



# CITY OF GEARHART

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June 15, 2017

## PUBLIC NOTICE

Notice is hereby given that the Gearhart City Council will hold a public hearing on July 5, 2017 at 7:00 p.m., Gearhart City Hall, 698 Pacific Way, Gearhart, Oregon on the following matter:

This hearing concerns reconsideration of the Appeal submitted by Terry Lowenberg appealing the decision of the Planning Commission denying a revision to their approval of Conditional Use File #16-001CU in order to install five video poker machines inside a separated area of the neighborhood café, not included in the original plans filed with the Conditional Use Permit. The building is located at 599 Pacific Way, further described as Assessors Plat 6 10 9AA, Tax Lot 6200. On April 5, 2017, the Gearhart City Council held an appeal hearing on the record, and affirmed the Planning Commission's decision to deny the revision to their approval of Conditional Use File #16-001CU. On May 4, 2017, Mr. Lowenberg appealed that decision to the Oregon Land Use Board of Appeals (LUBA). On May 25, 2017, the City filed a notice of withdrawal for reconsideration with LUBA. LUBA has ordered that a decision on reconsideration be filed with LUBA within 90 days of May 25, 2017.

The hearing is being held pursuant to OAR 661-010-0021, ORS 197.813 and Gearhart Zoning Ordinance (GZO) 13.060. Said hearing will consist of a Review on the Record, with the additional admission of oral or written evidence and testimony from people with "standing", as defined below, relating specifically to the issue of state law preemption of local government regulations as they related to the Oregon Lottery and video poker machines. The City Council review is in accordance with GZO 13.060(5) and (6). The application must comply with GZO Section 1.030 (122) Neighborhood Café definition; Section 3.4 C-1 Zone Standards; Article 8 Section 8.040 – 8.110 Conditional Uses including Specific Use Standards (5) Neighborhood Café Approval Criteria and Article 13 Administrative Provisions.

A copy of the application, documents and evidence relied upon by the applicant, the applicable criteria pertinent to the request, the record of the Planning Commission's decision and the record of the City Council's April 5, 2017 hearing on appeal are available for review at Gearhart City Hall at the office of Chad Sweet, 503-738-5501 and at the City of Gearhart website at [www.cityofgearhart.com](http://www.cityofgearhart.com). Copies may be obtained at a reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing, and copies may be obtained at a reasonable cost.

The public hearing will be conducted in accordance with GZO Section 13.030-.060, as further described above in this notice. Only persons who appeared, by testifying at, and/or by submitting written testimony for the January 12, 2017 hearing have "standing" to submit oral

and/or written testimony at the July 5, 2017 hearing. Those individuals may restate their oral testimony consistent with previous argument, and may introduce new oral or written evidence, or testimony, if it is specifically limited to the specifically to the issue of state law preemption of local government regulations as they related to the Oregon Lottery and video poker machines. Persons having standing on January 12, 2017 may appeal to LUBA by filing a notice of intent to appeal the decision on reconsideration, pursuant to OAR 661-010-0021. In raising an issue, the relevant criteria to which the issue is directed must be specified. Failure to do so will preclude appeal on the criterion.

15/ Chad Sweet

Chad Sweet  
City Administrator  
City of Gearhart

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