

Gearhart Planning Commission Minutes for July 10, 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, July 10, 2025, was called to order at 6:00 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. Said agenda approved Minutes for June 12, 2025, financial report for June 26, 2025 & Correspondence.

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

0 – Opposed

STAFF REPORT

Sweet noted that a new blog post had been added to the official city blog regarding the development on Second Street, where trees are being removed near the riparian area and wetlands. He provided printed copies of the blog post to the commission members and invited any questions or clarifications from those who had read it, particularly from a planning commission perspective.

Halperin began by thanking Sweet for his work and expressed appreciation for the timely information provided, noting that it helped answer questions from a concerned neighbor about the development. Halperin then raised questions regarding the tree ordinance, specifically, how many trees can be removed, what sizes are regulated, and how these actions comply with current regulations. He also asked how these standards are enforced when a developer begins work on a platted piece of land already approved for R-1 or residential development, and whether the tree removal process aligns with both the city's tree ordinance and applicable building codes.

Sweet explained that under Oregon state housing law, cities cannot enforce tree protection regulations in a way that prohibits or unreasonably restricts the development of housing that is otherwise allowed outright by zoning. As a result, trees located within areas necessary for essential site improvements—such as the home footprint, septic system, or driveway access—may be removed if required for development. In such cases, state housing law takes precedence over local tree ordinances that would otherwise prevent reasonable residential use. He noted that the City's ordinance was written to align with these state requirements, making such removals permissible. For the current development, approximately 28 to 30 trees are expected to be removed; however, all removals must be clearly identified and approved in advance. Both the Building Official and Sweet will conduct regular inspections to ensure compliance. Additionally, the developer is required to install protective barriers to prevent disturbance to nearby wetlands, and no activity will occur within the designated riparian buffer zone, defined as the 50-foot area

from the high tide mark. Sweet also noted that a few trees already on site are structurally compromised and may need to be removed for safety reasons.

Sweet continued his report by providing an update on the 4th of July weekend, which he described as very successful overall. There were no wildland fires, no structure fires, no major medical incidents, though there were a few notable calls, including a significant hand injury from fireworks and another serious injury the following day. He credited improved safety on 10th Street to the added signage and the presence of three officers, which is only the second time the city has had that many on duty for the holiday. Officers issued many citations, but Sweet emphasized the approach was more educational than punitive, with officers engaging with visitors to ensure safety and awareness.

He noted the city staff worked around 20 hours that day to support all the events, including the parade. While illegal fireworks were still an issue, especially on the beach and in parts of town, enforcement efforts caught some violators, and overall things were calmer compared to past years. The street dance the following day was well attended, with around 350–400 people participating. There was one minor incident involving someone tripping, but it wasn't due to anything city-installed, and the person was okay.

The following day included a homeowners association meeting, capping off a very busy weekend. Sweet commented that, compared to the past 29 years he's been familiar with, this year felt more mellow, though still not perfect. He noted that the community is gradually becoming more respectful of the city's quiet, residential character. About 25–30 citations were issued, reinforcing the message that Gearhart values peace and intends to maintain it.

Torres reported that the last few minutes for the previous meetings have been challenging to complete because of frequent interruptions and people talking over each other. She asked the commission to please be more mindful during discussions to make transcription easier.

Phillips reported to the commission that the city council followed the planning commission's May recommendation regarding the Flood Hazard Overlay Zone amendments. The council held a public hearing in June, continued it to July, and ultimately voted to adopt Option A, which aligns with the commission's recommendation. This option focuses on adopting amendments necessary for basic compliance with the National Flood Insurance Program, including standards related to public safety and property protection. He added that implementation of Endangered Species Act-related standards is currently on hold, pending further clarification from the state and observation of how other cities are addressing those issues.

COMMISSIONERS REPORT - None

VISITORS COMMENTS – None

PUBLIC HEARINGS

Dideum opened the public hearing at 6:09 p.m. on 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.

Dideum read the hearing disclosure and asked if any commissioners need to declare a conflict of interest in ex parte contact or personal bias.

