

CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

September 14, 2017

MEMBERS: Jeremy Davis, Virginia Dideum, Terry Graff, David Smith and Russ Taggard.

STAFF: Carole Connell, Chad Sweet, Chief Bill Eddy, Mark Brien and Mark McFadden

Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, September 14, 2017 was called to order at 6:00 pm by President Virginia Dideum.

On **MOTION** by Taggard, 2nd by Davis, by unanimous motion Commissioners Anderson and Owsley were excused from the September 14, 2017 commission meeting.

On **MOTION** by Smith, 2nd by Taggard, by unanimous motion the minutes of August 10, 2017 were approved.

The financial report as of September 13, 2017 was as follows:

Planning Commission expenses:

Year to date	4,439.09
Balance	5,560.91

Planning Commission Secretary expenses:

Year to date	5,852.76
Balance	24,147.24

On **MOTION** by Smith, 2nd by Taggard, by unanimous motion the financial report of September 13, 2017 was approved.

STAFF REPORTS

Connell recommended bringing the *goals list* back on a night when there was less of an agenda.

Sweet introduced Mark McFadden – Director of Public Works, Mark Brien – Building Official and Bill Eddy – Fire Chief who are available to answer questions with regards to this evenings public hearings.

COMMISSIONERS REPORTS

None.

CORRESPONDENCE

None

VISITORS COMMENTS NOT RELATED TO AGENDA ITEMS

None

Dideum read the disclosure statement into the record for both public hearings. She asked if there was any ex parte contact, conflict of interest or bias. None was declared.

She asked if there were any audience challenges to the commission hearing the applications before the commission. None was voiced.

PUBLIC HEARING - File #17-008P Land Partition submitted by Ray Romine to partition one parcel of land into two (2) lots for property located on Hillila Road approximately 490' east of Highway 101 and further described as Assessors Plat 6 10 3BD, Tax Lot 3300 continued.

Connell summarized the status of the application noting the staff report has not changed, staff recommended approval subject to conditions of approval. Due to a conflict between the applicant and the city regarding water service the hearing was continued to resolve the issue. The city has received one additional piece of evidence from the City of Warrenton stating they had no intent to provide water service in another agency's service area and they did not give Mr. Romine permission to connect to the City of Warrenton's water main.

Ray Romine, applicant – 2170 Skyline Drive, Seaside – Romine requested another continuance saying his attorney is working with the city attorney to work out details of the water service.

Davis asked if there was any time period they are under.

Connell said yes, the 120-day period in which the commission must make a decision unless the applicant agrees to waive it in writing in this case October 25, 2017. If there is no decision by the 25th the applicant can go to the state and demand a decision by writ of mandamus taking the decision out of city hands.

Sweet asked if the body could make a decision based on the division and work out the other issues prior to issuing building permits.

Sweet clarified working with the city attorney they thought the water issues was resolved but it appears the applicant has further questions.

Connell said once you have created a lot you have a legal lot that might not be serviceable and you would have a bigger legal question.

Romine agreed to waive the 120-day policy and increase it by 60 days, (12-24-2017) and said he would like to have the matter heard at the October commission meeting.

Staff requested Romine follow up with a written request to extend the time period by 60 days for the record.

Mark Brien, Building Official – said the fire department, building department and public works issues are dealt with during the application process when a lot is created. He stressed the commission address issues related to fire life safety at this time as required by law because trying to implement required standards after a lot or subdivision is developed and the opportunity has passed is challenging. Now is the opportune time to address issues of fire hydrant, water supply and access.

On **MOTION** by Graff, 2nd by Taggard, by unanimous motion application #17-008P 120-day deadline was continued 60 days past the deadline.

PUBLIC HEARING – File #17-012V Parking Variance submitted by Cross Development requesting a reduction in the number of required parking by 40% from 46 to 27 sites for property located on highway 101 approximately 256' north of Pacific Way and further described as Assessors Plat 6 10 10BA, Tax Lot 401.

Connell reviewed the staff report noting one addition from Sandstone Tennis Club, Inc. and recommended denial for the parking variance request. She reported the 120-day deadline is 12-20-2017.

Chief Eddy said as of right now there has been no concrete proposal on how they are going to meet the water supply, apparatus turn around, fire lanes or on site fire hydrant.

Mike Stults, 4336 Marsh Ridge, Carrollton, TX 75010 on behalf of Cross Development, applicant – Dollar General wants to be a good neighbor to the community, the facility will meet the underserved needs of the community with general mercantile. A review of traffic impact studies and existing DG stores shows maximum of 12 cars parking spots used at any time and will apply in Gearhart. ODOT and DG traffic impact studies agree this is a perfect tenant with minimal traffic and is a safe and permissible use and design, not the type of business that lends to heavy stacking. DG is a 15 year first term triple net lease with three 5-year extension, a life expectancy of 30 years, an appropriate site to look at as long term.

