

CITY OF GEARHART STAFF REPORT

To: Gearhart Planning Commission

From: Garrett Phillips, City Planner

March 17, 2023

City File #23-01ZMA Zoning Map Amendment Request

Application Purpose: An application by the owner for approval of a Zoning Map Amendment from P/S-P to R-2, and corresponding Comprehensive Plan Map Amendment.

Decision Type: Quasi-judicial zone change. The Planning Commission makes a recommendation to the City Council, who will approve or deny the request.

Public Hearing Date: April 20, 2023

Property Owner: SCOFI Gearhart LLC
PO Boc 2759
Gearhart, OR 97138

Applicant's Representative: AKS Engineering and Forestry
12965 SW Herman Road, Suite 100
Tualatin, OR 97062

Carrie Richter, Bateman Seidel, PC
1000 SW Broadway, Suite 1910
Portland, OR 97205

Location: 1002 Pacific Way, Gearhart, OR
Tax Lots 800 & 1500, Map 06N10W10BA
Tract 19, Gearhart Heights Tracts

Preapplication Conference: April 15, 2022
Completeness: March 3, 2023
Notice Mailed: March 23, 2023
Notice Published: March 23, 2023
120-day deadline: July 1, 2023
Planning Commission Hearing: April 20, 2023

Exhibits: Applicant's application, narrative, and site plan
Ordinance #783 and Lincoln Avenue Right-of-way Legal Description

Review Criteria: GZO Section 3.2 Medium Density Residential Zone R-2
GZO Section 3.8. Public and Semi-Public Zone
GZO Section 3.10 Flood Hazard Overlay Zone



View of subject property from Pacific Way

I. SITE ANALYSIS & GZO ZONING STANDARDS

- A. Background: The applicant requests a Comprehensive Plan and Zone Map amendment for two adjacent properties comprising of 8.44 acres from P/SP to R-2. The proposed immediate use of the property is one 24,316 S.F. single-family residence (the school building). Additional lot reconfiguration or development consistent with R-2 zoning is intended but not yet specified. This is a quasi-judicial zone change application for privately owned land.
- B. Site information: The property is comprised of two lots. Lot 1500 is the western lot and is occupied by the former Gearhart Elementary School Building and associated former school facilities. Lot 800 is the eastern lot, and it includes former school sports fields, a wetland and a special flood hazard area. Lincoln Avenue is a vacated right of way dividing and split into the two lots.

The soils are likely Warrenton Loamy Fine Sand and Gearhart Fine Sandy Loam. The 1.86-acre Special Flood Hazard Area designation is AE, a 1% annual chance flood area, with a Base Flood Elevation of 15', identified on FIRM 41007C0368F. The DSL approved wetland delineation identified .78 acres of wetland in delineation report 2022-0450, part of a larger wetland estimated to be over 17 acres, identified in the City of Gearhart Local Wetland Inventory as Site W2. Wetland Site W2 is part of a larger system of wetlands sitting between higher elevation ridges oriented north-south, between Neacoxie Creek and US Highway 101. Wetland W2 is a Locally Significant Wetland for having intact hydrological functions, but not for other values.

Pacific Way is the site's southern boundary and is the access to the public street network. Residential and commercial uses are located across Pacific Way. Properties with commercial uses oriented to US Highway 101 and zoned C-2 are adjacent to the east.

Residential uses with R-1 zoning facing Ridge Drive and Summit Avenue are adjacent to the west. Additional residential uses with RCPD zoning, primarily oriented to Kershul Circle, are located to the North.

- C. Plan and Zone Standards: Residential uses may not be permitted in the P/S-P zone as a permitted use or as a conditional use. GZO 3.810.1 states that should owners cease using P/S-P zoned land for a public or semi-public use or purpose, or should the utilization be changed, then they shall automatically be eligible for reclassification into another district. GZO Section 3.2 includes standards specific to the R-2 zone. Other applicable criteria are listed at the beginning of this report and discussed in the findings below.

D. GZO Section 3.2 R-2 Zone

The purpose of the R-2 Medium Density Residential Zone is to provide a mix of single and multifamily housing up to six (6) dwelling units per acre. In a 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. An exception is corner lots where 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.

FINDINGS: The applicant's stated intention to use the site for residential purposes, starting with residential use of the school building, is consistent with the purpose and standards of the R-2 zone. The existing buildings and lots are consistent with the lot size, setback, height, lot coverage, and off-street parking requirements. Lots 800 and 1500 are each greater than 15,000 square feet and each lot has buildable area outside of the current building footprints, setbacks, and environmental constraints. Approval of the rezone would not result in an intended use or existing structure that is inconsistent with the R-2 zone, with the exception of an existing security fence. A recommended condition of approval requires the fence to be removed.

