



# CITY OF GEARHART

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October 8, 2020

**MEMBERS:** Carl Anderson, Virginia Dideum, Stephanie Dudley, Terry Graff, Russ Taggard, and David Smith.

**STAFF:** Carole Connell, Chad Sweet, Peter Watts.

## Minutes

The regular meeting of the Gearhart Planning Commission for October 8, 2020 was called to order at 6:00 pm by President Virginia Dideum.

### CONSENT AGENDA

On **MOTION** by Anderson, 2<sup>nd</sup> by Dudley, the consent agenda was unanimously approved, approving the minutes of August 13, 2020 and the financial reports of August 27 and October 2, 2020.

On **MOTION** by Taggard, 2<sup>nd</sup> by Smith, by unanimous motion Tomlinson was granted an excused absence from the October 8, 2020 commission meeting.

### STAFF REPORT

Connell reported on the buildable lands inventory. Following the Clatsop County Housing study from last winter there were questions about the amount of land available for future building, staff and builders worked together to provide more accurate information for future planning. Angelo Planning Group was hired to update the report. With consideration of all the building restraints the 20-year available building sites dropped from 701 to 381. The new number will be the city basis for housing inventory count. An issue with the number is the required use of Portland State University population projection (slow growth) which does not reflect the actual number of annual building permits issued by the city.

Sweet reported on:

Budget – revenue loss – not as much as anticipated with Covid19 and vacation rentals. Expenses - are up because of wildfires, but the fire fighters will be paid for fire work in California and Oregon. The city will be fully reimbursed by both states for the fire fighters and the truck. Currently Gearhart has one crew of fire fighters in California.

Oregon Solutions – regarding elk. Following a work session there are lots of recommendations and cooperative agreements yet to come.

Ridge Path – Duncan’s Crossing is all laid out, the dig is done, and concrete should be ready to pour next week. After that there will be a blog request for volunteers to help build the raised walkway. Steve Urman and Russ Taggard have been invaluable in moving the project along.

Great Oregon Shake Out – on 10/15 at 10:15 there will be a simulated earthquake and evacuation. Event will be supported by the CERT Team and Fire Department, practice going to your evacuation zone.

Emergency Cache container program – staff has applied for over \$200,000 in grants this year for emergency preparedness. 2 cache containers are located at the water treatment plant. October 17<sup>th</sup> is the next opportunity to buy a 30-gallon drum for \$70 with an annual rental fee of \$40. Drums will be stored out of the tsunami inundation zone and available a few days after an event.

Parks Master Plan – moving forward, next committee meeting October 21<sup>st</sup>.

Small Business Committee – appointed by the Mayor to begin meeting soon.

#### COMMISSIONERS REPORTS

None

#### GOALS LIST

No changes

#### VISITORS COMMENTS

None

#### PUBLIC HEARING - C1 Zone Text Amendments #19-003ZTA

Dideum called the public hearing to order at 6:12 pm and read the disclosure statement into the record. She asked if there was any conflict of interest or personal bias from any of the commissioners. None was declared.

Dideum asked if there was any audience challenge to the commission being able to make an impartial decision. None was declared.

#### STAFF REPORT

Attorney Peter Watts – the city has received a lot of correspondence and questions regarding the proposed amendments and wanted to clarify the city code. If a use is listed as an allowed use it is allowed, if it is a conditional use it can happen and if not listed it’s not allowed. The proposals are expansions of allowable uses in the zone. With regards to code enforcement, enforcement is generated

under 2 circumstances – if there is a building permit issued inspections occur, and with short term rentals and change-in-use properties were automatically given health and safety inspections. For any other code enforcement, the city requires a formal written complaint be filed. The reason is to avoid any appearance of selective enforcement. For any formal written complaint there is an investigation. Watts noted he has never seen a more restrictive C1 zone than in the City of Gearhart. The Comprehensive Plan goal is to protect the residential character and not attract outside tourists but provide amenities for the local residences. In addition to the comp plan when making amendments the city must comply with the requirements of the American Disabilities Act, Federal and State law.

Connell reviewed the staff report noting the C1 zone (neighborhood commercial) is very tiny, approximately 2 acres with 13 parcels and several vacancies. In 2018 the commission felt the need to address the downtown vacancies and modernize some of the downtown uses, allowing for more options, the ability to increase business revenue and encourage successful and vibrant business. In the age of COVID businesses have been inventive to make businesses vital, the commission is attempting to make the currently illegal activities legal while maintain the neighborhood character of Gearhart. Connell noted criteria for new text amendment are 1) compliance with the compressive plan and 2) demonstration of need. Connell reported receiving a letter from the Fair Housing Council suggesting the commission expand on how the amendments effect the housing goal. The new amendments would allow for and legalize onsite residential units not to exceed 50% of a structure.

Correspondence was entered into the record from:

Joy Sigler, P O Box 2443, Gearhart – request the hearing be postponed.

Traci Williams, P O Box 2337, Gearhart – requested all documents, criteria and staff reports, raising issues about the proposed changes.