Water line services proposal will be in the submitted design to replace the 6" line with an 8" line from Pacific Way, CD will replace any connections on the line. With regards to drainage & detention they would like to see the new report and address any new guidelines, ponding in the highway is not something the property owner is required to resolve, if required they will work with the city to resolve ponding in the right of way, highway and on site. There is plenty of property to the rear and on the sides to address drainage issues. Septic system was a pre-engineered approved design installed that allows for 2500 gallons per day, DG has 5 fixtures which generates at maximum 750 gallons a day, the county did not want to see final plans until they have completed plans review with the city. Outdoor lighting – they have full cut offs and would be happy to provide a photometric plan suggesting it be made a condition of approval. Compact parking spaces have not been shown because they don't feel they are needed for the site. In the event of a change in use ODOT will review all aspects of the new use for safety. The 1 space per 200 count is extreme and takes away from green space opportunities and the site allows for a tremendous amount of stacking eliminating congestion on Highway 101. Landscaping plan – they are agreeable to changing the landscaping plan if there is a desired list, they want to be a good neighbor. Stults feels there are ample reason for staff and commissioners to buy into the project, the seller has offered and agreed to a cross parking agreement to satisfy the city requirements, the cleanest approach would be a variance.

Davis asked about times for loading and unloading particularly during business hours.

Stults said deliveries are flexible, deliveries will be modified to traffic patterns in the area times and days of off hours.

Taggard expressed concerns about the drainage in the OTAK report.

Stults said he did not see the report, noting there is a lot of green space if they need to raise or lower the building, drainage will be on them as a national chain cannot afford to create a problem.

Dideum asked if there are ODOT landscape requirements.

Connell said no not like in Seaside, there is a 10' wide landscape strip required.

Dideum asked if Cross Development would own the building.

Stults said Cross Development would own the property, Dollar General would be the operator and required maintenance of the property guaranteeing their performance and image.

Dideum said she has concerns about the building being something else in the future and there was no guarantee that Dollar General would stay there and asked at that point if Cross Development would be the building owner.

Stults said yes. If Dollar General broke the lease they would still own 15 years of lease payments even in bankruptcy.

Dideum asked about comments of being a good neighbor and why they have put in applications to build a Dollar General in Kappa, Astoria and Gearhart and when she hears the terms regional she expressed her confusion – regional and neighborhood not being the same terms asking if they are putting a Dollar General in every little town along the coast.

Stults says they are not putting a store in every small town, Dollar General is a community store that fits each community it serves. Dollar General does a market study for underserved communities, neighborhoods that lack the basic staples of a mercantile offering lower prices and convenient locations.

Dideum asked if they did not submit completed plans because of county requirements.

Stults said for them to get a septic permit the county does not want to see official submittal until they have gone through the city review.

Sweet said he cannot sign a Land Use Compatibility form until there is approval from the commission which is required before the building process.

Dideum had concerns that completed documents were not submitted; lighting, landscaping, signage – making it difficult for the commission to make a decision. She also asked about his comments regarding cross parking and asked if that was with Mr. Lowenberg and where.

Stults said the agreement would be with Beach Front Properties for cross parking to the north and east.

Dideum asked if the parking spaces in the plaza have already been counted?

Connell said yes spaces have been counted for the permitted uses in the mall. She said shared parking can work but they have not seen any proposal as to number of spaces and hours of operation.

Graff asked who Stults was representing.

Stults said he is representing the owner Cross Development and Dollar General would be the tenant.

Davis also felt there were a lot of incomplete items and asked if that was normal when coming before the commission with an application.

Connell said there is some latitude in how much the commission wants to give up to the staff department heads during the processing, or if the commission wants to know how the different aspects of the development like drainage and landscape may have on the overall request and possibly change in building size. Connell said had the applicant met all the parking requirements they would not be coming before the commission and the process would be handled by staff.

Dideum asked the Fire Chief if a sprinkler system was required in a building of this size.

Chief Eddy said the applicant could meet the requirement in either of 3 ways; build firewalls inside the building, sprinkle system in the building, or bring the water flow to the required amount of 2000 gallons per minute.

Connell asked about how underserved market is defined.

Stults said 10 miles.

Davis said he has stood in line in Safeway behind tourists many times and as a resident of Gearhart he feels underserved.

Correspondence was entered into the record from Anita Barbey & Todd Liebow, Sandstone Tennis Club Inc., 11626 SW Military Lane, Portland, OR 97219 – they expressed concerns of inadequate parking, increased traffic safety hazard on Highway 101, proposed off-street loading design creating a danger to the public, the site is not appropriate for the proposed development and they urge the commission deny the variance.

Testimony was opened to proponents.

Terry Lowenberg, 3457 Highway 101 North Gearhart – the commission has the ability to grant the parking variance as long as the building is what it is, any future tenant would need to come back to the commission to verify adequate parking or they will be denied. The applicant can meet all the criteria; easements, water draining, utility replacement. All the cross documents will be met by either the developer or Lowenberg. He reminded the commission the city lost the grocery store and this is an opportunity to replace the grocery store.

