearing Dates: Planning Commission: 10/13/2011; City Council: 11/02/2011

I. APPLICATION INFORMATION:

Application Type: Zoning Map Amendment
Applicant: City of Gearhart, Chad Sweet, City Manager
Property Owner: City of Gearhart
Property Location: Vacant Land on Pacific Way west of US 101 across from City Hall
Legal Description: Gearhart Park, Block 6, Lots 5, 6, 8, 10, 11, 12
Tax Assessor Map: 6N 10W 10BB Tax Lot 5700
Size of Property: 30,000 square feet
Current Land Use Zone: R-2 Medium Density Residential Zone (25,000 square feet);
C-1 Neighborhood Commercial Zone (5,000 square feet)
Proposed Land Use Zone: P Parks and Open Space; the subject property is being acquired
and donated to the City with the stipulation that the land be utilized
only as a public park and recreation facility.

II. APPLICABLE CRITERIA:

Gearhart Comprehensive Plan
Gearhart Land Use and Zoning Map

Gearhart Zoning Ordinance
Section 3.9 P Parks and Open Space Zone
Article 10 Amendments
Article 11 Administrative Provisions

Gearhart Ordinances
Gearhart Public Works Standards
Oregon Fire Code
Oregon Building Code

Gearhart NFIP FIRM and FIS

Clatsop County Tax Assessor Maps 6N 10W Sections 4DC, 9AA, 9AB, 9AC, 10BB

OREGON ADMINISTRATIVE RULES (<http://arcweb.sos.state.or.us/banners/rules.htm>)
OREGON REVISED STATUTES (<http://www.leg.state.or.us/ors>)
Chapter 197 Comprehensive Land Use Planning Coordination
Chapter 227 City Planning and Zoning

III. CITY PLANNER RECOMMENDATION: APPROVAL WITH CONDITIONS

As City Planner, I recommend that the findings of fact support the adoption of the proposed zoning map amendment and I recommend that the Planning Commission "make a motion to recommend to the City Council adoption of the amendment to rezone the subject property from C-1 Neighborhood Commercial and R-2 Medium Density Residential to P Parks and Open Space with the following conditions:

1. Gearhart will retain the right to rezone through the amendment process the 5,000 square feet of C-1 Neighborhood Commercial Zone land lost in the zone amendment; and
2. The development and use of this property shall be consistent with all applicable criteria including but not limited to city ordinances, resolutions, state and federal laws, and the Gearhart Comprehensive Plan.
3. The current zoning ordinance requires that use or development of P Zone property requires approval of a conditional use permit and an additional public hearing process.

IV. SUMMARY OF CITY PLANNER RECOMMENDED FINDINGS OF FACT:

The amendment process in Gearhart requires that the findings of fact identify that the proposed amendment is in conformance with the Gearhart Comprehensive Plan that there is a public need for to provide additional park land and that the proposed action best meets the public need. The findings of fact identify that the criteria applicable to a zone amendment are met.

Consistent with the Comprehensive Plan:

The findings of fact describe how the rezone of this property is consistent with the Gearhart Comprehensive Plan.

Public Need:

Specific support for the rezone is found in Gearhart Comprehensive Plan Open Space and Recreation Goal 8 which states that the city will "*encourage further development of recreational facilities in the Gearhart area commensurate with air, land, water, environmental and scenic resources*" and "*explore and use various means of acquiring and developing park land including the donation of land or money, land, labor, funds or equipment for the development of recreation facilities*".

The Proposed Action best meets the public need:

At this time, development of P Zone land is a conditional use and requires approval of a conditional use permit through an advertised public hearing process. The City Comprehensive

Plan currently does not permit the city to create additional commercial zone property, so commercial zone property is a finite resource. In this rezone request the City will retain the right to replace the 5,000 square feet of C-1 Zone commercial zone property through an additional map amendment process.

V. CITY PLANNER RECOMMENDED FINDINGS OF FACT:

Parks and Open Space Zone

The Parks and Open Space Zone is included because unique relationships often exist between the uses of such parks and open space lands and properties that abut and surround them. In a P Zone no uses are currently permitted outright. Subject to the provisions of Article 7 Conditional uses and standards listed in the P Zone, a public park and recreation facility, non-public recreation facility, public service and public utility use, and dwelling for caretaker or watchman or housing for staff are permitted. Approval of a conditional use requires a public hearing with first decision by the Planning Commission.