Dideum, Fisher, Grey, Halperin, Frank, Taggard and Mesberg all visited the site. No conflict.

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

Phillips provided a detailed staff report overview of the presented proposal to rezone 5,000 square feet of an existing residential lot in downtown Gearhart from R-2 (medium density residential) to C-1 (neighborhood commercial). This portion of the lot is located at the front, nearest to Pacific Way, and the purpose of the rezone is to better align the current use — outdoor seating for the adjacent Daughter's Wine Shop — with zoning regulations. While the use may have been conditionally permitted in the past, the rezone would make it clearly allowed.

He explained that the C-1 zone being applied is a "floating zone" established in Ordinance 860, meaning it has existed in policy but had not yet been assigned to a specific location. Because of that, this rezone is not considered the creation of new commercial zoning, which helps satisfy the city's restrictive policies on expanding commercial zones downtown. The site is bordered by residential zoning on two sides and commercial zoning on others, making the change relatively minor in context.

The staff report includes findings that the rezone meets comprehensive plan requirements, does not create a nonconforming lot, and that the land is suitable for the proposed zoning. No immediate transportation or infrastructure improvements are triggered, but a future traffic impact analysis could be required based on development. There are draft conditions related to vacation rentals and traffic review.

Phillips emphasized that, while the current owner intends to maintain the use as outdoor seating, future commercial uses allowed in the C-1 zone could occur. However, the lot is also currently used for septic for the wine shop, which would limit intense redevelopment unless major changes were made to the entire property. Staff recommend approval, and the planning commission may recommend approval or denial, or continue the hearing if more information is needed. Final approval will be made by the city council following a public hearing.

Commission Discussion with Phillips on the Staff Report:

Commissioner Frank asked what happens to the rest of the lot if only 5,000 square feet is rezoned to C-1. Phillips explained that the remainder of the lot would stay zoned R-2 and, due to the presence of a septic system, is essentially unusable. Frank asked if this created a nonconforming lot, and Phillips clarified that it did not — the lot would just have two zones, but each would retain its respective zoning limitations. The R-2 portion wouldn't allow business uses, and the C-1 area would not permit residential development beyond what's allowed in that zone.

Frank also asked Sweet about the origin of the floating C-1 zone. Sweet explained that it was set aside years ago, likely in consultation with the Department of Land Conservation and Development (DLCD), when C-1 zoning was removed from a park. DLCD wanted the city to preserve a certain amount of commercial zoning overall, so the zone was kept in reserve for future placement.

Commissioner Mesberg questioned the need for a condition of approval related to vacation rentals. Phillips initially thought it might be valid, but Sweet clarified that short-term rentals are prohibited in the C-1 zone. Only

long-term housing for employees or mixed-use with commercial is allowed. Phillips acknowledged the condition was likely included in error.

Commissioner Dideum raised questions about the property's septic system being located on a separate but commonly sold adjacent lot. Sweet noted it's not ideal but not unheard of, and if major changes were proposed, a lot line adjustment would likely be required.

Commissioner Grey asked whether the C-1 zone needed to be adjacent to existing C-1 zoning or located within certain physical boundaries. Phillips responded that there are no specific adjacency or boundary requirements in the code or comprehensive plan. However, the C-1 zone is intended to serve residents, fit within the neighborhood's residential character, and avoid conflicts. Sweet added that spot zoning is discouraged, but in this case, the adjacent C-1 zoning makes the proposal consistent with the city's intent for a compact, low-impact downtown area.

APPLICANTS TESTIMONY

Megan Masterson - 567 Pacific Way, Gearhart, Oregon. 97138 - owner of the business at and co-owner of the property with her mother, testified in support of the rezoning application. She was joined by her real estate broker and land use consultant, Mark Meeker, as well as several supportive customers and residents. She explained that the purpose of the rezoning is to allow for modest improvements to the space to better serve the community and enhance the neighborhood commercial zone in downtown Gearhart. Masterson described her vision for the space as a community hub and expressed gratitude for the strong local support received over the past five months.

