

CITY OF GEARHART
Regular Meeting of the City Council
Wednesday, December 7, 2022
6:00 pm On-site and Virtual/Telephonic

The public hearing and regular meeting of the Gearhart City Council was held Wednesday, December 7, 2022. Council members, City staff and the public were able to attend on-site, virtually, or by dialing in on a telephone.

Mayor Smith called the meeting to order at 6:00 pm. Present were Mayor Kerry Smith, Councilor Reita Fackerell, Councilor Dana Gould, Councilor Austin Tomlinson, Councilor Preston Devereaux, City Administrator Chad Sweet, City Attorney Peter Watts, Police Chief Jeff Bowman, Fire Chief Josh Como, Executive Assistant Krysti Ficker, Building/Planning Assistant Angoleana Brien, and City Treasurer Justine Hill. A quorum of the Council was present.

Mayor Smith requested that Administrator Sweet go through the regulatory process for the new Council member's Oath to Office. Administrator Sweet explained that because the official results from the election have been certified, the elected Councilors can be sworn in. Preston Devereaux (position 3) and Dana Gould (position 1) both acknowledged their commitment to being City Councilors and accepted the Oath of Office.

Mayor Smith opened the public hearing for a zone change amendment by reading the Hearing Disclosure Statement at 6:05 pm. There were no conflicts of interest declared by any member of the Council. After hearing no challenges to the Council's ability to make an impartial decision by the audience, Mayor Smith had Administrator Sweet go over the zone change amendment information, which was a staff report that had been prepared by Carole Connell, City Planner. Administrator Sweet noted the property is owned by Paul Falby & Bill Noble, the applicant is Mike Morgan, and the properties are located at 1777 Pine Ridge Drive and 1837 Pine Ridge Drive. He discussed highlights in Carole Connell's staff report.

- Site Analysis and Gearhart Zoning Ordinance provisions were done by city staff (page 4-5). Section C, GZO Section 3.1 R-1 Zone was discussed; as well as the applicant's desire to build an estimated eight more units in the future. Section D, GZO Section 3.3 High Density Residential Zone was discussed; as well as the findings approved at a public hearing by the Planning Commission.
- Section E, GZO Section 6.330 Traffic Impact Analysis and GZO Section 6.400 Transportation Improvements were discussed (page 5-6). Administrator Sweet stated that in the R-3 zone the 3.07 acre site permits a (net) density of 16 d.u.'s per acre for a total of 42 dwelling units allowed on the site. He also went over the GZO Tsunami Hazard Overlay Zone limits. He mentioned the TSP; street designs; the ability to waive improvement requirements on the adjoining Gearhart Lane

frontage; the new construction should be conditioned by the decision to make the applicable Shared-Use Path improvements to the north side of Gearhart Lane adjoining the site; and, the applicant's site specific wetlands survey by Robert Bogar. (pages 6-7).

- Section III, Article 11 Amendments - Approval Criteria was discussed. As per the Planning Commission's recommendation, each of the following Zone Map Amendments would need to be in compliance: the amendment shall be consistent with the Comprehensive Plan; the amendments will meet a land use need; the uses permitted by the amendment are compatible with the land use development pattern in the vicinity of the request; the land is physically suitable for the uses to be allowed in terms of slope, soils, flood hazards, and other related considerations; and, public facilities and services, including transportation systems and access, are available to accommodate the uses proposed (page 7-8).
- It was mentioned that the City Manager may waive the requirements, collect a fee-in-lieu of or require the owner to sign a waiver of remonstrance agreement to participate in further improvements to Gearhart Lane and that the TSP projects adjoining the site will address above transportation policies to improve safety for walking, biking, and tsunami evacuation (page 14).
- Section IV Summary and Recommendation and Section V Decision Options were discussed (page 15-16). Administrator Sweet read the summary of issues, which included the Planning Commission choosing the more restrictive density requirement for R-3; prohibiting tourist accommodations; deferring required street improvements, and requiring an updated wetland delineation if the owner decides to construct additional units in the future.
- Administrator Sweet mentioned that there was late correspondence (Cockrum) and one letter that was in the Council packet (Johnson) regarding the application.