At the time of the conditional use permit for a proposed use in the P Zone the applicant shall present to the Planning Commission a detailed site plan of the proposed use. The Planning Commission may adopt the proposal as the development standards for the particular property or it may set other standards if it appears that the proposed standards may cause damage or harm to the public health, safety or welfare.

Article 10 Amendments

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 that there is a public need for the proposed amendment.

CONSISTENT WITH THE POLICIES OF THE COMPREHENSIVE PLAN:

The proposed amendments are consistent with the following goals and policies of the Gearhart Comprehensive Plan:

General Development Goals

The proposed rezone is consistent with the Gearhart General Development Goal policies to maintain the residential character of Gearhart, to not increase the amount of commercial land in Gearhart, to preserve the low density, semi-rural character of Gearhart. Since site development requires additional processes, the city can ensure that development occurs in a manner that is in harmony with the sensitive coastal environment that defines Gearhart.

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

The proposed amendments are consistent with the Gearhart Citizen Involvement, Revision, Implementation and Process Goals (LCDC Goals 1 & 2) and Goal policies as the process to rezone the subject property requires an advertised public hearing process with a recommendation by the Planning Commission and a decision by the City Council that is based on findings that the amendment is in compliance with the Gearhart Comprehensive Plan and that there is a public need for the amendment.

Open Space, Scenic Areas, Historic and Natural Resources (LCDC Goal 5)

The proposed rezone is consistent with the Gearhart Open Space, Scenic Areas, Historic and Natural Resources Goal 5 policies to conserve, preserve, and protect open space, scenic areas, historic and natural resources in and around the Gearhart Community for future generations.

Air, Water, and Land Resource Quality (LCDC Goal 6)

The proposed amendment is consistent with Air, Water and Land Resource Quality Goal 6 and development of this property requires additional processes where the city will ensure that the adequate separation and buffering of industrial and transportation noise, air and water quality, hazardous waste and solid waste is provided.

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

The proposed rezone is consistent with Geology and Geologic Hazards, Flood Hazards Goal 7 as development or use of the site requires approval of a conditional use permit through additional processes where the city will ensure that geologic and flood hazards are identified and mitigated, and the requirements of Oregon Fire Code and Oregon Building Code are met

Recreation (LCDC Goal 8)

The proposed rezone is consistent with Recreation Goal 8 as the amendment encourages further development of recreation facilities in the Gearhart area commensurate with air, land, water, environmental, and scenic resources and acquires park land by donation for the development of recreation facilities.

Economy and Energy (LCDC Goal 9 and LCDC 13)

The rezone is consistent with Gearhart Economy and Energy Goal 13 policies to ensure a stable and healthy economy in Gearhart through all available resources, both human and natural resources, to promote the conservation, development of alternative sources and the efficient use of energy, to guide land use decisions in such a way so as to make a more efficient use of energy resources and to promote activities which reduce the use of non-renewable energy resources.

BEFORE THE GEARHART PLANNING COMMISSION

APPLICATION FOR ZONING MAP AMENDMENT #2011-003 MA

City Planner Staff Report Date: 10/05/2011

Anticipated Public Hearing Dates: Planning Commission: 10/13/2011; City Council: 11/02/2011

Since approval of the proposed map amendment will deplete the City commercial land zone resource and currently the Gearhart Comprehensive Plan prohibits the creation of additional commercial zone land, the City will retain the right to file an additional zone map amendment to replace the C-1 Neighborhood Commercial land.

Housing (LCDC Goal 10)

The proposed amendments are consistent with Gearhart Housing (LCDC Goal 10) and Goal policies since the City has sufficient residential buildable lands that ensure that the 25,000 square feet of R-2 Zone land lost will not adversely affect the ability of Gearhart to ensure decent, affordable housing and housing availability for all residents of the Gearhart area.

Public Facilities and Services (LCDC Goal 11)

The proposed amendments are consistent with Public Facilities and Services (LCDC Goal 11) and Goal policies as they comply with applicable local, state, and federal environmental noise, air, water, and solid waste standards. At the time that development is proposed, the City will require that suitable public facilities and services are provided at the cost of the developer. Gearhart public works standards shall be met.