Stuart Emmons, 107 Kensington Ave., Astoria – the proposed amendments are exactly the opposite of what should be done to bring more life into downtown, a government overreach, urge the city to delay the October 8 vote on the amendments.

Ann Samuelson, 3348 Hwy 101 N Suite B, Gearhart – due to the pandemic suggests moving slowly and thoughtfully.

Matt Brown to Stuart Emmons – clarified the proposed amendments are minor changes allowing businesses to have more revenue options and be more successful.

Valerie Rich, 4933 Lakeview Blvd, Lake Oswego – urges city government to support small businesses.

Jill & Tony Garvey, 1125 NW 12<sup>th</sup> Ave, #301, Portland – proposed amendments will add major impediments to future business and make it harder for existing businesses.

Alix Goodman, 1910 SW Montgomery Dr, Portland – believes minor language updates are too restrictive, impeding future businesses and making it harder for existing ones.

Kathleen Callison, 802 Irving Street SW, Tumwater, WA – representing Joy Sigler and Traci Williams opposing the proposed amendments.

Margaret Marino, P O Box 2353, Gearhart – request the planning commission re-evaluate the proposed amendments to include the reality of Covid-19.

Jamie Gaylord, 6250 SW Old Scholls Ferry Rd, Portland, - proposed zoning changes will further drive relevant business away and harm the few existing businesses.

Garvey/ Goodman (10/6/2020) – submitted several C1 draft amendments will suggested edits.

Susan Thomas, P O Box 2546, Gearhart – the additional limitations will prevent businesses from surviving in downtown.

Joy & Brian Sigler (10/6/2020) – proposed changes hasten the demise of downtown, attempt to control the amount of footage dedicated to commercial use in a residential structure.

Bob Morey, P O Box 2759, Gearhart – requests the commission delay making a recommendation to the City Council to hold conversations on the needs of residents and the future of downtown.

Kat Schultz, 12779 Fielding Road, Lake Oswego – proposed amendments do not support existing retail or attract new retail or bring balance back to the goal of providing neighborhood retail.

Arlene & Mitch Cogan, 117 Ridge Dr, Gearhart – do not change zoning in Gearhart, zoning should remain the same during Covid.

Tom Cade, 22905 7<sup>th</sup> Ave SE, Bothell, Washington – counter-intuitive to impose more restrictions upon towns business owners at this time.

Lori & Bob Breslauer, P O Box 2352, Gearhart – now codes seem very restrictive and not business owner friendly.

Jeff Robertson, 714 F Street, Gearhart – the zone changes appear to be overboard rather than allowing the city to grow and change while retaining its character.

Rosanna Bowles 4319 NE 43<sup>rd</sup> St, Seattle, Washington – the minor language updates are highly restrictive, impeding future businesses and making it harder for existing ones.

Fair Housing Council – defer approval until adequate goal 10 findings can be made and evaluated.

Testimony was open to proponents.  
There were no proponents.

Testimony was open to opponents.

Terry Lowenberg, 3457 Hwy 101 N, Gearhart – asked about gambling being a prohibited use. Appears commission might be trying to get rid of gambling, commission has done an unjust thing to the community and to now bring alcohol in because you forced businesses out, commission did not want alcohol because it was going to cause trouble, businesses have closed because they cannot support themselves and now you want to bring in alcohol and kick out gambling. A few months into gambling at The Crossing commissioner Dideum came in and was not able to find the gambling so he believes it has not caused any problems whatsoever. He is strongly opposed to getting rid of gambling and you now want alcohol because businesses have closed down. Businesses closed down because they were not supported.

Stuart Emmons, 107 Kensington Ave, Astoria – (Emmons provided a handout comparing existing use and proposed changes)

Commissioner Anderson stated he tried to log on to Emmon's website but was unable to causing problems. Emmson said he would check into the problem.

Emmons stated he is an architect and planner in Clatsop County, he has worked on hundreds of community projects for positive change. Downtown Gearhart is in decline, the proposed amendment will reduce or eliminate retail or services for the needs of the residents, passing the amendments will result in fewer people downtown and more boarded up store fronts, strangle existing businesses and contradict the comprehensive plan. The C1 amendments are an unprecedented restriction on business telling people what they can and cannot sell, the city code is incredibly restrictive. We can get to a compact town center with markets like we use to have that serve the residents if we work together, try to keep our businesses in business and encourage others to open businesses.

Watts clarified he is being misquoted, his statement regarding the restrictiveness of the code was not related to the proposed amendments but the existing code.

