



## **Staff Report**

For City Council Meeting - 1/6/2021

### ***Subject - Ordinances/Resolutions - Ordinance #929 C1 Text Amendments***

**Synopsis:** The City of Gearhart Planning Commission is proposing changes to the City's Comprehensive Plan C1 zone text. After multiple meetings and revisions, the City Council held their public hearing on November 19th to collect further feedback. At the December Council meeting, Council discussed further amendment of neighborhood cafe language and tabled the issue to the following month. The attached Ordinance #929 is the final draft collaborative effort amongst the commissioners, Councilors, and community members.

#### ***Council Options:***

- Read once by the title only;
- Read twice by title only declaring an emergency;
- Do nothing;
- Council may also make a motion to approve as amended should discussion result in proposed changes.

**Recommended Motion:** Staff recommends the Council move to approve Ordinance #929 reading once by title only, with or without amended language.

**Legal Analysis:** Per Gearhart Charter, ordinances may be read once by title only in two separate meetings. The ordinance takes effect 30 days later.

**Financial Analysis:** N/A

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Krysti for Chad".

Krysti for Chad

**ORDINANCE NO. 929**

**AN ORDINANCE AMENDING THE CITY OF GEARHART ZONING ORDINANCE SECTION 3.4 C-1 NEIGHBORHOOD COMMERCIAL ZONE**

WHEREAS the City Council finds there is a need to update the Gearhart Zoning Ordinance Section 3.4 Neighborhood Commercial C-1 Zone permitted, conditional and prohibited uses and the zone development standards to provide relevancy and assure clarity; and

WHEREAS the amendments are consistent with Statewide Land Use Planning Goals and the City of Gearhart Comprehensive Plan as described by findings in the City Council Staff Report and Notice of Decision to file #19-003ZTA C-1 Zone Amendments; and

WHEREAS development of the Gearhart Zoning Ordinance Section 3.4 C-1 Zone amendments is based on extensive public meetings and public hearings by the Gearhart Planning Commission and City Council.

NOW, THEREFORE the City of Gearhart ordains the Zoning Ordinance shall be amended as follows:

Amendments

1. Gearhart Zoning Ordinance

The amendments to GZO Section 3.4 C-1 Zone in accordance with the attached Exhibit A to file #19-003ZTA C-1 Zone Amendments.

Passed by the Common Council of the City of Gearhart this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

YEAS:

NAYS:

ABSENT:

ABSTAIN:

Signed and approved by the Mayor of the City of Gearhart this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Paulina Cockrum, Mayor

ATTEST:

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Gail Como, City Treasurer  
ZO.Amend.doc

SECTION 3.4: C-1: NEIGHBORHOOD COMMERCIAL ZONE

Section 3.410	Purpose
Section 3.420	Outright Uses Permitted
Section 3.430	Conditional Uses Permitted
Section 3.435	Prohibited Uses
Section 3.440	C-1 Zone Standards

SECTION 3.410 PURPOSE

To provide for the location of needed small businesses and services in the City Center for the convenience of nearby residents. Businesses are intended to fit into the residential character of the neighborhood and not create either architectural or traffic conflicts.

SECTION 3.420 OUTRIGHT USES PERMITTED A permitted use is a use which is permitted outright subject to the applicable provisions of this code. If a use is not listed as a permitted use, it may be held to be a similar unlisted use under the provisions of Section 13.091.

In a C-1 Zone the following uses and their accessory uses are permitted outright.

1. Neighborhood Grocery Market  
A modern community market or co-op which sells food and sundries including produce, meats and seafood, beer and wine, personal and household items and other grocery items. May also include a deli, soups, salad bar, bakery, ice cream shop and made-to-order meals and beverages to go. May offer beer growlers to go, wine tasting and limited on premise beer & wine consumption where appropriate subject to OLCC licensing. Indoor seating limited to 700 square feet. Outdoor on-site seating is unlimited. Public sidewalk seating is permitted in accordance with safety and ADA requirements.
2. Barber, Salon and Spa Services
3. Arts and Crafts Gallery and Studio  
A retail store which primarily sells and displays art and arts and craft supplies. May include space for art classes and space for artists to work.
4. Home Occupations per Section 6.050
5. Government facility limited to post office
6. Offices
7. Manufactured dwelling, recreation vehicle or construction office used during the construction period of a permitted or conditional use for which a building permit has been issued, but not to exceed one year.