Without further subdivision or lot reconfiguration, the two lots could hypothetically accommodate 8 dwellings, by having one fourplex on each lot. Additional dwellings could be accommodated by subdividing or partitioning. The total site area is 365,765 S.F., or 8.44 gross acres. The proposed single-family residence (the existing former school building) is 24,316 S.F. The floodplain occupies 81,160 S.F. and the wetland is 34,173 S.F. Setbacks

further limit the buildable area, resulting in the applicant's estimate of 222,629 S.F., or 5.1 acres, of net buildable area. The maximum density in the R-2 zone is 6 units per net buildable acre. Therefore, 5.1 net buildable acres could theoretically accommodate 30 housing units.

E. GZO Section 3.8 Public and Semi-public Zone

The P/SP Zone is included in the zoning ordinance because unique relationships often exist between the uses of such public and semi-public properties that abut and surround them. Should a governmental entity or private party cease using such land for a public or semi-public use or purpose, or should the utilization be changed, then they shall automatically be eligible for reclassification into another district, in compliance with the City's Comprehensive Plan and subject to the usual change of zone procedures.

Finding: The subject property's previous elementary school use has ceased and, therefore, the property is automatically eligible for rezoning subject to the comprehensive plan and zoning amendment procedures.

F. GZO Section 3.10 Flood Hazard Overlay Zone

It is the purpose of this Flood Hazard Overlay Zone to regulate the use of those areas subject to periodic flooding, to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions. The Flood Hazard Overlay Zone regulates new construction, substantial development, subdivisions, utilities, and alteration of water courses.

Finding: The applicant has not proposed any specific regulated activities within the flood hazard overlay zone. The one dwelling specifically proposed by the applicant is outside of the zone. The two existing lots include buildable area outside of the flood hazard overlay zone. It is reasonable to conclude that this section of the GZO is not applicable to the applicant's proposal, and that this section will be administered to achieve the purpose of the overlay as more specific development and land division proposals are made.

G. GZO Section 4.070 Freshwater Lake and Wetland Overlay Zone

The purpose of this zone is to conserve significant freshwater wetlands and lakes. The zone overlays and restricts the use on identified wetlands. Low intensity uses which do not result in major alterations are appropriate, such as low intensity recreation, passive restoration measures, wetland rehabilitation activities, enhancement of native vegetation, removal and replacement of invasive non-native vegetation. Conditional uses include active restoration, docks, walkways, and paths. Removal of vegetation is prohibited unless approved by permit in accordance with the zone standards. Development, construction or alteration within the FW Zone or within 25' of the zone requires approval of a development permit from the City.

FINDINGS: Wetlands are identified in the applicant's certified wetland delineation report. The Freshwater and Lake Overlay Zone does not permit housing on an identified wetland. The former school building that is proposed for residential use is not located within wetlands or within the 25' wetland buffer. The subject property lots each appear to have buildable area outside of the delineated wetlands and their 25' buffers. The application did not propose

modifications to the wetlands or their buffers. The subdivision ordinance Section 46 provides additional protection for the wetlands during future subdivision and partition processes.

The Division of State Lands (DSL) Letter of Concurrence finds that the site's wetlands are subject to state Removal-Fill Law which requires a permit for cumulative fill or annual excavation of 50 cubic yards or more. Any filling of wetlands will require permitting and approval from DSL and the Corps of Engineers.

H. GZO Section 3.14 Tsunami Hazard Overlay Zone

The purpose of the Tsunami Hazard Overlay Zone is to increase the resilience of the community to a local source (Cascadia Subduction Zone) tsunami by establishing standards, requirements, incentives, and other measures to be applied in the review and authorization of land use and development activities in areas subject to tsunami hazards. The standards established by this section are intended to limit, direct and encourage the development of land uses within areas subject to tsunami hazards in a manner that will: 1. Reduce loss of life. 2. Reduce damage to private and public property. 3. Reduce social, emotional, and economic disruptions; and 4. Increase the ability of the community to respond and recover. Significant public and private investments have been made in development in areas which are now known to be subject to tsunami hazards. It is not the intent or purpose of this section to require the relocation of or otherwise regulate existing development within the Tsunami Hazard Overlay Zone. However, it is the intent of this section to control, direct and encourage new development and redevelopment such that, over time, the community's exposure to tsunami risk will be reduced. All lands identified as subject to inundation from the XXL magnitude local source tsunami event as set forth on the applicable Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) and adopted by the city are subject to the requirements of this section.

Finding: The subject property is located within the XXL, XL, L, M and S areas on the Oregon DOGAMI Tsunami Inundation Map (TIM) Series map Tim-Clap-08 Tsunami Inundation Maps for Gearhart - Seaside, Clatsop County, Oregon. Therefore, it is subject to GZO Section 3.14.

I. GZO Section 3.1450 Prohibited Uses

Unless authorized as an exception in accordance with Section 3.1460, the following uses are prohibited in the specified portions of the Tsunami Hazard Overlay Zone:

1. In areas identified as subject to inundation from the "L" magnitude local source tsunami event as set forth on the Tsunami Inundation Map Series (TIMs), the following uses are prohibited: A. Hospitals and other medical facilities having surgery and emergency treatment areas. B Fire and police stations. C Structures and equipment in government communication centers and other facilities required for emergency response. D Buildings with a capacity greater than 250 individuals for every public, private or parochial school through secondary level. E. Buildings for colleges or adult education schools with a capacity of greater than 500 persons. F. Jails and detention facilities.

