

# MACKENZIE.

## **ZONING ORDINANCE TEXT AMENDMENT**

**To**  
City of Gearhart

**For**  
Drifthaven at Gearhart

**Dated**  
November 13, 2023

**Project Number**  
2220324.00



MACKENZIE  
Since 1960

RiverEast Center | 1515 SE Water Avenue, Suite 100, Portland, OR 97214  
PO Box 14310, Portland, OR 97293 | T 503.224.9560 | [www.mcknze.com](http://www.mcknze.com)

## TABLE OF CONTENTS

<b>I.</b>	<b>PROJECT SUMMARY .....</b>	<b>1</b>
<b>II.</b>	<b>INTRODUCTION .....</b>	<b>2</b>
	Background Information .....	2
	Drifthaven at Gearhart .....	2
	Proposed Zoning Ordinance Amendment .....	4
	Public Services Impact Analysis .....	5
	Oregon Transportation Planning Rule.....	5
<b>III.</b>	<b>PROPOSED ZONING ORDINANCE TEXT AMENDMENT .....</b>	<b>6</b>
	Article 3 Listing of Outright or Conditional Uses Permitted in Residential and Commercial Zones .....	6
	Section 3.2 Medium Density Residential.....	6
<b>IV.</b>	<b>NARRATIVE &amp; COMPLIANCE.....</b>	<b>9</b>
	Statewide Planning Goals.....	9
	Goal 1, Citizen Involvement .....	9
	Goal 2, Land Use Planning.....	9
	Goal 3, Agricultural Lands.....	9
	Goal 4, Forest Lands .....	10
	Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources .....	10
	Goal 6, Air, Water and Land Resources Quality .....	10
	Goal 7, Areas Subject to Natural Disasters and Hazards.....	11
	Goal 8, Recreational Needs .....	11
	Goal 9, Economic Development .....	11
	Goal 10, Housing .....	12
	Goal 11, Public Facilities and Services .....	12
	Goal 12, Transportation .....	12
	Goal 13, Energy Conservation .....	13
	Goal 14, Urbanization.....	13
	Goal 15, Willamette River Greenway .....	13
	Goal 16, Estuarine Resources .....	13
	Goal 17, Coastal Shorelands.....	14
	Goal 18, Beaches and Dunes .....	14
	Goal 19, Ocean Resources.....	14
	Oregon Administrative Rules.....	15
	Transportation Planning Rule.....	15
	Gearhart Comprehensive Plan.....	16
	General Development Goals .....	16
	Geology and Geologic Hazards.....	18
	Flood Hazards.....	19
	Economy & Energy .....	19
	Housing.....	19
	Transportation.....	20
	Urban Growth.....	20
	Gearhart Zoning Ordinance .....	21



Article 11 Amendments.....	21
Article 13 Administrative Provisions .....	23
<b>V. CONCLUSION.....</b>	<b>24</b>

**ATTACHMENTS**

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



## **I. PROJECT SUMMARY**

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

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

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

## II. INTRODUCTION

### Background Information

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

In its current form, the Gearhart Zoning Ordinance (GZO) authorizes hotels<sup>1</sup> in the R-3 and C-2 zones upon issuance of a Conditional Use Permit (CUP) and does not authorize hotels in any other zone. The Tsunami Hazard Overlay zone prohibits hotels with more than 50 units in those areas subject to inundation from the “M” (medium) magnitude local source tsunami event, as set forth on the Tsunami Inundation Map Series (TIMs).