SECTION 3.430 CONDITIONAL USES PERMITTED A conditional use is a use the approval of which is at the discretion of the Planning Commission as set forth in Article 8 Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Section 13.091.

In a C-1 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 8 CUP and standards in Section 3.440 C-1 Zone:

1. Neighborhood Café, except for formula use as defined herein.  
A business devoted primarily to the serving of prepared food where food is consumed while customers are seated at tables and having no more than 1300 square feet of seating area. Food and beverage may also be sold for take-out. Service may include alcohol sales on premise or to-go, where licensed by OLCC. Outdoor on-site seating is unlimited. Public sidewalk seating is permitted in accordance with safety and ADA requirements.
2. Variety Store  
A neighborhood or community retail store or gift shop selling a variety of household (including home & garden items, antiques) and personal use items including apparel. Limited food sales allowed for take-out, as long as it is not the primary business, including coffee/tea, baked goods made off premises, ice cream and similar items. Outdoor on-site seating is unlimited. Public sidewalk seating is permitted in accordance with safety and ADA requirements.
3. A residential use is permitted in conjunction with a permitted use where the residential use does not exceed fifty percent (50%) of the building's total floor area.

SECTION 3.435            PROHIBITED USES            A prohibited use is one which is expressly prohibited in the zone. In addition, uses not specifically listed as permitted or conditional in the zone, or deemed to be similar uses permitted to Section 13.091 are also prohibited.

1. The sale or holding out for sale or allowing others to sell or hold out for sale, more than (1) new or used vehicle, motor home, trailer, recreational vehicle, motorcycle, or boats at any one time on a tax lot.
2. Prohibited uses as defined in Section 3.14 Tsunami Hazard Overlay Zone.
3. Amusement parks, arcades or surrey-style bicycle rentals.
4. Formula use, drive-in restaurant, mobile food vending wagon or other drive-in facilities such as a car wash.

Formula Use definition: Any restaurant, bar and entertainment use and retail use that has four (4) or more other establishments in operation, or with local land use or permit entitlements already approved and effective, located anywhere in the United States. In addition to the four (4) establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two (2) or more of the following features: a standardized façade, a standardized array of merchandise, standardized array of services, a standardized décor and color scheme, uniform apparel, a standardized sign, a trademark or a service mark.

5. Private parking lot
6. Manufactured facilities: part of a business in conjunction with a permitted use where the creation of products on-site through industrialized processes takes place that may

have an impact on local utilities and the neighborhood in general including fermentation, distilling and fabrication.

7. Adult shops

Section 3.436 ADDITIONAL USE RESTRICTIONS

Development as defined in Section 1.030 definition #53 may be restricted by an overlay zone. A relevant overlay zone may include one or more as follows: Section 3.10 Flood Hazard Overlay Zone; Section 3.11 Aquatic Conservation Zone; 3.12 Beaches and Dunes Overlay Zone; Section 3.13 Freshwater Wetland and Lake Overlay Zone; Section 3.14 Tsunami Hazard Overlay Zone; Section 3.15 Airport Overlay Zone.

SECTION 3.440 C-1 ZONE STANDARDS

In a C-1 Zone the following standards shall apply.

1. Residential uses:  
Except for a residential use approved as a part of a commercial use, residential uses are subject to applicable section 3.1 R-1 Zone Standards except:
  - The minimum lot size can be 5,000 square feet, and
  - Where property owners offer joint easement of 25-foot side yards for accessibility to on site waste disposal facilities.
2. Commercial Uses shall include the following lot development standards:
  - a. No lot size minimum
  - b. No lot coverage maximum
  - c. No minimum or maximum residential density
  - d. No front yard setback minimum
  - e. No side yard setback minimum except when adjoining a residential zone, then 5 feet
  - f. A rear yard setback shall be at least 5 feet
  - g. Building height shall be 30' or two stories, whichever is less
3. Off-street parking: is not required in the C-1 zone for residential dwellings or commercial uses. (Cross reference corrections in CUP 8.050 D. and Parking 6.060)
4. Transportation Improvements as specified in Article 4.
6. Sign requirements in accordance with Section 6.020.