There were no opponents and no neutral comments.

Stults said he would love to leave with a decision from the commission that would allow them to proceed with the proposed development. The development does not hinder property values, does not put any safety issues onto the public, meeting the drainage is not a monumental task, any necessary redesign is not a problem and he asked the commission to not deny them outright but make a decision that will allow them to have a successful project.

The public hearing was closed at 7:35pm.

Discussion followed on possible additional parking, septic design, controlling ponding from run off, noncompliance with the comprehensive plan, question of underserved community, increased traffic, missing application information, change in use.

On **MOTION** by Graff, 2nd by Taggard, by unanimous motion file #17-012V submitted by Cross Development was denied based on findings in the staff report dated September 7, 2017. Said request was to reduce the number of required parking stalls by 40% for property located on the east side of Highway 101 approximately 256 feet north of Pacific way, and further described as Assessors Plat 6 10 10BA, Tax Lot 401. (See attached)

OLD BUSINESS

None

NEW BUSINESS

None

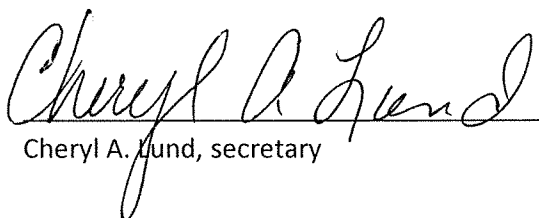
CONCERNS OF THE COMMISSION

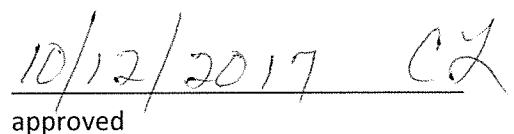
None

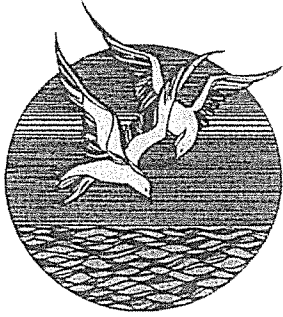
QUESTIONS FOR LAND USE ATTORNEY

None

On **MOTION** by Graff, 2nd by Smith, the meeting was adjourned at 7:53 pm.


Cheryl A. Lund, secretary


approved



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BEFORE THE PLANNING COMMISSION OF THE CITY OF GEARHART

IN THE MATTER OF A PERMIT)
FOR A PARKING VARIANCE) FINAL FINDINGS
CITY FILE #17-012) AND ORDER

DENIAL of a Variance to reduce the number of off-street parking stalls from 46 to 27 (40% reduction) for a proposed Dollar General store on Highway 101

Property Owner: Beach Development LLC
3457 Hwy. 101 North
Seaside, OR 97138

Applicant: Cross Development
CD DG Gearhart LLC
4336 Marsh Ridge
Carrollton, Texas 75010

Location: A vacant 0.94 acre parcel; Tax Lot 401 Map 06N10W10BA

Completeness: 08-22-17
Notice Mailed: 08-25-17
Notice Published: 08-25-17
Initial hearing: 09-14-17
120-day deadline: 12-20-17

Exhibits: Applicant's application, site plan, photos, elevations, Drainage Study, Traffic Impact Study, sign plan, landscape plan
Gearhart City Administrator: email with concerns, 8-25-17

Gearhart Volunteer Fire Dept.: comments pending
Gearhart Bldg. Inspector: letter with conditional approval, 8-28-17
Gearhart Police Chief: letter with concerns, 8-28-17
Clatsop Co. Public Health: letter with concerns, 8-30-17
ODOT: letter with conditional approval 8-31-17
OTAK consulting city engineer: letter with comments, 8-30-17
Letter from Sandstone Tennis Club Inc., 9-14-17

Review Criteria: GZO Section 3.5 General Commercial C-2 Zone
GZO Section 6.040 Sign Requirements
GZO Section 6.070 Maintenance of Minimum Ordinance Requirements
GZO Section 6.100 Distance from Property Line
GZO Section 6.130, 140 & 150 Off-Street Parking and Loading
GZO Section 1.160 Access Control on Highway 101
GZO Section 6.220 Outdoor Lighting
GZO Section 8.030 Criteria for Granting Variances
GZO Section 9.040 Variance of Off-Street Parking and Loading Facilities
GZO Article 13 Application, Notice and Hearing Procedures
Gearhart Transportation System Plan (TSP), 2017
Gearhart Comprehensive Plan

I. FINDINGS

- A. Background: Dollar General proposes to construct a 9100 square foot, one-story retail store on the vacant parcel. The site is on the east side of Highway 101 an estimated 360 feet north of the Pacific Way intersection.
- B. Site information: The subject 0.94-acre parcel is flat and undeveloped. There are no floodplain or wetland designations on the parcel.

There is an existing shared driveway onto Highway 101, an estimated half of which is on the subject parcel and the other half is on the parcel to the north. The access serves several businesses in a commercial center to the north, a private tennis club to the northeast and the property owner's business office to the east.