The applicant was invited to present to the City Council. Mike Morgan (PO Box 132, Cannon Beach), consulting planner and representative for the property owners, talked about the four recommendations provided by the Planning Commission. He went over the history of the zoning on the property locations, the non-conforming usage, and unusual Gearhart codes. He stressed it was important to the property owners to be able to be in a conforming status so that they would be more protected from fire damage issues. The property owners would like a site density of 30 dwelling units. William (Bill) Noble (577 14th, Astoria) wants to improve the property, but it currently does not meet fire requirements. He is interested in making the property a legacy to pass on to his family. He has no intention of building short-term rentals. He wants to keep rent affordable and provide housing for local residents (e.g., fire, post office, service jobs).

Mayor Smith asked if there were any proponents, which there were none.

Mayor Smith asked if there were any opponents, which there were none.

Mayor Smith asked if there were any neutral comments, which there were none.

Since there were no comments, Mayor Smith stated that there was no need for the applicant's rebuttal; however, Councilor Gould requested that the applicant be allowed to comment on correspondence that had been submitted, which was granted. Mike Morgan reiterated that there is no intent for cocktail lounges or other businesses. The need is for affordable housing. He does not feel that a deed restriction is necessary. He also feels that the bottleneck at the entry point will be alleviated when additional units are added. The cost of a parking structure is prohibitive.

Mayor Smith asked for Councilor questions, Attorney Watts clarified that both applicant and staff can have questions during the public hearing.

- Councilor Gould requested clarification on the zoning in regards to one versus two property lots and how that impacts calculations and future sales of the properties. Administrator Sweet responded that the properties would be required to become one property tax lot instead of two.
- Councilor Gould likes the project, appreciates the rent amounts, and the tenant's longevity; however, as a Councilor, she has to analyze the project through the lens of the project's impact on the City. The Comprehensive Plan is essential and dictates zoning uses. She does feel that the affordable housing factor is critical. She asked whether the R-2 zoning would accommodate the applicant's proposal. There was discussion on sewer, issues with overcrowding, and the plan for rebuilding the units. Administrator Sweet said that he did not feel that the R-2 would give enough density for the property owners' ultimate goal.
- Councilor Gould stressed looking at the Comprehensive Plan and looking to the future to help ensure affordable housing. Attorney Watts provided clarification on terminology when referencing the definition of affordable housing. Under Goal 10 of Oregon land use, housing affordability references serving people at a variety of incomes and housing levels. He believes that Councilor Gould is referencing "natural occurring" affordable housing. These units have naturally aged themselves into affordable rents compared to newly remodeled/constructed standards. He referenced lack of affordable workforce housing on the North coast, zoning after an annexation, no apparatus to allow rent caps on the applicant's rental agreements, the Nollan and Dolan test, grant opportunities, and the developers need to be able to recoup costs. He reiterated the difference between the terminology of affordable housing and housing affordability.
- Councilor Gould also asked for clarification on the fence removal on the southside that was referenced in the report. Bill Noble clarified their plan regarding certain access areas, septic locations, hydrants, and bringing property to code. Councilor Gould does not want vehicle parking issues to flow out onto Gearhart Loop and was interested in what was going to be done to proactively address this concern (e.g., signs, fire lane). Administrator Sweet explained that the fire department

does participate in a design review process and until the actual design is submitted, the City will not be able to make recommendations. Building/Planner Assistant Brien stated that there are specific State codes on parking requirements for dwelling units, which the property owners will be required to abide by. The applicant confirmed that there should be no parking at all on Gearhart Loop. There was continued discussion on the parking, access points, safety concerns, and egress.

Mayor Smith closed the public hearing for a zone change amendment at 6:50 pm and transitioned to the regular meeting of the City Council.

There were no conflicts of interest declared by any member of the Council.

Approve Minutes.

- ON MOTION by Councilor Fackerell, 2nd by Councilor Tomlinson to approve the minutes of the November 2, 2022 regular meeting of the City Council, MOTION was approved 4 yeas (Fackerell, Gould, Smith, Tomlinson) - 0 nays.
- ON MOTION by Councilor Gould, 2nd by Councilor Tomlinson to approve the minutes with corrections of the November 29, 2022 worksession of the City Council. There was discussion on the proposed correction, which was on page 4 regarding discussion on listening devices being used. ON MOTION by Councilor Gould, 2nd by Councilor Fackerell to approve the minutes with corrections, MOTION was approved 4 yeas (Fackerell, Gould, Smith, Tomlinson) - 0 nays.

The Council received a Planning Commission report in their council packet prepared by Virginia Dideum. There were no questions by Council members.

