

Gearhart Planning Commission Minutes for June 12, 2025

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

STAFF: Chad Sweet, Garrett Phillips, and Angoleana Torres

Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, May 8, 2025, was called to order at 6:04 p.m. by President Virginia Dideum. *Staff members present were Chad Sweet & Garrett Phillips.*

CONSENT AGENDA

On MOTION by Frank, 2nd by Taggard, the consent agenda was approved as presented with Minutes corrections. Said agenda approved Minutes for April 10, 2025, financial report for May 29, 2025 & Correspondence.

7 - Approved (Dideum, Taggard, Grey, Halperin, Frank, Mesberg, Fisher)

0 – Opposed

STAFF REPORT

Sweet reminded the commissioners to exercise caution when responding to emails, advising against using 'reply all' unnecessarily when communicating with staff or each other. This helps streamline communications by directing replies back to staff, ensuring better organization. He has noticed this happening occasionally and asked everyone to please keep this in mind.

Phillips reported that city council chose to delay action on the flood hazard overlay zone amendments during their June meeting, opting to postpone adoption for another month. He noted that the planning commission's recommendation was clear in supporting the adoption of basic flood hazard reduction provisions, which align with statewide standards. Phillips indicated that by July, the city expects to move forward with those core provisions.

COMMISSIONERS REPORT - None

VISITORS COMMENTS – None

PUBLIC HEARINGS

UNFINISHED BUSINESS – None

NEW BUSINESS – None

INFORMATION / DISCUSSION

- Floating Zone Rezone Background:

Phillips provided background on a rezone action from Ordinance 860, adopted around 2011–2012, which converted 5,000 square feet of commercial zoning near City Hall into park and open space. As a result, the ordinance created a “floating zone” of 5,000 square feet of commercial zoning available to be applied elsewhere in the downtown area in the future.

Phillips explained that due to comprehensive plan policies discouraging the conversion of residential to commercial land, this floating commercial zoning is now a rare opportunity. A property owner recently expressed interest in utilizing this floating zone, prompting staff to review the ordinance and confirm its applicability. Staff determined that a fair process would require offering the opportunity to all eligible downtown property owners, not just the original inquirer.

A public notice was issued, and although several inquiries were received, only one complete application was submitted by the initial interested party before the June 9 deadline. That application will be brought forward at the July planning commission meeting for a recommendation, with the goal of presenting it to the city council in August.

Phillips noted this is an unconventional process and wanted to introduce the topic in advance of the formal hearing next month.

Commissioners asked for clarification on the location of the property involved in the floating zone application. Phillips clarified that his earlier reference to a property “near City Hall” was regarding the site that was rezoned in 2011 to park and open space—this action originally created the floating zone.

When commissioners asked about the specific location of the new application, Phillips confirmed that the application site is not the original rezoned property but a separate parcel nearby. He noted that while he did not want to go into too much detail ahead of the formal hearing, he could confirm that the applicant's property is within an R-2 zone, formerly part of the Sweet Shop, Daughters site, which includes a non-conforming commercial use. The applicant intends to apply the floating 5,000 square feet of C-1 zoning to legitimize continued commercial use in that area.

Phillips emphasized that all fact-finding and formal review should be reserved for the public hearing in July.

- Phillips Summary – Inconsistencies and Clarifications of Zoning Ordinance:

Phillips updated the commissioners on an ongoing effort to identify and address inconsistencies and unclear language within the zoning ordinance. He noted that prior to his tenure, some amendments were already made to resolve internal conflicts, and since then, he has continued cataloging additional areas that could benefit from clarification.

While not urgent, Phillips suggested there are opportunities to improve the code in ways that would streamline staff time and reduce the need for interpretive discussions. He offered to bring his list of potential clarifications forward when the timing feels appropriate and proposed that, if the commission is interested, they could address the updates in a focused and time-limited process over a few meetings.

Commissioners expressed general support for Phillips’ proposal to address inconsistencies in the zoning ordinance but emphasized the importance of receiving a printed list of items before engaging in detailed discussion. Some suggested waiting until later in 2025 when schedules may be less full, while others recommended starting the process as soon as a lighter agenda allows, to avoid delaying it indefinitely.

Phillips confirmed he would bring the list forward as an informational item when an upcoming meeting has room, clarifying that the initial goal would simply be to review examples, not to solve or revise code language immediately. He explained that the items he's tracking are not theoretical concerns but actual issues that have repeatedly come up in staff development reviews, indicating high-use areas of the code that would benefit from clarity to save staff time and reduce interpretation.

- Discussion summary – Pickleball:

Phillips offered initial framing comments before turning it over to citizen Graff. He clarified that pickleball, like other specific sports (e.g., basketball or baseball), is not currently listed as a permitted or prohibited use in Gearhart's zoning ordinance.

Phillips explained that cities have discretion in how they choose to regulate activities like pickleball. Regulation can occur through nuisance ordinances (non-land use) or zoning and land use ordinances, or both, depending on the city's goals for protecting public welfare. He emphasized that any direction or action is up to the commissioners and ultimately the city council, and that staff is ready to assist with research, drafting options, or maintaining the current approach.

Mesberg asked whether other cities have pickleball-specific ordinances. Phillips confirmed that some cities have adopted pickleball-specific zoning ordinances. While he couldn't recall specific city names offhand, he affirmed that he could provide examples if the commissioners decide to explore that option.