There is an existing septic sewer line from the highway that extends to the shopping center, the tennis club and the business office east of the site. The line is located partially on the subject site. The site survey and draft easement documents refer to three proposed easements for: "A" access, "B" the Beach parcel, "C" the Cross parcel and "D" for septic

connection to the existing line. The easements do not include a map illustration or legal description.

Existing franchise private utility easements are located in the south west corner of the lot and along the highway frontage.

- C. Plan and Zone Standards: The site is designated commercial by the Gearhart Comprehensive Plan and is designated General Commercial C-2 by the Gearhart Zoning Ordinance. The Dollar General store is a permitted retail use in the C-2 zone.

- D. Agency Coordination: The proposal was referred to city departments, a consulting city engineer (OTAK), Clatsop County Public Health Department and ODOT. Agency concerns are summarized below.

Public Service and Utility Issues:

1. Water: There is a 6 inch water line adjoining the highway frontage of the parcel. The Gearhart Fire Chief has discussed his concerns with the applicant about water supply and water pressure to the site. The 6 inch main on the highway likely needs to be upgraded to an 8 inch main to service the store. The applicant suggested an optional reservoir tank on site and possibly a building sprinkler system to augment the supply and pressure concerns. To date the Chief has been fighting a fire in southern Oregon and no additional information has been provided by the applicant to address water concerns.

2. Fire: The City Building Inspector letter indicates the applicant needs to demonstrate that the required Fire Apparatus Access requirements of the Oregon Fire Code are met.

3. Septic System: Michael McNickle, Clatsop County Public Health Director indicates by letter there is an existing system located behind the proposed building. He is not familiar with the details of the system. He said if it handles more than 2500 gallons of sewage per day then the DEQ has purview over this system (Gary Artman 541-687-7746). If less, this department will need the following documents to conduct a review and approval for the use of the system:
 - a) An evaluation of existing system;
 - b) An authorization permit from Clatsop County Public Health;
 - c) Water use records for a similar-sized Dollar Store; and
 - d) A copy of the Operation and Maintenance (O&M) records, and a copy of the O&M contract

4. Streets: One access to the parcel is from an existing driveway onto Highway 101. ODOT comments on the proposal and the Traffic Impact Analysis indicates no objections. ODOT requires a conditional approval that the applicant shall satisfy their driveway approach requirements prior to issuance of an occupancy permit.
5. Storm Drainage: The contracted city engineer OTAK reviewed the applicant's drainage report and provided redlines and comments. The report dated 8-30-17 concludes "the drainage configuration is not a feasible design. The design does not drain the entire site to the detention basins and the basins do not contain any freeboard. In order to get the recommended 12" of freeboard, the East pond's depth would have to increase by lowering the bottom or raising the elevation of the site contributing to the east pond. The west pond could have the pond bottom lowered, surrounding site raised, or pond footprint increased. However, the pond bottom cannot be lowered much due to the invert elevation of the existing drainage system at the proposed outfall. An alternate design should be submitted for approval. Due to the existing drainage system outflowing to the pond to the east, detention for the site is recommended."
6. Safety: The City Police Chief's letter describes traffic safety concerns about the proposed use in relation to its highway access, existing lane configuration, proximity to the signal at Pacific Way and the amount of traffic.

FINDINGS: The Planning Commission finds there are traffic safety concerns and unresolved utility issues regarding the septic system, water pressure, water supply, and storm water drainage.

E. GZO Section 3.5 C-2 Zone

The purpose of the C-2 zone is to provide for a broad range of commercial uses and activities to serve the needs of the City and its visitors. The C-2 zone establishes use and development standards, signage, landscaping, buffer; highway access and clear vision standards as applicable to the request.

FINDINGS: The C-2 zone permits "Retail business establishments excluding new and used car, boat, recreational vehicle or manufactured dwelling sale." The subject request is for a retail store. The parcel is required to have a 25-foot building setback from the front property line. The proposed building is setback an estimated 76' to 83' from the highway property line. Because the parcel is surrounded by land zoned C-2 on all sides, there are no minimum side or rear yard setbacks required by the zone. However, *Section 6.100 Distance from Property Line*, which requires a new structure to be set back 5 feet from a property line. Proposed building setbacks are 76' to 83' from the front, 50' from the north, 90' from the east and 10' from the south property lines. The building is 20'

high, under the 35 foot maximum height limit of the C-2 zone. Therefore the proposed building and location complies with the C-2 zone standards.

F. GZO Section 6.040 Sign Requirements

1. Purpose.

The purpose of this section is to regulate such factors as the size, location, and illumination of signs with the intent of safeguarding and enhancing the City's visual environment, traffic safety and the City's economic well-being.