SECTION 3.445 GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS

If a lot or the aggregate of contiguous lots in residential and commercial zones held in a single ownership are recorded in the office of the County Clerk at the time of the passage of Ordinance 477 (dated January 24, 1978) has an area or dimension which does not meet the respective lot size requirements, the holdings may be occupied by a use permitted in this zone subject to the other requirements of this zone, provided that, if there is an area deficiency, residential use shall be limited to a single-family dwelling. However, no dwelling shall be built on a lot with less area than 4,000 square feet. However, an owner is entitled to an exception only if his property is isolated. If the owner of an undersized holding owns another lot adjacent to it, he is not entitled to an exception. Rather, he must combine the two holdings to form one which will meet, or more closely approximate the area requirements of this ordinance.

SECTION 3.455 GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of this ordinance

Other related and simultaneous code amendments required for consistency and enforcement:

1. Add “pawn shop” as a permitted use in the C-2 zone to clarify pawn shops are not permitted in the C-1 zone.

GZO Cross-reference corrections:

2. In Section 1.030 Definitions replace the existing definition of Neighborhood Café. Add new definitions for Neighborhood Café, Neighborhood Grocery Market, Variety Store and Formula Use as written in this document. *Delete the definition of Soda Fountain.*
3. In Section 8.050 Conditional Use – Specific Use Standards #5. Neighborhood Café: **delete** items: #5.B *The neighborhood café shall be in operation during a minimum of eleven (11) months in a calendar year, and #5.C The neighborhood café shall be closed by 10 p.m.*

# C1 Zone is red legend



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## NOTICE OF DECISION

November 25, 2020

To: Gearhart City Council  
From: Carole Connell, AICP City Planner  
City File # 19-003ZTA Neighborhood Commercial C-1 Legislative Amendments

**Attachments:** Exhibit A to Ordinance 929 - Legislative Amendments; Map of C-1 zoned properties

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### I. Proposal

Consideration of legislative text amendments to the Gearhart Zoning Ordinance (GZO) Article 3 Section 3.4 Neighborhood Commercial C-1 Zone

**Affected Area:** The C-I zone is bordered on the west by the Post Office and The Sweet Shop, a vacant lot, a vacant building, and the Pacific Way Café on Pacific Way; a professional office (CKI) and the Barber Shop adjoining Cottage Street; the Natural Nook and the Garden Shop adjoining Pacific Way on the east side of Cottage Street. The affected area includes 13 parcels.

### II. Applicable Amendment Review Criteria and Procedures

1. GZO Article 3 Section 3.4 Neighborhood Commercial C-1 Zone
2. GZO Article 11 Amendments
3. GZO Article 13 Administrative & Procedural Provisions
4. Gearhart Comprehensive Plan and Background Report

### III. Testimony received

- |  |   |
|--|---|
| a. Joy Sigler 9-18-20, 11-19-20        | k. Thomas Cade 10-5-20                  |
| b. Traci Williams 9-18-20              | l. Arlene Mitch Cogen 10-5-20           |
| c. Stuart Emmons 9-21-20               | m. Kathleen Schultz 10-5-20             |
| d. Ann Samuelson 9-22-20               | n. Bob Morey 10-5-20                    |
| e. Matt Brown to Stuart Emmons 9-22-20 | o. Bateman Seidel 10-5 & 10-22-20       |
| f. Valerie Rich 9-24-20                | p. Jamie Gaylord 10-6-20                |
| g. Jill & Tony Harvey 10-1-20          | q. Susan Thomas 10-6-20                 |
| h. Alix Goodman 10-1-20                | r. Lori & Bob Breslauer 10-7-20         |
| i. Kathleen Callison 10-1-20           | s. Rosanna Bowles 10-7-20               |
| j. Margaret Marino 10-2-20             | t. Ore Fair Housing Council 10-7-20     |
|  | u. Jeff Robertson 10-8-20               |
|  | v. Gearhart Business/Landowners 11-1-20 |
|  | w. Jack Zimmerman 11-19-20              |

## Introduction

### **Why is the City considering the C-1 zone amendments?**

After the Gearhart Crossing business closed in 2018, Gearhart Planning Commissioners identified a need to address business vacancies in Gearhart's commercial core. The Commissioners are volunteers representing a diverse mix of individuals and neighborhoods who care deeply about their town. It is their role to reflect Gearhart values, to think long term, to define issues, to educate the public and to promote good planning. They also serve as the Gearhart Citizen Involvement Advisory Committee (CIAC). In late 2018 they posed the question, how can planning and zoning improve the vitality of the city center and still maintain the unique low intensity, quiet residential character? Fourteen public meetings followed.