Graff addressed the commissioners, restating the concerns outlined in his previously submitted letter. He strongly opposed pickleball courts in the R-1 residential zone, emphasizing that the noise and activity are incompatible with the character of the neighborhood, particularly given the narrow 5-foot setbacks and quiet residential nature of the area. He requested that the commissioners take action to formally prohibit pickleball as a use in the R-1 zone. He referenced a prior community opposition during earlier discussions on the matter, noting that dozens of letters were submitted and many residents testified in person. He also urged the commissioners to act proactively, citing the potential for future courts to be installed on double lots throughout Gearhart if regulations are not clearly defined. He concluded by encouraging the commission to move forward with a motion to address the issue.

The commissioners continued discussion on the issue of pickleball courts within the R-1 residential zone following Graff's public comments.

Phillips opened with context, clarifying that pickleball is not currently a listed or regulated use in the zoning code, neither permitted nor prohibited, which is also the case for other sports like basketball or baseball. He explained that cities can regulate activities like pickleball either through zoning or nuisance ordinances, or both, and that it is within a city's authority to choose how, or whether, to regulate them. Phillips offered to provide examples from other jurisdictions that have addressed pickleball through zoning if the commission chose to pursue it further.

Mesberg asked whether other cities have pickleball-specific ordinances, to which Phillips confirmed that several do, though he did not recall specific examples at the moment. He offered to compile and provide those references if the commission wanted to explore regulatory options.

The specific property on South Ocean where the concern had arisen was mentioned. Graff explained that the long-abandoned tennis court was recently being worked on, and when he inquired, a worker mentioned plans to convert it into pickleball courts. This raised alarm due to the proximity of neighbors and historical lack of activity on the site.

It was debated whether incidental or casual pickleball play (such as children hitting a ball) should be treated differently than formal or designated courts. There was general agreement that informal use did not pose the same concern, but that officially striped or dedicated pickleball courts, especially if they attracted regular or public use, could be disruptive.

Graff expressed concern that noise and repetitive sounds from dedicated courts could impact neighboring properties and stated that homeowners should not be allowed to interfere with their neighbors' enjoyment of property. He likened it to installing a tannery, legal use alone is not justification if it creates a nuisance.

Taggard acknowledged that while kids playing outside was normal and acceptable, the issue at hand was whether official, potentially high-traffic courts should be allowed in residential areas. Comparisons were made to past noise complaints from public courts near downtown, where opposition had been broad and vocal. He advocated for a clear ordinance now, before any court is built, to avoid future conflict. Others suggested using the city's noise or nuisance regulations instead of a blanket prohibition. However, it was noted that Gearhart may not currently have a comprehensive noise ordinance easily accessible.

Grey confirmed whether a public hearing could be held without a proposed ordinance in hand. Dideum clarified that a specific proposal would be needed before a hearing could take place.

Halperin asked for clarification on the city's existing noise ordinance, stating he could not find one on the city website and requesting direction from staff.

Sweet explained the existing municipal noise ordinance, noting it was revised approximately eight years ago in response to enforceability concerns. It was explained that the original ordinance lacked a quantifiable standard, relying instead on "reasonable" noise, which was deemed too subjective by both the municipal judge and then, Police Chief Jeff Bowman, particularly during barking dog complaints. Consequently, the city adopted a decibel-based standard, which:

- Establishes maximum allowable decibel levels depending on the time of day,
- Requires sound to exceed those levels continuously for about 20 minutes before it becomes enforceable,
- Utilizes a decibel meter to measure sound from the complainant's property,
- Has seen limited enforcement activity since adoption.

Phillips confirmed that the planning commission could request staff to bring back a more thorough evaluation of the current ordinance and present alternatives drawn from other communities. He encouraged the commission not to rush toward a restrictive conclusion such as a pickleball ban in the R-1 zone, and instead take a broad view of options, including doing nothing, modifying the noise ordinance, or exploring nuisance regulations.

Halperin supported Phillip's proposal and emphasized the importance of addressing the issue thoughtfully. He referenced Graff's letter, which cited cities like West Linn, Bend, and Lake Oswego closing pickleball courts, suggesting there is precedent to study. Halperin also cautioned against selectively targeting one form of recreation simply because some find it personally objectionable, advocating instead for a fair, general standard that applies across noise-generating activities. He also raised the availability of quieter paddles and balls as a mitigation method for private property owners.

Mesberg expressed agreement with both Emerson and Halperin's perspectives, acknowledging pickleball noise as bothersome but cautioning against blanket prohibitions. He confirmed the noise level of pickleball can reach

approximately 70 dba at 100 feet, potentially already placing it within the range of existing ordinance violations, though specific ordinance values were not immediately available.

The Commission agreed to have Phillips return with:

- Examples of how other cities have addressed pickleball noise (especially on private property),
- Options for amendments to Gearhart's noise or nuisance ordinances,
- Potential mitigation strategies (e.g., sound-dampening equipment or materials).

Concerns were also raised about a property under development potentially including a private court and a 12-foot fence, already more than the 6-foot maximum allowed in the R-1 zone, prompting discussion about how quickly a zoning or ordinance amendment could take effect relative to construction timelines.

Dideum closed the discussion with the clarification that this issue pertains specifically to pickleball and not to other recreational activities like tennis, basketball, or general backyard play.

CONCERNS OF THE COMMISSION – None

QUESTIONS FOR LAND USE ATTORNEY – None

The meeting was adjourned at 6:55 p.m.

Angoleana R. Torres, Secretary

Approved