Traci Williams, 567 Pacific Way, P O Box 2337, Gearhart – Owner of the Sweet Shop, amendments were made with the best intentions but missed the mark, in particular removing

Soda Fountain as an outright use which allows for takeout, she feels she it is a taking and she is being singled out. She stated it is hard to get a loan on a building with a conditional use or nonconforming use. She applauded the attempt to legalize her living in the C1 zone, but feels the square footage hampers an owner's ability to use the building. She has an SBA loan with an outright use of *soda fountain*, she obtained a conditional use permit to allow her to sell food and wine for off premises consumption. She said ice cream sales were her primary business and went on to break down specific aspects of her sales. (Williams presented additional written testimony)

Naomi Joy Sigler, 726 Pacific Way, P O Box 2443, Gearhart – Sigler said she was speaking on behalf of herself and her husband noting the proposed code will negatively affect the value of her property and be detrimental to the economy of the C1 zone. Property was purchased in 1990 and used entirely as a family residence, in 1996 the single car garage was renovated, and she opened the shop with a conditional use permit for a variety store including sewing services and selling home décor items. For the past 25 years she has operated entirely within her conditional use permit. Limiting the owner occupancy to 50% of the structure will greatly diminish prospective buyers of the property and business. While they support the attempt to legitimize mixed zoning, they will not watch their property values plummet due to overreaching. Limiting the use of the structure will limit the availability of future loans. She questions the inaccuracy of *art sector* in the findings as criteria since they do not currently exist. The definition of prohibited uses is lacking. She strongly encourages the commission to abandon the amendments and begin again.

Lynn Claudon, 305 D Street, P O Box 2431, Gearhart – said she appreciated the work and the process of the planner and the commissioners in the process, with the impacts of Covid and the change in the way people are required to interact she feels it would be appropriate to have the commission re-look at the amendments for any unintended consequences.

Kevin Leahy, 1759 5<sup>th</sup> St, Astoria – director of CEDAR and Small Business Development Center, speaking for business community in Gearhart and Clatsop County, the program has assisted 300 business since March with Covid assistance. He has zoomed with Mayor Brown and appreciates the thoroughness and all of the work that has gone into the amendments but feels with covid there should be a pause noting recent information indicates the country is 40-48 months away from recovery from recession. With safety paramount requirements need to be flexible working with businesses to allow development of outdoor seating. He urges commission listen to and support businesses.

Patricia Roberts, 366 N Ocean Avenue, P O Box 2406, Gearhart – said she appreciates the efforts of the commission and asked if any board members were small business owners? Have you talked to business owners and asked what impact the amendments would have on their business? She asked if there is a person with real estate background on the committee? Please pause and get the background and research that is needed.

Jeff Ter Har, 89254 Ocean Drive , Warrenton, Surf Pines, P O Box 8, Seaside – owns and leases property in downtown Gearhart, there have been a lot of good points made this evening but he is concerned about the regulations and request reverting back to the commission for more information and reach out to business owners to fine tune the amendments so businesses don't get hurt.

The public hearing testimony was closed at 7:09 pm.

Watts clarified if you have a preexisting nonconforming use in the zone it can continue that use unchanged. The change would come if a new piece of property were developed the 50% residential limitation would come into effect at that time. Since the area is a commercial district the primary use of the property would need to be commercial. He clarified the changes were to make the zone less restrictive noting there is some flexibility.

Connell noted items that could be considered are the administrative permit for outdoor seating once the ADA and safety requirements are met, eliminating the off-street parking requirement in the C1 zone due to the limited size of the zone. She suggested a change in the design guidelines that are vague, have no criteria and would be hard to enforce. Watts noted as written the design standard is non-binding, the language would need to be changed to include clear and objective standards.

Discussion followed on legal risk to the city by eliminating the off-street parking requirement, future financing of properties, septic issues with regards to the commercial businesses, the seasonal nature of businesses, compliance with the comprehensive plan and the lack of business community involvement in the process despite regular notification.

Graff asked the business community to compile a two-page report on “How the Planning Commission can support the C1 business community while adhering to the comprehensive plan” listing all businesses that contribute to the report. Report is to be provided to the city before November 1<sup>st</sup> so the commission can have time to review the suggestions.

On **MOTON** by Graff, 2<sup>nd</sup> by Taggard, public hearing #19-003ZTA on the proposed C1 text amendments was continued to November 12, 2020 planning commission meeting. Motion carried 5-1 (Taggard – aye, Anderson – aye, Dudley – aye, Graff- aye, Dideum – aye, Smith – nay)

Steve Olstedt, 653 E Street, P O Box 2363, Gearhart – here to address the buildable lands inventory report, he has lived in town 27 years and at that time the town was different, full of kids all over town, today no kids. The Portland State population study projects growth at .7% per year for the City of Gearhart and they have projected growth in the next 25 years at .3% yet starts on single family dwellings have been; 2019 – 24, 2018 – 35, 2017 - 29, 2016 - 32 and 2015

– 25. Undeveloped lots in the R1 zone were 179 and yet there are only 2 lots in the City of Gearhart listed for sale. For every house that is started the industry says creates 4 to 6 jobs for a year. He thinks the Urban Growth Boundary needs to be expanded. Olstedt said there is an opportunity for the builders, the numbers are not correct so whatever the commission can do.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

CONCERNS OF THE COMMISSON

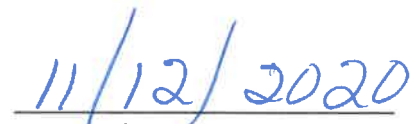
None

QUESTIONS FOR THE LAND USE ATTORNEY

None

The meeting was adjourned at 7:50pm

  
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Cheryl A. Lund, secretary

  
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approved