The goal of the amendments is to modernize some of the uses in the downtown zone to allow current and future businesses to have more options, increased revenue and be more successful and vibrant while eliminating some of the outdated and restrictive language. Some of the modern language improvements will:

- Allow for more modern revenue sources and “take out” options in the descriptions of “Neighborhood Café’s” and “Neighborhood Grocery Markets”, not allowed now.
- Allow for more revenue options for Barber and Beauty Shops to include salon and spa services, not allowed now.
- Allow for a new Arts & Crafts Gallery and Studio use to expand Gearhart’s art sector.
- Allow for more options in the description of Variety Store to allow more “Home & Garden”, apparel and limited food sale options, not allowed now.
- Allow for residential options attached to certain businesses for employee and work force housing needs, not allowed now.
- Make sure “formula use franchises” such as McDonalds or Starbucks cannot come in and compete with our existing locally owned and operated businesses.
- Ensure the neighborhood character of the downtown zone remains intact by continuing to prohibit adult shops, amusement parks, surrey style vehicle rental shops and parking lots.

As local businesses have evolved and adapted to the changing times, the City wants to make sure the zoning code evolves and adapts with modern language to assure they survive and thrive. The City wants to attract new and vibrant businesses such as a modern Neighborhood Grocery Market that can meet the needs of our community and provide for our residents while fitting in with the Gearhart character by limiting tourist development.

Several businesses have shown the way to modernize the code. They have evolved from what they were originally described and permitted for. The City has supported their evolving business ideas and now proposes to incorporate those methods into the C1 zone code for their benefit and as an example of a viable C-1 use. The amendments do not restrict anything that is allowed now.

#### IV. GZO Article 11 Amendment Procedures and Approval Criteria

Proposed amendments to the Zoning Ordinance are legislative and may be initiated by the Planning Commission, the City Council, or a property owner. After public notice has been provided the amendments shall be reviewed in accordance with the procedures of GZO Article 11 Amendment Criteria and Article 13 Administrative Provisions.

The first evidentiary public hearing by the Planning Commission was on 10-8-20. The Planning Commission continued the hearing to November 12, 2020 and forwarded their recommendation to the City Council. The City Council held a public hearing on November 19, 2020. The Council further amended and approved the amendments and directed staff to prepare an ordinance. A person defined as a “party” to the subject amendment process may appeal the City Council decision to the state Land Use Board of Appeals (Article 12). Anyone who sent a letter or testified at the hearing will be notified of the decisions.

#### V. Comprehensive Plan and Zoning Ordinance Amendments

A. Comprehensive Plan Amendments: there are no proposed Comprehensive Plan policy or map amendments associated with the proposal.

B. Zoning Ordinance Amendments

The proposed amendments modify the existing Neighborhood Commercial C-1 Zone.

**C-1 Zone uses:** The amendments modify and add permitted uses, conditional uses and prohibited uses. The amendments do not render any additional existing structures nonconforming. The amendments remove the existing nonconforming status of several residential dwellings located within or attached to commercial buildings. The amendments encourage residential use in conjunction with a permitted use where the residential use does not exceed fifty percent (50%) of the building’s total floor area.

**New Development requirements:** The existing C-1 zone does not provide traditional development standard guidance for minimum lot size, maximum lot coverage, density limitations, setback standards or height limits. For clarity to property owners and code consistency these have been added to the amendments.

## VI. GZO Section 11.040 Amendment Approval Criteria

Findings shall be made: 1) assuring the amendments are consistent with the goals and policies of the Comprehensive Plan, the Statewide Planning Goals and, 2) there is a public need for the amendments.

### Amendment Criterion 1: Comprehensive Plan Compliance

The City shall illustrate how the amendments comply with relevant Comprehensive Plan policies. There are 19 statewide goals and policies in the Comprehensive Plan as well as General Development Goals for Gearhart. The purpose of the plan is to define how the community is to develop. The Plan Background Report describes the Gearhart economy. Notably, “Gearhart’s economy is not based on tourism in the manner that the other two south Clatsop County communities of Seaside and Cannon Beach. The limited growth of the tourism-related economy reflects the community’s decision not to become a tourist destination.” These findings are reflected in the following Gearhart Comprehensive Plan policies:

#### (1) General Development Goals

*It is the general goal of the Comprehensive Plan to preserve the low density, semi-rural character of Gearhart and to ensure that development occurs in a manner that is in harmony with the sensitive coastal environment that defines Gearhart.*