Transportation (LCDC Goal 12)

The proposed amendments are consistent with Transportation (LCDC Goal 12) and Goal policies as the amendments do not adversely impact the ability to provide and encourage safe, convenient, and economic systems for all modes of transportation in the Gearhart area. The site is adjacent to public parking provided by the City. At the time that development is proposed, the City will require that suitable transportation facilities are provided at the cost of the developer.

Urban Growth (LCDC Goal 14)

The proposed amendments are consistent with Urban Growth Goal 14 policies as they do not adversely affect the ability of the City to manage urban growth. No expansion of the urban growth boundary is proposed by the zone map amendment. The map amendment does not increase development densities allowed in the City.

Necanicum Estuary (LCDC Goals 16 & 17)

The proposed amendments are consistent with the Necanicum Estuary (LCDC Goals 16 and 17) and Goal policies as they do not adversely affect the ability of the City to manage the Necanicum Estuary consistent with local goals, policies, and regulations, state law and federal regulations as the site proposed for map amendment is not located within the Necanicum Estuary and any use

of the property is required to be consistent with applicable criteria including but not limited local, state, and federal laws that coordinate to protect the Necanicum Estuary.

Coastal Shorelands (LCDC Goal 17)

The proposed amendments are consistent with Coastal Shorelands (LCDC Goal 17) and Goal policies as they do not adversely impact the ability of the City to conserve, protect, develop, and restore the resources and benefits of all coastal shorelands consistent with local goals, policies, and regulations, state law and federal regulations.

Beaches and Dunes (LCDC Goal 18)

The proposed amendments are consistent with Beaches and Dunes (LCDC Goal 18) and Goal policies as they do not adversely impact the ability of the City to conserve, protect, develop, and restore the resources and benefits of coastal beach and dune area consistent with local goals, policies, and regulations, state law and federal regulations.

Ocean Resources (LCDC Goal 19)

The proposed amendments are consistent with Ocean Resources (LCDC Goal 19) and Goal policies as they do not adversely impact the ability of the City to cooperate with appropriate state and federal agencies in conserving the long term values, benefits and natural resources of the near-shore ocean and the continental shelf.

PUBLIC NEED FOR THE PROPOSED AMENDMENT:

The public need for the amendment is identified by Gearhart Comprehensive Plan Goal 8 Recreation policies that encourage further development of recreation facilities in the Gearhart area commensurate with air, land, water, environmental, and scenic resources and acquisition of park land by donation for the development of recreation facilities.

While the City currently does not have a formal Park Master Plan, an inventory of public property zoned P Parks and Open Space finds that most of this resource land is located west of the Gearhart building line and not suitable for park development. As a basic inventory of this property at Township 6N, Range 10W Sections: 9: Lot 200; 9AA: Lot 5200; 9AB: Lot 100; 9AC: Lot 1100; 4DC: Lot 100 the City of Gearhart appears to own 1.15 acres of land eligible for park development and 92.6 acres beach located west of the Gearhart Building Line that is required to remain in a natural state. This map amendment will add 0.69 acres of land eligible for park development. The two sites will total 1.84 acres.

Article 11 Administrative Provisions

Findings of Fact:

...Although not written into this report due to their length, the provisions of Article 11 are fully referenced and adopted into these findings of fact and available upon request. Administration of the amendment process shall be consistent with Article 11 Administrative Provisions.

OREGON STATEWIDE PLANNING GOALS

Findings of Fact: The Gearhart Comprehensive Plan is acknowledged as being in compliance with Oregon Statewide Planning Goals. This map amendment does not create an inconsistency of the Gearhart Comprehensive Plan with the Oregon Statewide Planning Goals.

OREGON ADMINISTRATIVE RULES (<http://arcweb.sos.state.or.us/banners/rules.htm>)

OREGON REVISED STATUTES (<http://www.leg.state.or.us/ors>)

Chapter 197 Comprehensive Land Use Planning Coordination

Chapter 227 City Planning and Zoning

Findings of Fact:

Administration of this amendment process shall be consistent Oregon Administrative Rules and Oregon Revised Statutes. This map amendment does not create an inconsistency of the Gearhart Comprehensive Plan with the Oregon Administrative Rules and Oregon Revised Statutes.