Commission Discussion with the Applicant:

Commissioner Mesberg thanked Megan Masterson for opening Daughter's Wine Shop and asked for clarification on her future plans for the rezoned space. Masterson explained that the main goal is to have flexibility to respond to community needs, including potential additions like heaters or fire pits to make the outdoor space usable year-round.

Commissioner Halperin asked if there were specific improvements she could only make under commercial zoning. Masterson confirmed that commercial zoning would allow for more permanent changes, such as altering landscaping or adding fixtures, which are restricted under the current nonconforming use designation.

Sweet provided an example, explaining that a previous owner had been denied a request to add a pergola due to the property's R-2 zoning. If the rezone is approved, similar improvements would be allowed as part of the normal permitting process under C-1 zoning.

Commissioner Fisher referenced a past similar situation with another business owner, confirming that current rules limit property improvements under nonconforming use. Sweet agreed and added that the rezone would resolve that limitation.

Commissioner Frank asked how business was going and whether Masterson felt the rezone would help. Masterson said business had far exceeded expectations, thanks largely to strong support from Gearhart residents. She described the outdoor space as full of potential, especially for extending the usable season and making it more functional on less ideal weather days. She noted the success of the space during the 4th of July events and emphasized the community's overwhelming support.

Proponents:

Heather Day – 762 F Street, Gearhart, Oregon 97138:

Expressed strong support for Daughter's Wine Shop and the proposed addition to the patio. She enjoys walking her dog around Gearhart and feels the outdoor space provides more opportunities to connect with neighbors and enjoy time outside.

Terry Graff - 302 S Ocean, Gearhart, Oregon 97138:

Admitted he was unaware the topic was on the agenda but, after hearing the discussion, expressed enthusiasm for the business. He and his wife Kathy now plan to visit Daughter's and support the application.

Shelly O'Neil – 201 3rd Street, Gearhart, Oregon 97138:

Voiced support by emphasizing that the proposal isn't just a business improvement — it's a response to ongoing community requests. She noted that both the current and former owners have heard this need from residents, making it a community benefit rather than just a business one.

Lynn Claudon – 305 D Street, Gearhart, Oregon 97138:

A longtime Gearhart homeowner (30 years), Lynn supported the zone change, praising Megan and her team for creating a welcoming environment. Despite not drinking, she enjoys the space and sees the outdoor area as a positive addition that fosters community connection in a more comfortable setting than gathering on street corners.

Opponents: None

Neutral: None

Dideum closed the public hearing at 6:54 pm.

Commission Discussion:

The Planning Commission expressed unanimous support for the rezoning and patio expansion proposal at Daughter's Wine Shop. Frank highlighted the value of clarifying the use of the space for a well-loved local business and saw the change as a benefit to the community. Mesberg called it a "no-brainer," and Halperin, Emerson, and Taggard all echoed agreement. Grey raised concerns about existing limitations on the property and the inability to make small improvements like adding a fire pit or shelter without exceeding permitted uses. He emphasized the importance of supporting a successful small business while noting the long-term implications of rezoning the last remaining C-1 zoned parcel.

The commission also discussed whether to include conditions related to traffic impact analyses (TIAs). Phillips clarified that staff already has authority to require TIAs for significant changes, so additional conditions may be unnecessary. Mesberg and Halperin suggested refining any condition language to avoid burdening small changes and instead tying it specifically to new structures or major development. Halperin proposed changing the wording from "shall" to "may" as a way to offer more flexibility, a suggestion that received positive response from several commissioners. Sweet and Phillips clarified that the property's current conditional use (neighborhood café with outdoor seating) would legally continue under the new C-1 zoning, aligning with permitted uses and allowing future discretionary updates to be

handled more clearly by staff. The commission agreed the rezone would help correct a past mismatch between zoning and use, ultimately enabling better long-term planning for the site.

On **MOTION** by Mesberg, 2nd by Fisher, to recommend approval of the zone change with the number 2 condition of approval, with the word shall changed to may, the only single condition, a traffic impact analysis may be required.

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

0 – Opposed

UNFINISHED BUSINESS – None

NEW BUSINESS – None

INFORMATION / DISCUSSION

Dideum noted that the commission had received some correspondence from Gearhart residents on the topic of pickleball and that limited information comparing pickleball noise levels had just been received that evening. She emphasized that this was new information for the commission and invited discussion on what others might want to share.