#### Residential and Commercial Development Policies (Plan page 4 – 5)

- a. *The City will preserve and maintain the predominately residential character of Gearhart through appropriate zoning and land use development regulations.*
- b. *The City will implement the City’s land use development regulations through the continued development of Gearhart as a residential community.*
- c. *The City will recognize the importance of the City’s residential neighborhoods and the need to protect them from the negative impacts of transient rental of property, and to discourage increased levels of traffic and similar disruptions.*
- d. *The City will limit commercial activity in the City, in terms of both land devoted to commercial uses, and the types of uses permitted in commercial zones to a level that is compatible with Gearhart’s residential character.*
- e. *The City will prevent the City from becoming a tourist destination. To achieve this policy the City, through its land-use designations, shall seek to accommodate only a limited level of tourist development.*
- f. *The City will work to achieve a level of commercial development that supports the needs of the residents of Gearhart, rather than serving a regional commercial center role, or providing for major tourist destination facilities.*
- g. *The City shall not designate additional property for commercial development.*

- h. The City will maintain a commercial zone in the center of the City that provides for the needs of residents.*
- i. The City will limit the number of business uses in the C-1 zone so that the zone does not become a destination for tourists.*
- j. The City will achieve a compact town center in the vicinity of Pacific Way and Cottage Avenue.*
- k. The City will establish Zoning Ordinance standards to protect residential uses from adjacent commercial development.*

FINDINGS: The above are General Development policies inserted on the first two pages of the plan, separated from the topic goals that coincide with state land use goals. The general policies underscore the overall intent for development in Gearhart to preserve the residential, low density-semi-rural character and sensitive coastal environment that defines Gearhart.

The Neighborhood Commercial C-1 Zone is surrounded by residential zoning on all sides. Therefore, the C-1 zone regulations are intended “to recognize the importance of those neighborhoods, to protect them from the negative impacts of transient rental of property, increased levels of traffic, and similar disruptions from adjacent commercial development.” Similarly, “the City will limit commercial activity” and “the types of uses permitted in commercial zones to a level that is compatible with Gearhart’s residential character.” The City finds the proposed new language modernizes permitted and conditional uses to support Gearhart residents without increasing the level of impact on adjoining residential uses. The City finds the amendments will not significantly increase opportunities for businesses to attract regional tourism and will minimize the need for additional parking. For example, the amendments prohibit a business offering primarily amusement activities and rentals that may attract tourists. The amendments respect existing policies to avoid the proliferation of restaurants and bars that will put parking pressure on adjoining residential uses. The amendments prohibit formula retail uses that would compete with local commerce unique to Gearhart.

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

Generally: Comprehensive Plan Goals 1 & 2 policies establish a process and implementation mechanism for land use planning and regulation to assure citizen involvement is provided in the amendment process when adopting new or revised standards.

The City’s planning framework ensures information is available to citizens, that the Planning Commission and City Council represent the wide diversity of views and

interests in the community. Citizen involvement and an open review process are provided to ensure the citizens receive responses to their comments at meetings in the meeting minutes or in writing, and that the city will maintain a record of meetings. The procedures require an advertised public hearing process with a recommendation by the Planning Commission and a decision by the City Council based on findings that there is a public need for the amendments and that the amendments are in compliance with the Gearhart Comprehensive Plan and Statewide Planning Goals.

When considering zoning ordinance revisions, the goals and policies of the Plan provide the underlying principles to measure the amendments against. The policies assure when revisions are made that the broader community interest is served by the modification. Plan policies set forth guidance to assure that development standards remain effective and consistent over time. The zone standards implement the plan policies.

This C-1 zone amendment process: The Commission maintains an active list of prioritized goals to assure they are keeping up with changing laws, trends, and broader community interests. On 11-16-18 the Gearhart Planning Commissioners identified the numerous vacancies downtown as an important issue. They decided it was a #1 priority goal to take a close look at the C-1 Zone standards and determine if changes should be made to improve the economic viability of the district. A subcommittee of the Commission met on 12-18-18 to formulate ideas and direction to address the issue.

At their February 2019 meeting the Planning Commission announced a presentation by Jeff Adams, Cannon Beach Planning Director to provide background on city center commercial development. Mr. Adams focused on Gearhart's vision, commercial development policies, permitted and conditional uses noting the restrictive and protective nature of the policies. He described typical commercial zone standards such as design review, parking, landscaping, and other related decision points.

The Commission subsequently requested feedback from City Council before proceeding. On 4-11-19 The Council, Commission and staff held a work session to discuss the strengths and weaknesses of the C-1 zone and methods to increase its viability in keeping with the overriding policy to protect the surrounding residential neighborhood.