2. General Requirements

The following general requirements shall apply to all signs:

A. *Signs shall not contain flashing elements or moving, rotating or other such animated parts.*

FINDINGS: The applicant provided a stock sign plan to illustrate the foam polycarbonate materials and black and yellow color scheme. But the dimensions on their plans are not accurate. The applicant indicates the signs will be modified to meet city size and height standards. The proposed signage is internally illuminated and the applicant indicates there is no flashing elements, nor moving, rotating or animated lights.

B. *All signs shall be designed and located so as to prevent the casting of glare or direct light from artificial illumination upon adjacent public streets or adjacent property.*

FINDINGS: The applicant said the signs will be located to avoid glare or direct illumination on adjacent streets or properties.

C. *All signs and sign structures shall be erected and attached totally within the site, except where permitted to extend into a street right-of-way.*

FINDINGS: The applicant said all signs will be located within property lines and out of public ROW.

D. *Signs shall not extend into or over or upon any public street or right-of-way. Except a sign may extend over a public sidewalk provided the bottom of the sign structure shall be at least eight (8) feet above the grade of the sidewalk and the sign does not project more than three (3) feet into the public right-of-way.*

FINDINGS: Same as "C." above.

E. *Signs or sign support structures shall not be located so as to detract from a motorist's view of vehicular or pedestrian traffic, or a traffic sign.*

FINDINGS: The applicant said signs will be located so as not to interfere with motorist's view and will be outside of clear vision triangles at the driveway intersection. The City agrees the ground mounted sign is located outside the clear vision triangle at the driveway intersection with the highway.

F. *Only one side of a double faced sign is counted in measuring the area of a sign. Sign area does not include foundation supports and other essential structures which do not serve as a backdrop or border of the sign.*

FINDINGS: The applicant said only one side of the double faced ground sign will be counted towards the overall square footage.

G. *All signs shall be kept in good repair and maintenance.*

FINDINGS: The applicant said there will be an annual maintenance program to check illumination and sign condition.

H. *It is the responsibility of the property owner to remove any abandoned sign within 30 days of the termination of its use.*

FINDINGS: The applicant said all signs will be removed from the store within 30 days if the store is closed.

I. *No sign including its supporting structure shall be placed so that its height exceeds eighteen (18) feet.*

FINDINGS: Although the applicant's illustration is taller than 18 feet, the applicant said the sign at this location will not exceed a height of 18'.

J. *Permanent signs are not permitted on undeveloped site i.e. a lot without a use.*

FINDINGS: The applicant said no signs will be installed on the undeveloped site.

K. *Signs shall only advertise uses or products on the site where the sign is located.*

FINDINGS: The applicant said the sign will include the name of the store.

1. *Subsection 4. B. Sign requirements for the C-2 zone: Permitted and conditional uses shall have permanent signs limited to one free standing sign per business not to exceed 32 square feet, and/or one sign, flush to the building, limited to 2 feet high by 12 feet long.*

FINDINGS: The applicant said they propose one free-standing sign that is 32 square feet at 18' height and one wall sign on the front façade that is 2' high x 12 feet long. If the store is approved an approved sign plan shall be obtained from the city prior to sign installation.

G. GZO Section 6.070 Maintenance of Minimum Ordinance Requirements

No lot area, yard, or other open space or off-street parking or loading area which is required by this ordinance shall be reduced below the minimum required for it by this ordinance.

FINDINGS: This section of the Gearhart Zoning Ordinance implies a reduction in the required number of parking stalls is not permitted. The applicant proposes a 40% reduction from the required 46 to 27 parking spaces. In addition, Article 9 Variances provides off-street parking variance criteria addressed later in this report.

H. GZO Section 6.100 Distance from Property Line

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 5 feet from the property line.

FINDINGS: The proposed building is 50 feet from the north property line, 10 feet from the south property line and 90 feet from the rear property line. Therefore the building setbacks meet this standard.

I. GZO Section 6.160 Access Control on Highway 101

For property fronting Highway 101 the following additional criteria applies.

1. *One driveway per 300 feet of highway frontage is allowed. Frontages of less than 300 feet shall be allowed one driveway.*

FINDINGS: Driveway access to the proposed store is from an existing driveway that is shared with other businesses. ODOT requires the applicant to apply for a new approach permit and a design plan to construct a modified left turn lane to ODOT satisfaction. This should be a condition of approval.

2. *Driveways on properties with one or two driveways allowed must be located adjacent to a side property line. Access easements must be granted to the property adjacent to the driveway. Half-width driveways maybe allowed.*

FINDINGS: The existing driveway adjoins the north property line of the site and will be expanded to serve the proposed store. A sketch and description of the driveway easement serving adjoining parcels shall be finalized prior to issuance of a building permit. This should be a condition of approval.

3. *New driveways on properties located adjacent to properties that have existing property line driveways must be located adjacent to and utilize the existing driveway and use the same or an expanded curb cut.*

FINDINGS: The proposed driveway is a shared driveway that will be expanded to the south to incorporate access to the proposed store. The pavement proposal to widen the existing entry by 15' is subject to ODOT approach permit approval. The new pavement into the site will widen to 28' then narrow to 24'5" near its east terminus.