2. 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 following uses are prohibited: A. Tanks or other structures containing, housing, or supporting water or fire suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures. B. Emergency vehicle shelters and garages. C. Structures and equipment in emergency preparedness centers. D. Standby power generating equipment for essential facilities. E. Covered structures whose primary occupancy is public assembly with a capacity of greater than 300 persons. F. Medical facilities with 50 or more resident, incapacitated patients. G. Residential uses, including manufactured home parks, of a density exceeding 10 units per acre. H. Hotels or motels with more than 50 units.

Finding: The subject property is within the S inundation zone, and therefore is also within the M and L inundation zones. The applicant proposes R-2 Zoning. The specific near-term use proposal for one single family dwelling is not a prohibited use. The maximum number of allowed dwellings on the existing two lots without subdivision or partition with R-2 zoning is 4 on each, which would be less than 10 dwellings per acre on each lot conceivably allowed in the Tsunami Hazard Overlay Zone. Subdivision and zoning review processes provide sufficient mechanisms for the City to ensure that the site is not developed to densities greater than 10 dwelling units per acre, and that other prohibited uses are not developed.

J. GZO Section 3.1470 THO Zone Required Development Improvements

Evacuation Route Improvement Requirements. Except single family and duplex dwellings on existing lots and on vacant parcels less than 12,500 square feet, all new development, substantial improvements, and land divisions in the Tsunami Hazard Overlay Zone shall incorporate evacuation measures and improvements, including necessary vegetation management, which are consistent with and conform to the adopted Gearhart Transportation System Plan (TSP) evacuation route designations.

Finding: A single family dwelling is specifically proposed in the rezoning application, and no other development, substantial improvements, or land divisions are specifically proposed, therefor evacuation route improvements are not required as a part of the proposed rezone; however, they will be required with future new development, substantial improvements, and land divisions consistent with this section.

K. GZO Section 3.15 Airport Hazard Overlay Zone

Section 3.1530 establishes four (4) airport zones, each with its own use and structure height restrictions. Within the Horizontal Zone, the maximum height allowed of any ‘obstruction’ is 150 feet above the airport elevation or at a height of 159 feet above mean sea level. There are no use restrictions within the Horizontal Zone. Within the Horizontal Zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground.

FINDINGS: The applicant is not proposing structures greater than 75 feet tall, there are no existing structures greater than 75 feet tall, and structures greater than 30 feet tall are not permitted in the R-2 zone.

L. GZO Section 4.040 Transportation Improvements

All new residential development is required to build streets internal to a development project, as well as improvements to existing abutting streets, based on the Gearhart Transportation System Plan and existing street conditions. For improvements to abutting streets, the City Manager may waive improvement requirements, require a fee-in-lieu of the applicant making improvements; or may require a waiver of remonstrance to assure that the property owner contributes to improvements in the future.

Finding: Given that the Gearhart Transportation System Plan proposes sidewalks and bicycle facilities on Pacific Way, that these facilities currently do not exist, and that GZO Section 4.040 states specific requirements for single family and multi-family developments and land divisions to improve abutting streets, a recommended condition of approval will require the owner to contribute to planned improvements to Pacific Way identified in the Transportation System Plan. The recommended condition of approval is to require a waiver of remonstrance.

M. GZO Section 4.060 Access Management Standards

Section 4.060 requires an approach permit for any development to access a collector street and requires any access not conforming to current city standards to be improved to City standards when new access connection permits are requested, when there is a change in use or when trip generation will increase.

Finding: Because Pacific Way is a collector, the use of the property will change with the establishment of the initial single-family dwelling, and trip generation will thereafter increase beyond the trip generation of the initial single-family use, approach permits will be required of the applicant as specified in GZO Section 4.060.

N. GZO Section 4.070 Traffic Impact Analysis

Section 4.070.2 requires a Traffic Impact Analysis (TIA) when a change in zoning will generate more trip ends, more than 25 trips during the AM and PM peak hours or more than 300 daily trips; or has potential impacts to residential areas and local roadways and intersections.

FINDINGS: The application explains that the former elementary school use should be considered the baseline for comparing trip generation and lays out its assumptions and steps for estimating trips from the former elementary school, the proposed single dwelling, and the maximum number of dwellings that could be permitted on the subject property with R-2 Zoning.

The proposed near term single dwelling use, or the maximum 8 dwellings that could be permitted with the existing lot configuration, would not generate more trips than the elementary school use, would not generate more than 25 peak hour trips, and would not generate more than 300 daily trips.

GZO 4.070 states that the City may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access, and requires a TIA in

several circumstances. Gearhart Subdivision Ordinance provides the same authority and requirements for traffic impact analyses during the subdivision process.

Given these conditions, it is within the authority of the City, and it is reasonable to not require a traffic impact analysis with the rezoning application, and instead require the analysis when a subdivision, partition, or other development permit is requested. At the time of a proposed subdivision or partition to divide the property, the applicant will be required to comply with the transportation requirements of the Gearhart Transportation Plan, Zoning and Subdivision Ordinances.