Phillips provided context for the pickleball discussion, noting that citizen concerns had prompted the commission to consider prohibiting courts in residential zones. Rather than focusing solely on prohibition, staff recommended exploring broader regulatory approaches to address noise impacts.

He outlined several potential strategies:

- Noise ordinances, including nuisance-based and decibel-specific standards.
- Zoning-based regulation, including minimum lot sizes and restricting pickleball as an allowed use in residential zones.
- Distance-based regulations, such as requiring courts to be a certain distance (e.g., 250–600 feet) from residences, similar to how liquor stores are sometimes distanced from schools.

Findings from other cities that include:

- Large distance buffers (250–600 feet),
- Minimum lot sizes (up to one acre),
- Hours of operation limits,
- Lighting restrictions.

He acknowledged Gearhart's existing noise ordinance, noting staff research shows pickleball noise may drop to acceptable levels (around 45–50 decibels) at distances of 250–600 feet. However, he also mentioned the challenges of enforcement, particularly with nuisance noise standards that require police resources.

He cautioned that embedding pickleball-specific language into each zoning district could clutter the ordinance but suggested it might be addressed in Article 6 (which contains citywide standards like fences).

Phillips emphasized this is a legitimate discussion due to courts being built in residential zones, even though most communities don't regulate pickleball specifically. He proposed either proceeding with further research and drafting an ordinance or briefing the city council for directions, especially considering recent experience with the tree ordinance process.

Discussion commenced with concerns about noise levels from the pickleball court located near residential areas.

Sweet, provided data from a noise meter, highlighting potential noise violations during pickleball play, particularly from paddle strikes and player celebrations. He emphasized the challenges of enforcing noise ordinances accurately due to variables like distance and ambient noise.

It was discussed previous city council decisions regarding pickleball courts in public spaces versus residential areas. Any decision should align with city council guidance to avoid potential legal and enforcement complexities. Suggestions were made to consider sound mitigation strategies if pickleball use continued, although doubts were expressed about their effectiveness given the proximity of homes.

Participants shared mixed opinions: some supported pickleball as a community activity but recognized the noise concerns, while others opposed having a court close to residences due to potential disruptions.

Terry Graff highlighted his experience with noise issues from nearby sport courts, advocating for stricter zoning regulations to prevent similar problems.

By consensus (Dideum, Taggard, Grey, Halperin, Frank, Mesberg, Fisher) the meeting concluded with a decision to seek further guidance from the city council on whether to proceed with ordinance changes or enforce existing regulations more strictly.

Phillips committed to presenting alternative approaches to the council in the upcoming meeting for their input and direction.

Overall, the commission emphasized the need for clear guidance and community input before taking any further action on the pickleball noise issue.

CONCERNS OF THE COMMISSION

Discussion on Tree Ordinance:

Taggard raised a concern about the criteria in the current tree ordinance. He gave an example on First Street that could be designated heritage trees despite their poor form and smaller-than-expected measurements. He suggested modifying the criteria to exhibit a more suitable form, with a trunk that is relatively uniform in thickness throughout.

This led to a broader discussion about the planning commission's role in recommending ordinance changes and how to communicate effectively with city council. Commissioners expressed frustration over past efforts being disregarded by council and agreed that formal letters might improve coordination. It was suggested that the commission could draft a letter, either individually or collectively, recommending a revision to the heritage tree criteria, particularly regarding co-dominant or poorly structured trees.

Taggard volunteered to draft a letter reflecting the commission's concerns about the current tree definition. The group agreed to review and potentially co-sign the letter before sending it to council as a formal recommendation or inquiry.

Finally, there was brief discussion about improving communication between staff, planning commission, and council on other matters like the comprehensive plan, with a note that some emails may not have reached all intended recipients and could be more efficiently shared in the future.

QUESTIONS FOR LAND USE ATTORNEY – None

The meeting was adjourned at 7:44 p.m.

Angoleana R. Torres, Secretary

Approved