4. *Curb cuts shall not exceed 15 feet for one-way drive, 24 feet for a two-lane two-way drive, or 36 feet for a three-lane two-way with a turn lane drive.*

FINDINGS: It appears the ultimate curb-cut width at the highway will be 80' wide. Modification of the curb cut on a state road is subject to ODOT approval. The existing driveway does not meet the maximum 36' width requirement.

5. *Parking lots located in front of a structure fronting on a highway shall be located adjacent to at least one side property line and access easements shall be granted to the adjacent property owner for access through the parking lot.*

FINDINGS: The driveway is adjacent to an existing driveway on the north property line. An easement for shared access shall be completed and recorded prior to issuance of a building permit.

6. *If a new parking lot is located to the front of a structure on a property adjacent to a property(s) with an existing parking lot, the new parking lot shall be located adjacent to the existing parking lot(s).*

FINDINGS: A portion of the new parking lot is adjacent to the existing retail center parking lot to the north.

J. GZO Section 6.220 Outdoor Lighting

Lighting fixtures shall be shielded or recessed into the building design to avoid casting glare onto adjacent property or upward into the night sky.

FINDINGS: The application does not include a detailed outdoor lighting plan.

K. GZO Section 6.130 to 6.150 Off Street Parking and Loading

No off-street parking is required in a C1 Zone except for residential dwellings and neighborhood cafes. In all other zones, and for residential dwellings and neighborhood cafes in the C1 zone:

- (1) *At the time a structure is erected or enlarged, or the use of a structure or parcel of land is changed within any zone in the City, off-street parking spaces shall be provided in accordance with the requirements of this section and zone designation standards listed in Article 3 unless greater requirements are otherwise established.*

FINDINGS: The proposed store is 9100 square feet and is required to have one parking space per 200 gross square feet, for a total of 46 spaces. The applicant proposes 27 spaces, therefore does not meet the minimum requirement.

- (2) *If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if it would result in less than is required by this section.*

FINDINGS: Proposed parking spaces are not being provided in connection with an existing use. This criterion is not applicable.

- (3) *Where square feet are specified the area measured shall be the gross floor area primary to the functioning of the particular use of property but shall exclude space devoted to off-street parking or loading.*

FINDINGS: The gross square footage of the building is the basis for the parking requirement and the 46 spaces has been calculated in accordance with this standard.

- (4) *Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season.*

FINDINGS: This is not applicable because the required parking for the request is based on building size not on the number of employees.

- (5) *Fractional space requirement shall be counted as a whole space.*

FINDINGS: In this case the required 45.5 spaces are rounded up to 46.

- (6) *Parking spaces shall be a minimum of nine (9) feet by eighteen (18) feet for standard spaces, and eight (8) feet by sixteen (16) feet for compact spaces.*

FINDINGS: Parking spaces on the west side of the lot are 9' wide x 20' deep and are 9' x 18' on the north side in compliance with the minimum standard stall size.

- (7) *For uses requiring four or more spaces, up to fifty percent (50%) of the spaces may be compact in size.*

FINDINGS: No compact spaces are provided. More stalls could be added if the design included compact spaces.

PARKING SPACES REQUIRED FOR EACH USE:

Commercial

- a. Retail store, except as provided in subsection (b) below. One space for each 200 square feet of gross floor area. This is the applicable standard as discussed above.*
- b. Service or repair shop or retail store handling bulky merchandise such as automobiles or furniture. One space for each square feet of gross floor area. This standard is not applicable to the Dollar General store.*

SECTION 6.140 OFF-STREET LOADING REQUIREMENTS

At the time a structure is erected or enlarged, or the use of a structure or parcel of land changed within any zone in the City, off-street loading spaces shall be provided in accordance with the requirements of this section and Section 6.150 unless greater requirements are otherwise established.

Merchandise, materials, or supplies:

Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.

If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.

Off-street parking areas used to fulfill the requirements of this ordinance shall not be used for loading and unloading operation except during periods of the day when not required to take care of parking needs.

FINDINGS: The proposed plan illustrates a semi-truck loading berth about 80 feet long on the north property line just east and separate from customer parking spaces. Trucks exiting the site are required to back out through the parking lot before entering the highway.

Passenger loading zone:

A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school or other public meeting place which is designed to accommodate more than 25 persons at one time.

FINDINGS: This section is not applicable because the subject site is not a school or public meeting place.

SECTION 6.150 OFF-STREET PARKING AND LOADING, GENERAL PROVISIONS

The following general provisions shall govern the application of off-street parking and loading requirements.

- 1. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance. Should the owner or occupant of a lot or building change the use to which the lot or buildings is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided.*

FINDINGS: Continued availability and maintenance of parking and loading spaces shall be enforced by the City if necessary. The Planning Commission is concerned that a future change in building use to a more intensive commercial business will be constrained by a lack of off-street parking in relation to the size of the building and the minimum city parking requirements. A future use in the 9100 square foot building may generate parking needs greater than Dollar General argues are typical for their stores. If this occurs, overflow parking could occur in the parking lots of adjoining uses. A higher occupancy commercial use would also intensify highway traffic hazards entering and exiting the site because of its close proximity to the Pacific Way intersection.