II. GZO ARTICLE 11 AMENDMENTS

A. GZO Section 11.040 AMENDMENT CRITERIA

A decision must be based on adequate findings demonstrating compliance with each of the following Zone Map Amendment approval criteria, A - E.

A. The amendment shall be consistent with the Comprehensive Plan.

FINDINGS: Comprehensive Plan policies relevant to this zone change request are provided in the section below, along with their related findings.

Residential Policies

1. The City will preserve and maintain the residential character of Gearhart through appropriate zoning and land use development regulations.
2. The City will implement the City's land use development regulations through the continued development of Gearhart as a residential community.
3. The City will maintain the present residential density levels in established neighborhoods.
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.

FINDINGS: In response to the above Comprehensive Plan residential policies:

- The zone change to residential R-2 maintains the residential character of Gearhart.
- The zone change does not add commercial development opportunities.
- The zone change allows for several housing types, and a range of densities up to 6 dwellings per net acre. This is consistent with the housing types and densities permitted in areas zoned R-2 that are adjacent to the subject property and throughout the City.
- Transient rental of property is not allowed in the R-2 zone. Based on the buildable lands analysis in the application, it is reasonable to conclude that the maximum levels of traffic that could be permitted on the property with R-2 zoning are not greater than the maximum levels of traffic that can be permitted on the property with current P/SP zoning.

- The zone change provides an opportunity in the long term for more diverse or affordable housing units such as duplexes, tri-plexes and multi-family that would support the city housing goals.
- The application documents that there is a relative scarcity of land zoned R-2 compared with land zoned R-1, and reasonably explains environmental, public health, and hazard constraints that make the property unsuitable for R-3 zoning.

Open Space, Scenic Areas, Historic And Natural Resources Policies

5. The City will protect identified fresh-water wetlands from conflicting uses and activities, such as filling, drainage and tree removal through the application of a Freshwater Wetland Zone designation.

FINDINGS: The Freshwater Wetland and Lake Overlay Zone designation applies to a portion of the site. The applicant has not proposed modification to the wetlands or uses in the wetlands. The Freshwater Wetland and Lake Overlay Zone includes procedural standards requiring future alterations in the wetlands or their buffers to obtain a development permit from the city. The Freshwater Wetland and Lake Overlay Zone specifies a limited range of uses and activities that may be permitted in the wetlands and their buffers. The existing lots include buildable area outside of the wetlands and their buffers. It is reasonable to conclude that the City will adequately protect the wetlands from conflicting uses and activities through application of the overlay zone during later stages of development approval, and that special conditions or denial of the zone change are not necessary to protect the wetlands.

6. The City will rely on the Department of Environmental Quality's review and approval of individual on-site wastewater disposal systems to ensure that they do not adversely impact the Clatsop Plains aquifer.

Finding: There are two existing wastewater systems on site which served the elementary school. One is located between the main school building and Pacific Way and the other between the school building and the covered playground. These two facilities will only be used to serve the 24,316 S.F. single-family residence. They will never be used to accommodate future development. The Clatsop County Health Department will have to approve the adequacy of these two facilities for this single-family residence prior to occupancy. The property owner is coordinating with the Clatsop County Health Department, the Oregon Department of Environmental Quality (DEQ), and a qualified Oregon professional septic company to determine the long-term septic capacity of the site. The results of the testing will not be final until the summer of 2023. Those results will help establish the capacity of the site for future additional residential use. The subdivision ordinance can be used to prevent subdivision facilitating densities and lot configurations inconsistent with public health and safety and natural resource protection, in regard to septic capacity. Furthermore, building permits will not be issued without demonstrated compliance with DEQ' and Clatsop County's review and approval of proposed septic facilities.

Geology and Geologic Hazards Policies:

8. Implement land division provisions to further tsunami preparedness and related resilience efforts.

9. Require needed evacuation route improvements, including improvements to route demarcation (wayfinding in all weather and lighting conditions) and vegetation management, for new development and substantial redevelopment in tsunami hazard areas.

10. 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.

11. Encourage open space, public and private recreation and other minimally developed uses within the tsunami inundation zone area.

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

FINDINGS: Findings in response to GZO Section 3.14 Tsunami Hazard Overlay Zone also respond to these criteria. The subject property is in the area subject to tsunami hazards. R-2 zoning and the current lot configuration limits residential density to less than the maximum density allowed by the Tsunami Hazard Overlay Zone. Subdivision, partition, and development review processes provide adequate mechanisms to ensure that future development will be consistent with the policy and contribute to evacuation route improvements.

Flood Hazard Policies:

13. 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.

FINDINGS: The property includes areas in the 1% annual chance AE flood zone, part of the Flood Hazard Overlay Zone. A future development proposal would be required to comply with GZO Section 3.10 Flood Hazard Overlay Zone standards and provisions. There is buildable area on both lots outside of the Flood Hazard Overlay Zone.