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

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

*SECTION 10.060 DESTRUCTION OF A NONCONFORMING STRUCTURE OR USE*

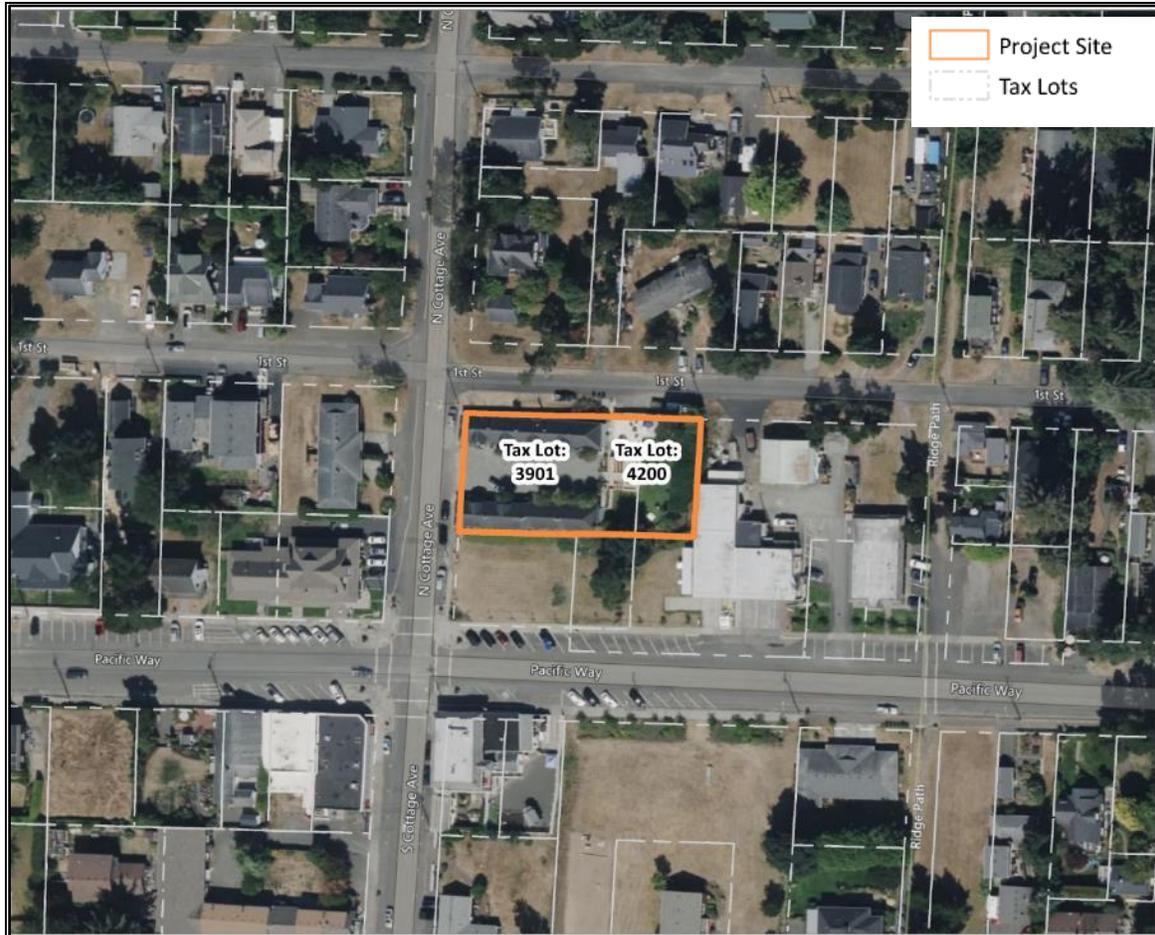
*Should the exterior framing of a nonconforming use of non-conforming portion of a structure be destroyed or dismantled to an extent of more than 40%, the structure shall not be reconstructed except in conformity with the provisions of this ordinance. In the event the destruction of the exterior framing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

### Drifthaven at Gearhart

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

---

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



**Figure 1: Aerial Photo**

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



Figure 2: Zoning Map

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

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

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

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

**Proposed Zoning Ordinance Amendment**

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

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

The proposed amendment would not change the City's rules regarding Vacation Rental Dwellings<sup>2</sup> as codified in Article 7 of the GZO. The City's list of permitted Vacation Rental Dwellings is included as Attachment 3.

### **Public Services Impact Analysis**

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

### **Oregon Transportation Planning Rule**

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

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

---

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

### III. PROPOSED ZONING ORDINANCE TEXT AMENDMENT

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

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

##### ***Section 3.2 Medium Density Residential***

###### *Section 3.210 Purpose*

*The purpose of the R-2 Medium Density Residential Zone is to provide housing consisting of a mixture of single family, multiple family house. The maximum allowable density shall be six (6) dwelling units per acre.*