2. *Requirements for types of buildings and use not specifically listed herein shall be determined by the Planning Commission based upon the requirements of comparable uses listed.*

FINDINGS: Required parking spaces for the retail store are specifically listed in the parking requirements section so this section is not applicable. However, the proposal does not meet the minimum number of spaces required.

3. *In the event several uses occupy a single structure or parcel of land, the total requirements for off street parking shall be the sum of the requirements of the several uses computed separately.*

FINDINGS: The proposed store is a single use therefore not subject to this shared stall calculation. Without a variance approval the use does not comply with the minimum parking requirement.

4. *Owner of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the City in the form of deeds, leases, or contracts to establish the joint use.*

FINDINGS: The applicant does not propose to share the parking with another use nor request shared use of adjoining parking spaces on adjoining parcels therefore this provision does not apply. Dollar General argues that parking needs at stores in other cities do not utilize the amount of spaces required in Gearhart.

5. *Off-street parking spaces for one or two-family dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than 200 feet from the building or use they are required to serve, measured in a straight line from the building.*

FINDINGS: The parking spaces adjoin the building and are within 200 feet of the store.

6. *Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.*

FINDINGS: The proposed spaces are separated from the loading area in the rear and are only intended for customers.

7. *A Plan drawn to scale, indicating how the off-street parking and loading requirements are to be met shall accompany an application for a building permit.*

FINDINGS: The applicant provided a parking plan with the variance application.

8. *Design requirements for parking lots and loading areas shall be as follows:*

- A. *Areas used for standing and maneuvering of vehicles shall have graveled or paved surfaces maintained adequately for all-weather use and so drained as to avoid flow of water across public sidewalks.*

FINDINGS: The parking spaces are to be paved. The drainage plan has been reviewed by the consulting city engineer who finds the plan is incomplete, inaccurate and the design is not feasible on the subject site.

- B. Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight obscuring fence, screen or hedge of not less than 5 or more than 6 feet in height except where vision clearance is required.*

FINDINGS: This section is not applicable because the proposed site is not adjacent to a residential zone.

- C. Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on any adjacent resident dwelling located in a non-residential zone.*

FINDINGS: A lighting plan has not been provided.

- D. On parking lots having 4 or more parking spaces, such spaces shall be clearly marked in a permanent manner.*

FINDINGS: If approved the applicant shall provide parking stall striping and curb or bumpers in front of each stall.

- E. Service drives to off-street parking area shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service the traffic to be anticipated. Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.*

FINDINGS: The proposed plan includes adequate entry and back up aisles that are 24 – 26 feet wide. A separate loading dock in the rear of the lot requires backing into all parking spaces when exiting the site.

- F. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points 20 feet from their intersection.*

FINDINGS: The proposed 80' wide driveway and approach area meets the 20' triangular area clear vision requirement.

L. SECTION 6.160 ADDITIONAL CRITERIA FOR ACCESS CONTROLS ON HIGHWAY 101

For property fronting Highway 101 the following additional criteria applies.

- 1. One driveway per 300 feet of highway frontage is allowed. Frontages of less than 300 feet shall be allowed one driveway.*

FINDINGS: The existing driveway location has had prior approval and will be widened to provide adequate access to the site, subject to ODOT approval.

2. *Driveways on properties with one or two driveways allowed must be located adjacent to a side property line. Access easements must be granted to the property adjacent to the driveway. Half-width driveways maybe allowed.*

FINDINGS: The existing half width driveway is proposed to be widened for the store and access will continued to be shared with adjoining uses to the north and east, subject to completing easement descriptions and recording the easements at Clatsop County.

3. *New driveways on properties located adjacent to properties that have existing property line driveways must be located adjacent to and utilize the existing driveway and use the same or an expanded curb cut.*

FINDINGS: The proposed driveway is an expansion of the existing driveway in accordance with this section.

4. *Curb cuts shall not exceed 15 feet for one-way drive, 24 feet for a two-lane two-way drive, or 36 feet for a three-lane two-way with a turn lane drive.*

FINDINGS: The curb cut will be a total of 80 feet wide. Once on site the driveway will be an estimated 38' wide, exceeding the maximum of 36 feet for a three lane two-way drive. The wide driveway does not comply with the 36-foot maximum.

5. *Parking lots located in front of a structure fronting on a highway shall be located adjacent to at least one side property line and access easements shall be granted to the adjacent property owner for access through the parking lot.*

FINDINGS: This provision is satisfied as described in Section 6.150 above

6. *If a new parking lot is located to the front of a structure on a property adjacent to a property(s) with an existing parking lot, the new parking lot shall be located adjacent to the existing parking lot(s).*

FINDINGS: This section is satisfied as described in Section 6.150 above.