Mayor's Report. Mayor Smith walked the dunes with Councilor Tomlinson, Administrator Sweet, and Robert Stineman (Young River Trees). The purpose was to discuss a request for a permit to mow scotch broom and pruning trees. He would like to have continued discussion on this type of permit, work, and timelines at a future worksession. Mayor Smith attended a ten hour LOC Elected Essentials workshop. He met with Lindsay Huddleston and other members of Council to discuss State Revenue Share. He attended a New Mayors Workshop, hosted by the Oregon Mayors Association and LOC.

Councilor's Reports. Mayor Smith opened discussion for each Council member's report.

- Councilor Gould also attended a LOC Elected Essentials meeting. She attended a LOC workshop on addressing homelessness in Cities, which she felt was informational. Councilor Gould also talked about a collaborative effort with LOC, the Oregon Mayors Association, and 241 Cities to encourage direct allocation funding from the State for Cities to use for homeless response and prevention

services. She explained that there are a variety of options available for preventative services. There is also the possibility of redirecting City allocations to support other agencies in providing homeless services. She mentioned that there is also a separate component to the effort, which is a budget package that provides capital improvement funding. The City would again have to make choices and manage the projects.

- Councilor Fackerell had no new information to report.
- Councilor Tomlinson also walked the dunes with Mayor Smith, Administrator Sweet, and Robert Stineman. It was cold and wet, but there were good conversations.
- Councilor Devereaux had no new information to report since this was his first official meeting as a Councilor.

City Officer Reports.

- Chief of Police. Police Chief Bowman's statistical report was distributed to the Council members.
- Fire Chief. Fire Chief Como gave a November data report, including a call breakdown, mutual aid given, and local wildfire support. The fire department is still 45 calls ahead of last year.
- City Treasurer. Financial reports were submitted in the Councilors' packets. Treasurer Hill talked about November property tax collections, reclassification of building revenue and expenditure accounts, annual auditors report, and the Paid Leave Oregon program.
- City Attorney. Attorney Watts received notice from Mitch Cogen that there may be potential litigation between his clients and the City. The City's liability insurance company (CIS) has been notified because they usually represent municipal litigations. He also received notification to preserve and maintain documents relating to City business. He mentioned that all City parties should be extra vigilant about preserving documents. Attorney Watts indicated there were no new updates on the US Bank/Shannon Smith case. He was happy to report that the census data used to calculate State Revenue Share funds has been updated, which should be a financial gain to the City. Although there has been discussion and awareness, he does not believe there will be any retroactive adjustments to revenue share distributions due to the misrepresentation of census data.
- City Administrator. Administrator Sweet's report was sent to the Councilors in their packets. He mentioned receiving notice of the potential litigation referenced by Attorney Watts. He talked about exploring software upgrades, which include financial, water, and building code. The building code software is with the State and plans to be implemented in February. He hopes it will streamline the process and help with communication. Administrator Sweet mentioned the Mancill willow tree issue, which the County has completed and closed. At this time, he is not recommending any changes to City regulations regarding the issue. The issue may become a civil suit between property owners. He talked about the new security doors and cameras at City Hall; memorial park bench opportunities; the playground; and a reminder about the next worksession.

Visitors. Councilor Fackerell introduced two students from the Seaside High School Students' Future Business Leaders of America (FBLA) program who are requesting to create a children's library in Gearhart through a new book nook. Leah Boles and Sara Brown presented details on the proposed plan. They went over locations, partners, book drives, specifications, timelines, and maintenance. Their goal is to have a self-sustaining program where people take a book, as well as leave a book. Councilor Devereaux made a suggestion about using gravel around the posts instead of concrete. There was continued discussion on City contact information, public works assistance with placement, and meeting the timeline expectations. Administrator Sweet also clarified that any type of usage within the park space has to go through the Planning Commission process if the book nook will be placed in the park. There was follow-up discussion on placement at Trails End Art Association, City Hall, or the Fire Station. Councilor Gould felt it was important to have the book nook at the park where it can provide an extension of a learning experience. Councilor Fackerell agreed and requested that the motion clarify the location.

- ON MOTION by Councilor Gould, 2nd by Councilor Tomlinson to approve the FBLA's placement of a book nook near the children's playground at Centennial Park, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Smith, Tomlinson) - 0 nays.