The subdivision ordinance Section 40(5) states "Land which the Planning Commission finds to be unsuitable for subdivision or partitioning due to flooding, improper drainage, steep slopes, adverse soil conditions or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or partition and/or its surrounding areas, shall not be subdivided or partitioned unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the City Staff, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger."

It is reasonable to conclude that the City will ensure compliance with National Flood Insurance Program and the purpose of GZO 3.10 by administering the provisions of the Subdivision Ordinance and the Flood Hazard Overlay Zone as it applies to future subdivision, development and building permit applications, regardless of whether the property is zoned P/SP or R-2.

Housing Policies

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

Finding: Rezoning to R-2 will create more opportunities for the creation of the housing types supported in the policy. Findings in response to comprehensive plan residential policies also respond to this criterion.

Public Facilities Policies

14. Where extensions are required to the existing system, the City will require customers requesting service to pay the entire cost of the extension.

15. The City will establish minimum flow requirements for fire protection and may institute a system of charges or other requirements on a case-by-case basis if the existing system is unable to meet the fire protection requirements or where a customer will place an undue fire demand on the water system.

FINDINGS: The City's development review and subdivision process provide adequate mechanisms to ensure that any water connections meet City standards, that fire flow requirements are made adequate, and that any extensions or upgrades meet City standards.

16. Based on the Regional Wastewater Planning Study prepared in the early 1980's, the City will continue to allow D.E.Q. approved, cost effective on-site sewage treatment systems as an alternative to a City or regional collection and treatment system.

17. The City will rely on D.E.Q. to monitor groundwater quality in the area and ensure that on-site systems are functioning properly.

FINDINGS: The property owner is coordinating with the Clatsop County Health Department, the Oregon Department of Environmental Quality (DEQ), and a qualified Oregon professional septic company to determine the long-term septic capacity of the site. The results of the testing will not be final until the summer of 2023. Those results will help establish the capacity of the site for future additional residential use. The subdivision ordinance can be used to prevent subdivision facilitating densities and lot configurations inconsistent with public health and safety and natural resource protection, in regard to septic capacity. Furthermore, building permits will not be issued without demonstrated compliance with DEQ' and Clatsop County's review and approval of proposed septic facilities.

18. The quality of surface water will be protected. As additional information on surface water quality becomes available, it will be incorporated into this plan.

FINDINGS: The applicant's proposal does not include details indicating that it will cause extraordinary impacts to surface water quality beyond what may be typical in the R-2 zone. The Gearhart Zoning ordinance does not include specific standards related to surface water quality, that can be used to guide consideration of this criterion. The subject property's locally significant wetland and the GZO's protections for that wetland and a 25' buffer outside of the wetland will provide water quality protection functions to the surface water located east of and downstream of the subject property.

19. The City of Gearhart will coordinate with the School District in providing information on potential developments and allowing the district the opportunity to respond.

FINDINGS: The City invited the School District to respond to this rezoning application. The School District Superintendent's response did not include general concerns or conditions. The comment indicated that the district could accommodate additional students that may be associated with the maximum number of dwellings allowed at the site under R-2 zoning.

20. The analysis of new developments will assess impacts on the City's Police and Fire Department in terms of budget requirements.

FINDINGS: The City invited the Police and Fire Departments to respond to the development proposal, including a request to comment on how the maximum number of dwellings allowed under R-2 zoning would affect their department budgets.

The Police and Fire Departments did not comment on how the proposal would affect their budgets.

The following analysis estimates the police and fire department budget impact of adding eight dwelling units to the City of Gearhart. The analysis assumes that budget requirements increase in a linear relationship with increases in the number of households in the City. It does not consider fixed costs, inflation, the type of dwellings that would be constructed when they would be constructed or their location in relation to existing services and infrastructure or any other factors.

General Fund Total Police Expenditures= 549,991.95

Police Car Reserve Fund = 97,982.45

2022/23 Police Total = 647,974.40

City Population in 2022 = 1,872

Average household size 2018 = 2.3

Per Capita Police Department budget = \$346.14

Budget increase for 8 dwellings/households = \$6,369

Budget increase for 30 dwellings/households = \$23,884

The Fire Department provided comments related to other approval criteria but did not provide comments related to the budget.

General Fund Total Fire Expenditures = \$746,945.90

Fire Apparatus and Equipment Reserve Fund = \$364,500

2022/23 Fire Total = \$1,111,445.90

City Population in 2022 = 1,872

Average household size (2018) = 2.3

Per Capita Police Department budget = \$593.72

Budget increase for 8 dwellings/households = \$10,925

Budget increase for 30 dwellings/households = \$40,967

Transportation Plan Policies:

8. Improve connectivity for people walking or biking by completing gaps in the current network of pedestrian and bicycle facilities.

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

10. 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.

FINDINGS: All new residential development is required by GZO Article 4 to build streets internal to a development project, as well as improvements to existing abutting streets based on the Gearhart Transportation System Plan and existing street conditions. The Gearhart Transportation System Plan proposes sidewalks and bicycle facilities on Pacific Way and GZO Section 4.040 states specific requirements for single family and multi-family developments to improve abutting streets. These requirements will be implemented as specific subdivisions and development permits are requested.