Between April 2019 and August 2020, the Planning Commission held 11 more public meetings including an additional work session with City Council on 10-30-19 to develop the proposed amendments. All 14 meetings were public and were announced on the City Blog and website. Working drafts were available to the public as were newspaper stories and lots of talk around town. After meeting interruptions by early COVID the Planning Commission directed staff to begin the public hearing process. Notices were published,

sent to DLCD, and all property owners of land zoned C-1 announcing the first public hearing on October 8, 2020. The Commission and City Council will provide opportunity for comment and feedback during the public hearings.

FINDINGS: The Planning Commission finds the process for developing the proposed amendments has and continues to occur in compliance with city and state citizen involvement and land use planning goals and procedures.

*(Continuation of Comprehensive Plan Goals analysis)*

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

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

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

(6) Recreation (LCDC Goal 8)

FINDINGS: The Planning Commission finds the amendments do not relate to Comprehensive Plan Goals 3, 4, 5 and 6.

(7) Economy and Energy (LCDC Goal 9 and 13)

The Gearhart Economy and Energy Goal policies ensure there will be a stable and healthy economy in Gearhart through all available resources, both human and natural resources.

FINDINGS: The above policy intends to “ensure there will be a stable and healthy economy in Gearhart through all available human resources.” But multiple factors contribute to a healthy economy such as changing market demands, competition, financing, location, building ownership, and tenant business plans and operations. The amendments were initiated by the Commission to explore zoning approaches that may contribute to a healthy economy in the C-1 zone. The Comprehensive Plan defines the C-1 in a more restrictive manner than the City’s C-2 and C-3 zones. Combined they provide an element to assuring a healthy economy.

The Planning Commission finds the amendments will stabilize the economy by legitimizing several retail and housing uses that are not currently permitted such as apartment rentals, take-out food and alcohol, including liquor, removal of the 10 pm closing restriction and the maximum of 9 tables for Neighborhood cafes, allowing outdoor and sidewalk seating, expanding the items sold in variety stores to allow limited food service, apparel, antiques, home and garden sales. The amendments encourage the kinds of modernizing improvements that existing retail businesses have already incorporated.

The amendments are consistent with the policy to maintain a commercial zone in the center of the city that primarily provides for the needs of residents in harmony with the surrounding residential neighborhoods. The amendments reinforce the development goals to limit the number of business uses so that the zone does not become a destination for tourists. The amendments are designed to discourage increased levels of traffic and similar disruptions. The amendments prohibit formula uses such as Starbucks to support local businesses, prohibits amusement activities and surrey rentals to minimize tourism and prohibits adult shops that conflict with adjoining residential neighborhoods.

(8) Housing (LCDC Goal 10)

The Gearhart Housing Goal is to ensure decent, affordable housing and housing availability for all residents of the Gearhart area.

FINDINGS: The City finds the existing C-1 zone does not allow residential uses. The Planning Commission finds the amendments provide a new opportunity by a Conditional Use Permit to allow a residential use in conjunction with a permitted use where the residential use does not exceed fifty percent (50%) of the building’s total floor area. The provision protects several existing residential uses within the C-1 zone.

In response to the Statewide Planning Goals ORS 197.175(2)(a.), the Housing Goal 10, and the 10-7-20 letter from the Fair Housing Council of Oregon, the City includes herein a more accurate buildable land inventory than the data compiled in the Clatsop County Housing Analysis 2018.

The following is an unofficial excerpt of the City’s current land inventory and housing capacity from the recently completed Gearhart Buildable Land Inventory (BLI).

Table 1. Gearhart Housing Unit Capacity (September 2020)

<b>Zone</b>	<b>Maximum Density</b>	<b>Potentially Developable Tax lots</b>	<b>Unconstrained Acres*</b>	<b>Housing Unit Capacity</b>
<b>R1</b>	4	179	66.8	277
<b>R2</b>	6	20	10.8	58
<b>R3</b>	10**	2	0.3	2
<b>RA</b>	1	26	18.5	10
<b>RCPD</b>	10*	16	4.0	34
<b>Total</b>	-	<b>243</b>	<b>100.5</b>	<b>381</b>



Notes

Tax lots with various base zones are within the THO overlay – these tax lots are assumed to have a density no greater than 10 du/ac


\* For properties with existing homes (in the “Partially Vacant” category), an additional ¼ acre is considered constrained to account for an existing home. For properties greater than 3 acres in size, an additional 25% of the acreage is deducted to account for future ROW.

