

NOVEMBER 19, 2020

PUBLIC HEARING TO CONSIDER AMENDING THE C-1 NEIGHBORHOOD COMMERCIAL ZONE BY ADDING NEW OUTRIGHT PERMITTED USES, NEW CONDITIONAL USES, NEW PROHIBITED USES.

The teleconference public hearing was called to order at 6:06 pm by Mayor Matt Brown. Present were Councilor Cockrum, Councilor Fackerell, Councilor Jesse, Councilor Smith, Mayor Brown, City Attorney Peter Watts, City Administrator Chad Sweet and City Planner Carole Connell.

Mayor Brown opened the public hearing to consider file #19-003ZTA amending Article 3 Section 3.4: C-1 Neighborhood Commercial Zone of the Gearhart Zoning Ordinance. Brown noted those that wanted to testify would need to sign up by sending an email to Chad Sweet. Brown read the hearing procedures into the record. And on behalf of Watts presented the legal matters noting criteria that must be addressed are Gearhart Zone Code Article 11 Amendment Criteria, and in the City Staff Report. He asked if any member of the audience wish to challenge the jurisdiction of the City Council to hear this matter. None was declared.

STAFF PRESENTATIONS

Attorney Peter Watts, reviewed the timeline for the C1 zone amendments when the council first tasked the commission to begin the review approximately 2 years ago, noting some of the language was outdated and the need to strive for clear and objective language so people reading the code could understand the intent and what kind of businesses were allowed. During the pandemic, some business got creative and have identified business that are in the purview of the C1 zone with benefits to the neighborhood and community although not specifically allowed under the current code. Staff walked the C1 zone to determine feasibility of some of the suggestions. Watts said the C1 zone is incredibly restrictive aimed to serve the community and not attract tourists. If there is a desire to see types of businesses in other communities it would first require a Comprehensive Plan amendment followed by text amendments to the zoning code. Staff felt the proposed amendments presented by the commission are within the allowable range of the Comprehensive Plan. There has been a lot of misinformation in the process if there is an existing but nonconforming use the proposed amendments would in no way limit that preexisting nonconforming use. The changes would add flexibility and would provide clear and objective standards so a business would know exactly what they could do, they are

not taking away anything for anyone. There are some creative things that have occurred during the pandemic. There won't be any risk of enforcement if the amendments are passed, however if the council decides not to do anything Sweet will need to put on his enforcement role and follow up on complaints that have been lodged by businesses against businesses.

Connell reviewed the staff report noting the C1 zone is very small and well defined. She further addressed the amount of citizen involvement noting two correspondence received today entering the following correspondence into the record:

From Jean Dahlquist, Fair Housing Council of Oregon – said the board reviewed the findings and thought there was a fantastic improvement with regards to housing.

From Brian and Joy Sigler, property/business owner 726 Pacific Way – advocate that all consideration and action regarding any C1 changes be suspended; citing lack of DATA, Zoom technology not available to all and inefficient.

Connell noted the commission also serves as the citizen involvement for the city. She reviewed the proposed modern language improvements noting all plan policies stay in place with the goal of protecting residential uses and not becoming a tourist community and at the same time helping the existing businesses. Connell went on to review Exhibit A, the specific amendments to the commercial zone.

PUBLIC TESTIMONY

Traci Williams, P O Box 2337, Gearhart - she read the definition of *soda fountain* noting that is how she primarily operates her business, other things have been added to fill in the space during the pandemic. She asked how the city is going to enforce words like *primary* and *primarily* and *food vs ice cream*. Currently she looks like the definition of Neighborhood Market but after pandemic she would like to return to her primary business model which is ice cream and wine, and she is licensed for. With the proposed changes under the direction of Watts she would be a preexisting nonconforming use which is not comforting to her. She asks the council reconsider dropping the definition of *soda fountain*. She said if the definition is eliminated and something should happen to her building there would never be the chance for another cute ice cream parlor and asks if the city wants and ice cream parlor going forward?

STAFF COMMENTS OR CLARIFICATION

Watts felt retaining the definition does not get Williams to where she needs to be because the definition specifies nonalcoholic drinks, with the addition of other products she would not be able to operate under the former definition. The council could add the word ice cream, but he does not feel that it is necessary. The definition of Neighborhood Grocery Market opens flexibility for the addition of products and still being in compliance with the code.

Connell added it might be a matter of words, per the new definition Traci is not *primarily selling food and sundries* and she is not necessarily a market. Discussion followed on possibly changed the word *primarily* or adding the word *shop* while still keeping the use in the new code.

The public hearing portion was closed at 7:14 pm.

Discussion followed on inclusion of hard alcohol, clarification of eating area vs seating area, residential use for long term owner occupied or employee, validation of soda fountain by definition.

The changes to Exhibit A were confirmed to 1) take out the word *primarily* in the first line, 2) take out the word *alcohol* in the fifth line, 3) add the word *shop* after ice cream in the third line, 4) change the word *eating* to *seating*, and 5) correct the word *prepare* to *prepared*.

On **MOTION** by Cockrum, 2nd by Fackerell, in relation to city file #19-003ZTA neighborhood commercial C1 zone legislative amendments and based on findings in the report and as amended by the council at the November 19, 2020 meeting a motion was made to approve the amendments and direct city staff to prepare and ordinance amending the neighborhood commercial C1 zone for review and first reading at the December 2, 2020 council meeting. Motion passes 4-0 Jessie connection dropped.

On **MOTION** by Smith, 2nd by Cockrum, by unanimous motion the previous vote was reconsidered to allow additional discussion.

Discussion continued on the lack of allowable sale for sports type products specifically useful in our community, outright vs conditional use of variety store and neighborhood café,

On **MOTION** by Cockrum, 2nd by Smith, in relation to city file #19-003ZTA neighborhood commercial C1 zone legislative amendments and based on findings in the report and as amended by the council at the November 19, 2020 meeting a motion was made to approve the amendments and direct city staff to

prepare and ordinance amending the neighborhood commercial C1 zone for review and first reading at the December 2, 2020 council meeting. Motion passes 4-1 Jessie--nay.

The public hearing was closed at 8:00 pm.

A handwritten signature in cursive script, appearing to read "Paulina Cockrum", written over a horizontal line.

Mayor Paulina Cockrum

A handwritten signature in cursive script, appearing to read "Chad Sweet", written over a horizontal line.

Chad Sweet, City Administrator