The lots access the public street network by driveway access to Pacific Avenue, a street designated as a Tsunami Evacuation Route and as a Collector in the Transportation System Plan. Collectors connect many parts of the city and often serve traffic traveling to and from principal arterials. These roadways provide greater accessibility to neighborhoods, connect to major activity generators, and provide efficient through movement for local traffic. The Transportation System Plan identifies standard cross section standards for collectors and sidewalk or shared use path requirements for Tsunami Evacuation Routes. Specific development proposals for the subject properties will trigger requirements to improve Pacific Way to these standards. It is reasonable to conclude that there are adequate requirements in the Gearhart Zoning and Subdivision Ordinances to protect the function of the transportation system, and that approving the zone change will facilitate new development that will contribute to implementation of the transportation system plan.

The subject zone change would potentially allow up to a maximum of eight dwellings to be permitted across the two existing lots, without further subdivision or discretionary land use approvals. The Gearhart Zoning and Subdivision Ordinances include adequate requirements for completing traffic impact analyses, and improvements to access, pedestrian, bicycle, automobile, and tsunami evacuation route facilities, to ensure that the impacts of actual proposed development are considered and to ensure that actual proposed development is consistent with City laws and plans related to the transportation system. Given the minimal traffic impact that would be generated by residential development that could be permitted as of right on the existing lots with R-2 zoning, and the adequate procedures and requirements in the Gearhart Zoning Ordinance, and the findings of the report that the traffic impact analysis thresholds prescribed in GZO Article 4 are not met by this zone change request, it is reasonable to conclude that this criterion is satisfied.

Gearhart Parks and Recreation Master Plan

The plan identifies the subject property as potentially relevant to park planning and identifies the City's existing and planned bicycle and pedestrian facilities as important parts of the parks and recreation system.

FINDINGS: The plan does not identify how the subject property is relevant to parks planning and does not include policies supporting use of the subject property as a future park or recreation facility or discouraging use of the subject property for other purposes. Findings responding to GZO 4.040 and the Comprehensive Plan Transportation Policies explain that rezoning and development of the subject property will contribute to the improvement of planned bicycle and pedestrian facilities on Pacific Way. In this regard, the proposed rezoning is consistent with and contributes to the implementation of the Parks and Recreation System Master Plan.

B. The amendment will meet a land use need.

FINDINGS: There is a documented need for new dwellings of the type permitted in the R-2 Zone in Gearhart and the County at large based on the Clatsop County Housing Needs Analysis and Clatsop County Housing Strategies Report, which notes that population growth in Gearhart is constrained by available land for residences. The reports estimated that there are 43 units of duplexes, three, four and 5+ plex's in Gearhart and that more of these housing types are needed, along with other forms of compact housing. R-2 zoning allows all of these housing types except 5+ plexes.

The County reports acknowledge that the greatest housing need throughout the County based on demand is for additional single-family homes. The report also acknowledges that new housing will typically be more expensive than existing housing but explains that adding new housing supply is necessary to allow the older housing supply to "filter" to those with more modest income. The proposed R-2 zoning allows single family homes. The proposed rezone does not have to satisfy every land use need, or every housing need to satisfy this criterion, but rather it needs to satisfy a land use need. It is reasonable to conclude that it does so.

C. The uses permitted by the amendment are compatible with the land use development pattern in the vicinity of the request.

FINDINGS: The uses permitted in the R-2 Zone include those permitted in the R-1 zone, and duplexes, triplexes, and fourplexes. The land use pattern in the immediate vicinity of the subject is mixed. It includes single family homes, commercial uses such as self-storage, storage, offices, retail, and food service. In so much as the existing mix of uses is compatible, it is reasonable to conclude that adding additional residential dwellings will also be compatible. It is also reasonable to conclude that R-2 zoning is an appropriate transition zone for an area such as the subject property, that is located between Highway 101 commercial land uses with C-2 zoning, and neighborhood land uses to the west with R-1 zoning.

D. The land is physically suitable for the uses to be allowed in terms of slope, soils, flood hazards and other relevant considerations.

FINDINGS: The site is gently sloped, and the soils identified on the site by the USDA Soil Survey outside of the wetland areas are not particularly problematic for construction. There is buildable area outside of the flood hazard overlay area and the delineated wetland. The only specifically proposed residential development is to use the former school building as a residence, and this building is outside of the wetland and flood hazard overlay zones. There is adequate space to make reasonable use of each existing lot consistent with R-2 zoning without the need for variances. The site is vulnerable to the smallest classification of tsunami recognized in the Gearhart Zoning Ordinance; however, the ordinance provides objective standards for what uses and densities are acceptable. Residential uses at densities permitted in the R-2 zone are within the allowed densities in this tsunami hazard area. The City Public Works Director recommended a condition of approval that the applicant submit a drainage plan. A drainage plan should be made in conjunction with plans for the location of buildings, driveways, and other site components, none of which accompanied the zoning application. Therefore, a recommended condition of approval is that the applicant submit a drainage plan with the first application for subdivision, partition, or new construction.