\*\* Conversations with Clatsop County officials regarding achievable densities with septic systems suggest that 16 units/acre allowed in the development code is not an achievable density. As a substitute we have used 10 units/acre.

FINDINGS: These initial results show:

- The capacity for new housing in Gearhart is impacted by a number of constraints, including natural resource and hazard areas, conservation areas, and lack of a community wastewater treatment system.
- About two-thirds of the capacity for future residential development is on land within the R1 zoning designation.
- About three-quarters of the capacity for future residential development is on vacant lots, while one quarter is on lots with some existing development.
- This inventory indicates a lower capacity than the 2018 county-wide inventory did for the City of Gearhart (381 units in this effort compared to a total of 701 units in the 2018 study). (Table 3 of the inventory included below)

Table 3. Potentially Buildable Lands and Housing Unit Capacity by Jurisdiction, Residential Zones

Jurisdiction	Potentially Buildable Acres		Housing Unit Capacity	
	Partially Vacant	Vacant	Partially Vacant	Vacant
Astoria	22	268	524	3,312
Cannon Beach	37	86	123	329
Clatsop County	3,239	4,175	2,054	1,806
 Gearhart	71	146	249	452
Seaside	15	69	136	469
Warrenton	113	392	1,321	5,670
<b>Grand Total</b>	<b>3,496</b>	<b>5,136</b>	<b>4,407</b>	<b>12,038</b>

- The density of future development and relative ability to develop some lots is limited by the absence of a community wastewater treatment system. Previous cost estimates for construction of a system indicate it would cost approximately \$150 million or more. This is equivalent to about \$283,000 per remaining potential housing unit or about \$127,000/housing unit for all existing and potential new units in the city.

- This inventory addresses supply of residential land within the UGB. Cities in Oregon are required to maintain a 20-year supply of residential land within the UGB. Residential land needs must be based on population forecasts created by the Population Research Center at Portland State University (PSU), which are updated every few years for each city in the state.<sup>1</sup>
- The 2019 Clatsop County Housing Strategies Summary projected a need for 234 new housing units in Gearhart by 2038. This includes 94 new households within the City and a significant number of new vacation homes, and a high vacancy rate that reflects these conditions. The 2019 study was based on PSU population forecasts available at that time, which assumed an annual average growth rate of 0.7%. However, those forecasts were updated in 2020 and the new forecast estimate an average annual growth rate of 0.3% between 2020 and 2045, which would result in a lower estimate of needed new housing units. Under either the previous or current forecast, the capacity indicated in the inventory is greater than the projected needed new housing units in the 20-year planning horizon.
- Projected future growth is based in large part on historical trends over the previous 20 years. To the extent the demand for additional housing in Gearhart increases and those long-term trends change, the City of Gearhart could see a higher demand for housing in the future, in comparison to the PSU forecasts. The City of Gearhart should continue to coordinate with PSU in future forecast updates and ensure that changing development trends are factored into the forecasts.

The City finds 83% of its housing stock are single family dwellings, 9% are three or more attached dwellings and 61% of its dwelling unit are second homes (data from Clatsop County Housing Study 2010 census). The proposed amendments add an opportunity for a limited amount of attached housing associated with a commercial use. The housing can be for the owner or employees of a business, or others interested in a lower cost apartment housing unit.

*(continuation of comprehensive plan policies)*

(9) Public Facilities and Services (LCDC Goal 11)

(10) Transportation (LCDC Goal 12)

(11) Urban Growth (LCDC Goal 14)

(12) Necanicum Estuary (LCDC Goals 16 & 17)

(13) Coastal Shorelands (LCDC Goal 16 & 17)

(14) Beaches and Dunes (LCDC Goal 18)

(15) Ocean Resources (LCDC Goal 19)

FINDINGS: The City finds the amendments do not relate to Comprehensive Plan Goals 12, 14, 16, 17, 18 and 19.

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<sup>1</sup> <https://www.pdx.edu/population-research/population-forecasts>

## Amendment Criterion #2 Demonstration of Public Need

**FINDINGS:** For the reasons set forth in the above findings the Planning Commission has determined there is a public need for the amendments. The Commission finds existing permitted uses are restrictive and out-of-date, that some retail businesses are operating outside the limitations of the existing C-1 zone. The Commission supports codifying their successes. The amendments continue to respect the underlying Comprehensive Plan policies protecting the residential character and discouraging the promotion of tourism that comes with increased traffic and parking demands, noise and other disruptions.

