

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

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

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

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

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

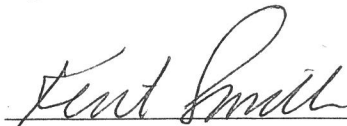
WHEREAS, on November 7, 2011 the City Council of the City of Gearhart received the Gearhart Planning Commission's recommendations on this request and held a public hearing on December 7, 2011 and unanimously finds that this ordinance complies with the applicable criteria including the Post Acknowledgement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

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

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

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

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

  
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Mayor Kent Smith

4 Jan 12  
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Date

**I. APPLICATION INFORMATION:**

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

**II. APPLICABLE CRITERIA:**

Gearhart Comprehensive Plan  
Gearhart Land Use and Zoning Map

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

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

Gearhart NFIP FIRM and FIS

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

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

### **III. CITY PLANNER RECOMMENDATION: APPROVAL WITH CONDITIONS**

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

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

### **IV. SUMMARY OF CITY PLANNER RECOMMENDED FINDINGS OF FACT:**

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

#### Consistent with the Comprehensive Plan:

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

#### Public Need:

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

#### The Proposed Action best meets the public need:

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

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

**V. CITY PLANNER RECOMMENDED FINDINGS OF FACT:**

Parks and Open Space Zone

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

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

Article 10 Amendments

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

**CONSISTENT WITH THE POLICIES OF THE COMPREHENSIVE PLAN:**

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

General Development Goals

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

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

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

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

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

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

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

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

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

Recreation (LCDC Goal 8)

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

Economy and Energy (LCDC Goal 9 and LCDC 13)

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

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

Housing (LCDC Goal 10)

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

Public Facilities and Services (LCDC Goal 11)

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

Transportation (LCDC Goal 12)

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

Urban Growth (LCDC Goal 14)

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

Necanicum Estuary (LCDC Goals 16 & 17)

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



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

Coastal Shorelands (LCDC Goal 17)

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

Beaches and Dunes (LCDC Goal 18)

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

Ocean Resources (LCDC Goal 19)

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

**PUBLIC NEED FOR THE PROPOSED AMENDMENT:**

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

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

Article 11 Administrative Provisions

Findings of Fact:

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

#### OREGON STATEWIDE PLANNING GOALS

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

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

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

Chapter 197 Comprehensive Land Use Planning Coordination

Chapter 227 City Planning and Zoning

#### Findings of Fact:

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