E. Public facilities and services, including transportation systems and access, are available to accommodate the uses proposed.

FINDINGS:

Water: City of Gearhart public works staff were invited to comment on the application. Staff did not indicate that the existing water system is inadequate to serve the number of dwellings that can be permitted on the site with R-2 zoning. There is an 8-inch water main running under the property between Pacific Way and Kershul Circle. A fire hydrant is connected to this main near the northern property boundary. This infrastructure supports a conclusion that the water system is adequate to support the zoning change. However, the City needs 24-hour, unrestricted access to the hydrant and the water main to make emergency repairs and to serve the subject property and the Kershul Circle area residences

with fire protection. The City currently holds an easement granting it the right to access the water main and the hydrant. The easement does not coincide with the driveway in such a way that gives the City a clear right to use the driveway. Currently, there are gates preventing access to the main and hydrant. On one occasion, the City Fire Department could not respond to a fire alarm at the subject property due to the gates being locked. The Fire Chief and the Public Works Director recommend the City obtain the old Lincoln Avenue Right-of-way to ensure that their departments have unrestricted access to provide their services. To ensure that the City can adequately maintain its water system and provide fire protection to the subject property and the Kershul Circle area residences, a recommended condition of approval is that the applicant dedicate the Lincoln Avenue Right of Way back to the City.

Transportation: The site has expansive frontage on Pacific Way, with two driveway accesses to Pacific Way that were used to service the Gearhart Elementary School. The application makes reasonable and logical arguments estimating traffic demand and its minimal impact on the transportation system and Pacific Way, which is designated as a Collector street. Staff's proposed findings responding to GZO Article 4 and Gearhart Comprehensive Plan Transportation Policies further elaborate on these topics and the mechanisms available through the land division, access permitting, and development review processes that will be used to ensure that the future specific proposals for the site will not overburden the transportation system. It is also reasonable to conclude that the transportation system can accommodate the applicant's proposed single-family dwelling. Furthermore, staff asked to recall traffic issues at pick up and drop off times during the final years of Gearhart Elementary School's operation could not recall any.

Public Schools: The Public School District was invited to comment on the application. The superintendent responded with no concerns.

Fire and Police Services: The Police Department indicated that they are understaffed, and that any development adds more work to an already understaffed department. The comment also noted that there is an unfilled position that needs to be hired and did not indicate that the Police Department cannot accommodate the proposed development.

As previously described, the Fire Department recommended that the City acquire the Lincoln Avenue Right-of-way to ensure unrestricted access to the fire hydrant located on the subject property, which is needed to provide fire protection to the subject property and the Kershul Circle area residences. With the recommended condition of approval to dedicate the Lincoln Avenue right of way to the City, it is reasonable to conclude that the Fire Department can accommodate the proposed development.

Parks and Recreation System: City staff did not comment on the Parks and Recreation System's ability to accommodate the proposed development. Staff reviewed the recently completed Parks and Recreation System Master Plan and did not find any documented acute shortage or deficiency in the Parks and Recreation System that could be strained by the number of dwellings that may be permitted on the site under R-2 zoning.

V. COMMENTS:

Josh Como, Fire Chief of the Gearhart Fire Department:

“Per the Oregon Fire code, hydrants are supposed to be every 500FT. 400ft on a dead-end road. Kershul Cir., as well as the school property, was developed utilizing the hydrant in question. If we were to use other hydrants. they are not only further away. it will cause roads to be blocked by fire hoses on the ground and not allow arriving fire apparatus to get in where they need to. It would also potentially cause using 2 or more fire engines when only one could be needed using the correct previously in place infrastructure.

This hydrant provides water supply for Kershul Cir. as well as the school property, and the wildland area around it. not having the hydrant in question in play creates a bigger gap than the fire code allows and a bigger gap than was intended when both properties were developed. That hydrant no being there has a gap of 762FT between the closest hydrants on kershul. It also creates a gap of almost 700 ft on the school property alone.”



View of subject property from Kershul Circle, with fire hydrant beyond fence.



Locked gate at northern boundary.



Fire hydrant locations.

Josh Como, Fire Chief of the Gearhart Fire Department:

My initial concerns with the zoning change are as follows:

- The original infrastructure was built with the intention of facilitating emergency services' access through Lincoln AVE. Kershul Circle was designed and developed to enable full access to the hydrant for firefighting purposes and provide access to the south via Lincoln Avenue.
- For any residential property to have a permit of occupancy, the entirety of the Oregon fire code needs to be adopted.
- The following is the initial process that all dwellings and structures, whether newly constructed or undergoing remodeling, must comply with and maintain: o Site plan with measurements showing parking, driveway, septic, fire lanes, etc.

- o Access (24/7)
- o Water supply
- o Depending on structure size, Fire load comes into play, creating fire suppression system needs.

- More information is needed concerning the “community meeting building” as that will be a different “occupancy”.

- If the correct infrastructure is in place:
 - o The impact of 9-30 dwellings will essentially be a non-issue.
 - o The addition of residential dwellings will be a great addition to our community.