## VII. CONCLUSIONS

### **Do the following two requested amendments comply with the Residential and Commercial Development Policies of the Comprehensive Plan?**

1. Change Neighborhood Café to an outright use?
2. Eliminate the Arts & Craft Gallery and Variety Store categories and replace them with a new “Retail” outright use category?

**FINDINGS:** No, the two suggestions conflict with the purpose statement of the C-1 zone and the above plan policies. The suggestions closely align with the C-2 zone purpose statement to “*provide for a broader range of commercial development than may be located in the C-1 zone.*” The C-1 zone regulations are designed “to recognize the importance of the residential neighborhoods, to protect them from the negative impacts of transient rental of property, increased levels of traffic, and similar disruptions from adjacent commercial development and they “ will limit commercial activity” and “the types of uses permitted in commercial zones to a level that is compatible with Gearhart’s residential character.”

### **Implementation of the policies: How does the C-1 zone assure the types of uses permitted will not result in the negative impacts described in the policies?**

**FINDINGS:** The C-1 zone implements the plan policies by specifying permitted, conditional and prohibited uses that will not conflict with the policies. If a general “Retail” permitted use category replaces the existing specified list city staff is left to interpret every proposed use as to whether it complies with the C-1 purpose statement and the plan policies. This becomes a subjective and arbitrary administrative decision subject to legal challenge.

The city established a Conditional Use Permit (CUP) approval process for a Neighborhood Café so that the Planning Commission can evaluate the impact of the proposal on the neighborhood. The new definitions for Neighborhood Market, Variety Store and Neighborhood Café also modernizes and clarifies the intent consistent with the plan policies. Without these the C-1 zone becomes comparable to the unlimited C-2 zone.

The following are the existing CUP approval criteria that provide the Planning Commission an objective method to review a Neighborhood Café request and assure compliance with the plan policies:

*SECTION 8.040 OVERALL CONDITIONAL USE REVIEW CRITERIA*

*Before a conditional use is approved, findings will be made that the use will comply with the following standards:*

- 1. The proposed use is consistent with the policies of the Comprehensive Plan:*
- 2. A demand exists for the use at the proposed location. Several factors which shall be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitable zoned sites for the use.*
- 3. The location, size, design and operating characteristics of the proposed use are such that the development will have a minimum impact on surrounding properties.*
- 4. The use will not generate excessive traffic when compared to the traffic generated by uses permitted outright and adjacent streets have the capacity to accommodate the traffic generated.*
- 5. Public facilities and services are adequate to accommodate the proposed use.*
- 6. The site's physical characteristics in terms of topography, soils and other pertinent considerations are appropriate for the intended use; and*
- 7. The site has adequate area to accommodate the proposed use. The site layout has been designed to provide appropriate access points, on site drives, parking area, loading areas, storage facilities, setbacks, buffers, utilities or other facilities which are required by City Ordinance or desired by the applicant.*

*SECTION 8.050 SPECIFIC USE STANDARDS*

*In addition to the Overall Conditional Use Standards of Section 8.040, the following specific Conditional Use Standards shall be applied:*

*1. Neighborhood Café*

*A neighborhood café shall conform to the following standards:*

- A. A public need exists for the use at the proposed location. The following factors shall be considered in determining whether a public need exists: availability of similar uses, availability of other appropriately zoned locations, particularly those not giving call for a conditional use approval; and availability of other suitably zoned sites for the use.*
- B. The neighborhood café shall be in operation during a minimum of eleven months in a calendar year.*
- C. The neighborhood café shall be closed by 10 p.m.*

*D. The neighborhood café, if located in a new structure, shall provide off-street parking spaces in the proportion of one space per 200 square feet of floor area, plus one space per employee.*

In conclusion, the proposed amendments are consistent with the C-1 zone purpose statement and the Residential and Commercial Development Policies of the Comprehensive Plan. Allowing a Neighborhood Café and general Retail as outright uses is not consistent with the policies and the objective method for administering land use requests.

#### VIII. DECISION:

Based on the findings in this report as amended by City Council on November 19, 2020, the Council decided to approve file #19-003ZTA C-1 zone amendments and directed city staff to prepare an ordinance to amend the Neighborhood Commercial C-1 zone and prepare for the first reading on December 2, 2020.

Approved amendments attached as Exhibit A