Wally Hamer (312 Spruce St) talked about the North Coast Pickleball Association request for improving Gearhart tennis and pickleball courts. Mr. Hamer was very appreciative of the City and Council for providing a space for local pickleball players. Administrator Sweet read the staff report synopsis. There was discussion regarding the Oregon Parks and Recreation Grant (OPRD) program, which would allow the City to request grant funding to support recreation on public facilities. The current status of the courts were discussed and the goal would be to resurface, paint new lines, and have two more pickleball courts. Mr. Hamer stressed the importance of maintaining a dedicated tennis court while providing additional courts for pickleball players. He went over some of the beneficial factors of pickleball (e.g., highly social activity, supports variety of ages, interactive, heart health). Councilor Tomlinson mentioned that applying for the grant may open up opportunities for other identified projects in the Parks Master Plan. Councilor Gould asked clarifying questions on fence layout and the potential of having priority access to local Gearhart residents. Mr. Hamer provided clarification on the fencing.

- There was consensus by all City Council members for City staff to participate in creating a proposal to submit for the OPRD grant to improve the tennis and pickleball courts, which may also include other Parks Master Plan opportunities (Devereaux, Fackerell, Gould, Smith, Tomlinson).

Public Communications - Written & Oral. Mayor Smith read the oral public comment statement on the agenda. Written correspondence was submitted by Johnson, OLCC, Thies, Edwards, Voelke NCLC, Alkitkat

PSU, Cockrum, Krevanko Clatsop County, and Helping Hands. There was no request for oral communication.

Ordinances/Resolutions. None.

Old Business. None.

New Business.

Planning Commission Appointments. Administrator Sweet went over the staff report.

- ON MOTION by Mayor Smith, 2nd by Councilor Fackerell to approve the appointment of Virginia Dideum and Judy Schector to fill the two planning commission seats, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Smith, Tomlinson) - 0 nays.

Zone Change Amendment. Administrator Sweet went over his staff report, which included a staff report prepared by Carole Connell (City Planner), and read the recommended motions. There was discussion on Cockrum's correspondence, deed restriction requirements, restricting R-3 to housing only, and short-term rental restrictions.

- ON MOTION by Councilor Gould, 2nd by Councilor Tomlinson to approve the zone map amendment subject to the recommended conditions of approval by the Planning Commission with the additional restriction on the property to only allow residential usage in the R-3 zone; and, direct staff to prepare an ordinance for adoption at the next City Council meeting, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Smith, Tomlinson) - 0 nays.

Low-Income Household Water Assistance Program. Administrator Sweet went over the staff report. Attorney Watts provided additional comments and mentioned reporting requirements.

- There was consensus by all City Council members to enter into the required vendor contract with the Community Action Team in order to provide assistance to low-income families with water bills (Devereaux, Fackerell, Gould, Smith, Tomlinson).

Water Rate Study. Administrator Sweet went over the staff report, which noted that completing this study also meets one of the required five-year benchmarks within the Water Management and Conservation Plan. Treasurer Hill mentioned that the study was to analyze water rates data and that the Council would have no obligation to increase rates if that was the recommendation.

- ON MOTION by Councilor Devereaux, 2nd by Councilor Tomlinson to approve up to \$20,000 in water reserves to enter into an agreement with a third-party to complete a study

of Gearhart water rates, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Smith, Tomlinson) - 0 nays.

Council Concerns.

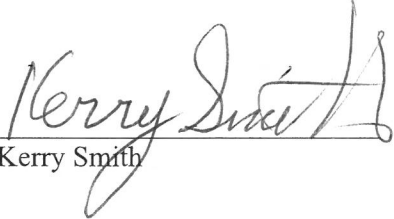
- Mayor Smith did not have any concerns; however, he did want to acknowledge December 7, the Day of Infamy, and thank the veterans for their service.
- Councilor Fackerell reported no concerns.
- Councilor Tomlinson reported no concerns.
- Councilor Devereaux reported no concerns.
- Councilor Gould reported no concerns.

Mayor Smith requested adjournment.

- ON MOTION by Councilor Tomlinson, 2nd by Councilor Gould to adjourn the meeting, MOTION was approved 5 yeas (Devereaux, Fackerell, Gould, Smith, Tomlinson) - 0 nays. Mayor Smith adjourned the regular Council meeting at 8:16 pm.



Chad Sweet, City Administrator



Mayor Kerry Smith