Angoleanna Brien on behalf of Leonard Brogden, City of Gearhart Building Official:

“Leonard Brogden feels that the proposal would be a good use of the property.”

Mark McFadden, City of Gearhart Public Works Director, March 20, 2023:

“Owner/developer will be responsible for all water installation costs and will need to be approved by me first. I would recommend Lincoln Ave be turned back to provide access to the houses and utilities. There will also need to be a plan for storm water runoff.”

Chad Sweet, City Manager:

The property has an 8-inch water main located under the driveway between Pacific Way and the Kershul residential neighborhood. The city requires 24-hour access to this infrastructure. Additionally, fire access to the site is required. There was an incident where the fire alarm was activated due to someone burning bacon in the current school building, but the property owner and fire department resolved the access issue.

Gated residences are not currently permitted by city code, although there are some existing uses in town. Due to the size of the structure and potential fire load, caution should be exercised in allowing limited vehicle access via a gate.

Has the property owner considered allowing the Kershul Circle neighborhood to use the driveway for access to Pacific Way instead of using 5th, Ridge Dr, and Summit Ave, as the latter two roads are not well-suited for traffic from the Kershul neighborhoods?

Jeffrey T. Bowman, Then Chief of Police, March 27, 2023:

“Public ownership is important for easy access to any of the properties being built on. Access does not have to include opening "Old Lincoln Ave." to Kershule. It would probably be better if it wasn't. Gated key paddle locks are a nuisance. Electric code opening gates is a nuisance and sometimes does not work. Gearhart has a long history of "NO" gated communities. If the old school was going to be a community center or such and the gate was open during visitor hours, no issue. but at the moment, emergency services currently have no access and have been denied access. 20-30 housing units???...cumbersome access for emergency services is not needed or warranted.”

Jeffrey T. Bowman, Then Chief of Police, March 18, 2023:

“The police department has been and still is understaffed since June 2021. The police department has 3 full-time officers (including the Chief) for 24/7 service. Since June 2021, the police department has operated with 2 full-time officers. I will be retiring April 1, 2023, leaving just Sgt. Brown. Yes, the city is actively seeking a 3rd officer position and a new Chief of Police. But we have been seeking a 3rd officer since June 2021. Any and all developments just adds more to an already understaffed police department.”

Susan Penrod, Superintendent of Seaside School District, March 27, 2023:

“Seaside School District is in support of additional affordable housing for families, as well as additional housing for employees. We do have the capacity to accommodate additional students.”

Ian Brown, City of Gearhart Policy Officer, April 12, 2023:

“My only comment would be on the fence, which is addressed in the document, for access.”

Pamela Parks, City of Gearhart Resident, April 12, 2023:

“As a resident and property owner of Gearhart, I respectfully request you deny the zone change application File #23-03.ZMA. Medium Density Residential R-2 is too large in scope. If the developer wants single dwelling residents then R-1 should fit their needs and I would encourage a traffic study to be required as well.”

V. RECOMMENDATION

Based on the Zone Change approval criteria, staff recommends the Planning Commission forward a recommendation to City Council to APPROVE a Zone Map Amendment rezoning the subject property Medium Density Residential R-2 subject to the following conditions of approval:

1. The applicant must provide to the City DEQ/Clatsop County Health approval prior to occupancy of the proposed single-family dwelling to assure there is adequate septic capacity and that the drain field location is identified and marked to avoid parking and driving across it.
2. A transportation impact analysis shall be required prior to approval of the first partitions or subdivision applied for following approval of the zone change. The City may require traffic impact analyses for other development and access approvals or subsequent partitions and subdivisions consistent with its authority in the Gearhart Zoning and Subdivision ordinances.
3. The applicant must remove fencing that is not consistent with the Gearhart Zoning Ordinance and where it obstructs vehicle access to utilities, fire hydrants, and emergency services access through the established utility easement.
4. The applicant must dedicate to the City the Lincoln Avenue Right-of-way that was vacated by the City under Ordinance #783, to ensure unrestricted fire service and utility maintenance access.
5. The Transportation System Plan identifies a "Financially Constrained and Aspirational Project" # G20 Pacific Way Improvements to add pedestrian and bicycle improvements to Pacific Way from US 101 to the Ridge Path (e.g., sidewalk or path on the north side, and pavement markings/ signage designating it as a shared street for bikes). Improvements will be required per GZO Section 4.040. A waiver of remonstrance shall be recorded on the deed to assure the owner will pay their share of the project costs in the future when the City makes the improvements.
6. The applicant shall submit a drainage/stormwater plan for the site at the time of the first subdivision, partition, or new construction application.

V. DECISION OPTIONS

A decision and recommendation to City Council must be based on adequate findings demonstrating compliance with each of the Plan/Zone Map Amendment Approval Criteria described in this report.

The Planning Commission may choose one of the following motions:

1. Move to continue the hearing to the next meeting.
2. Move to deny the zone change based on identification of adequate findings to support denial.

3. Move to approve the zone change and direct staff to forward the recommendation to City Council, subject to the Commission's conditions of approval.