###### *Section 3.220 Outright Uses Permitted*

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

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

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

###### *Section 3.230 Conditional Uses Permitted*

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

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

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

### *Section 3.235 Prohibited Uses*

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

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

### *Section 3.236 Additional Use Restrictions*

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

### *Section 3.240 R-2 Zone Standards*

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

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

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

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

#### **EXCEPTIONS TO STANDARDS**

##### **Section 3.245 General Exceptions to Lot Size Requirements**

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

##### **Section 3.250 General Exceptions to Yard Requirements**

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

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

##### **Section 3.255 General Exceptions to Building Height Limitations**

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

## IV. NARRATIVE & COMPLIANCE

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

### Statewide Planning Goals

#### ***Goal 1, Citizen Involvement***

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

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

#### ***Goal 2, Land Use Planning***

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

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

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

#### ***Goal 3, Agricultural Lands***

*Goal: To preserve and maintain agricultural lands.*

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

#### **Goal 4, Forest Lands**

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

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

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

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

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

Examination of the Drifhaven site, which is affected by the proposed Zoning Ordinance text amendment, reveals that the National Wetlands inventory map<sup>3</sup>, dated May 7, 2023, does not identify wetlands on the site. Similarly, the Statewide Wetlands inventory map does not identify wetlands on site.<sup>4</sup> Likewise, the Local Wetlands Inventory, dated October 2011, does not identify significant or non-significant wetlands groups on this property.<sup>5</sup>

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

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

#### **Goal 6, Air, Water and Land Resources Quality**

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

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

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

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

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

<sup>5</sup> City of Gearhart Local Wetlands Inventory (LWI), October 2011

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

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

### ***Goal 7, Areas Subject to Natural Disasters and Hazards***

*Goal: To protect people and property from natural hazards.*

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

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

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

### ***Goal 8, Recreational Needs***

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

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

### ***Goal 9, Economic Development***

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

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

### **Goal 10, Housing**

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

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

### **Goal 11, Public Facilities and Services**

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

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

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

### **Goal 12, Transportation**

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

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

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

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

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

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

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

**Goal 13, Energy Conservation**

*Goal: To conserve energy.*

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

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

**Goal 14, Urbanization**

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

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

**Goal 15, Willamette River Greenway**

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

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

**Goal 16, Estuarine Resources**

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

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

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

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

### **Goal 17, Coastal Shorelands**

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

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

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

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

### **Goal 18, Beaches and Dunes**

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

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

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

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

### **Goal 19, Ocean Resources**

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

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

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

## Oregon Administrative Rules

### Transportation Planning Rule

OAR 660 Division 12 – Transportation Planning

660-012-0060 Plan and Land Use Regulation Amendments

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

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

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

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

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

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

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

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

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

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

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

## **Gearhart Comprehensive Plan**

### ***General Development Goals***

#### *Residential Development Policies*

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

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

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

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

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

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

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

4. *The City will recognize the importance of the City's residential neighborhoods and the need to protect them from the negative impacts of the transient rental of property, and to discourage increased levels of traffic and similar disruptions.*

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

#### *Commercial Development Policies*

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

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

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

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

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

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

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

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

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

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

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

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

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

7. *The City will limit the number of business uses in the C-1 zone so that the zone does not become a destination for tourists.* The proposed amendment is consistent with this policy.

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

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

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

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

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

#### *Citizen Involvement Policies*

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

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

#### **Geology and Geologic Hazards**

##### *General Plan Policies*

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

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

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

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

##### *Policies Related to Reducing Development Risk in High Tsunami Risk Areas*

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

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

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

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

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

### ***Flood Hazards***

#### *Policies*

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

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

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

### ***Economy & Energy***

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

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

### ***Housing***

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

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

### *Policies*

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

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

### **Transportation**

#### *Policies*

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

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

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

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

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

### **Urban Growth**

#### *Policies*

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

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

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

**Gearhart Zoning Ordinance**

**Article 11 Amendments**

*Section 11.010 Authorization to Initiate Amendments*

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

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

*Section 11.020 Classification of Amendment Action*

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

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

*Section 11.030 Amendment Procedures*

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

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

*Section 11.040 Amendment Criteria*

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

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

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

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

This standard is met.

2. *Before an amendment to the Zoning Map is approved, findings will be made that the following standards have been satisfied:*
  - A. *The amendment shall be consistent with the Comprehensive Plan.*
  - B. *The amendment will meet a land use need.*
  - C. *The uses permitted by the amendment are compatible with the land use development pattern in the vicinity of the request.*
  - D. *The land is physically suitable for the uses to be allowed in terms of slope, soils, flood hazards and other relevant considerations.*
  - E. *Public facilities and services, including transportation systems and access, are available to accommodate the uses proposed.*

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

#### *Section 11.050 Limitation of Reapplication*

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

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

#### *Section 11.070 Consistency with Transportation System Plan*

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

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

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

### **Article 13 Administrative Provisions**

#### *Section 13.010 Types of Land Use Decisions*

##### *Classification of Application Types:*

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

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

#### *Section 13.050 Public Hearing Procedure and Requirements*

3. *Burden and Nature of Proof*

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

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

## **V. CONCLUSION**

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