M. GZO SECTION 6.161 LANDSCAPING REQUIREMENTS ADJACENT TO U.S. HIGHWAY 101

1. *All new sub-divisions shall provide landscaping to buffer the sub-division from Highway 101. A landscape plan and time schedule for the implementation of the plan will be submitted as a part of the development application to the Planning commission for approval.*

FINDINGS: The proposal is not a land subdivision therefore this section is not applicable.

2. *A landscaping plan shall be submitted to the City Administrator for approval before building permits are issued for any new development on lots adjacent to Highway 101.*

FINDINGS: The applicant submitted a landscape plan on the highway frontage. The groundcover is rock with an underlying fabric weed barrier. The plant materials include two-foot high shrubs and grasses (5 spirea, 20 fescue) and 6 dwarf mugo pine trees. On the south property line adjoining the building a lawn and fescue strip and a wood privacy fence are proposed.

3. *As a minimum requirement, a 10-foot wide strip of landscaping adjoining the Highway right-of-way shall be provided.*

FINDINGS: At the narrowest portion the highway strip is no less than 10 feet wide.

4. *Landscaping requirements adjacent to US Highway 101:*

- (1) *As a minimum requirement, a 10-foot wide strip of landscaping shall be provided adjoining the Highway right-of-way.*

FINDINGS: Same as above.

- (2) *A landscaping plan shall be submitted to the City Administrator for approval before building permits are issued for any new development on lots adjacent to Highway 101. The landscaping plan shall include a maintenance schedule with a provision for routine placement of plants that fail to survive. Landscaping plans shall comply with the standards of Section 6.060 Clear Vision Area.*

FINDINGS: The plan has been submitted for approval. The plan defines soil preparation, planting, maintenance and plant replacement provisions to be completed by a landscape contractor and approved by the city. The plan does not interfere with the clear vision of drivers.

- (3) *All new subdivisions shall provide a landscaping area to buffer the subdivision from Highway 101. A landscape plan and time schedule for the implementation of the plan shall be submitted to the City as part of the development application to the Planning Commission.*

FINDINGS: The proposal is not a subdivision so this section is not applicable.

- (4) *Required landscaping areas shall preferably consist of native plant species which are compatible with the weather of the coastal environment and the soils types of the site. Examples of native plants are described by the book "Plants of the Pacific Northwest Coast by Pojar and MacKinnon" and on the list from "The Western Gardener" available at City Hall. In addition to native plants, edible plants, fruits, vegetables, and nuts shall also be permitted.*

FINDINGS: Spirea betulifolia is a native spring flowering shrub 3 feet high, and should replace the proposed spirea glauca. Festuca californica

is a native fescue grass, forms a tight clump of blue gray leaves 2 – 3 feet high and should replace the smaller festuca bumalda.. Mugo pines are native trees of Spain, Central Europe and the Balkans. The pines should be replaced with a native deciduous street tree.

- (5) *With Planning Commission review, applicants may request that non-native plants be placed on the list of acceptable plants within required landscaping areas.*

FINDINGS: The applicant has not requested that the non-native plants be placed on the preferred list of plants.

- (6) *No plants prohibited by the City of Gearhart shall be permitted.*

FINDINGS: There are no noxious weeds or plants proposed in the landscape strip.

- (7) *All structures, including any fence, shall be setback ten feet from the property line adjacent to US Highway 101.*

FINDINGS: The plan indicates there are no structures on the highway frontage.

N. GZO Section 8.030 Criteria for Granting Variances

A Variance to requirements of this ordinance with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the City Planning Commission, if, on the basis of the application, investigation and evidence submitted by the applicant all three (3) of the following expressly written findings are made:

Approval Criteria

1. *That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Ordinance; and*

FINDINGS: Dollar General argues their stores in other cities have a low level of parking needs, currently estimated at 10 vehicles per hour. The applicant did not address future traffic and parking volumes. They cite that dimensional constraints of the subject parcel and historic low parking demands justify a variance to reduce the number of parking spaces by 40%.

The Planning Commission finds that a future retail use in the proposed 9100 square foot building could generate a significantly higher parking demand. A change in use that needs more than 27 parking spaces could result in overflow parking in the parking lots of adjoining uses. A higher occupancy commercial use would also

intensify highway traffic hazards entering and exiting the site because of its close proximity to the Pacific Way intersection. If the site is not an adequate size for the Dollar General store unless parking requirements can be substantially reduced, the parcel is not the place to locate. The Planning Commission finds it is in their best interest to plan for an anticipated increase in traffic volumes by literally interpreting the minimum parking space requirement for the new building.

2. *That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the street; and*

FINDINGS: The granting of the variance reducing the number of stalls by 40% will not result in parking or loading of vehicles on the public highway because parking is prohibited on the highway. The Commission finds this criterion is met.

3. *That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this ordinance or policies contained within the Comprehensive Plan.*

FINDINGS: The City Police Chief indicates concern over the proposed development at this site because he regularly experiences highway safety hazards near the intersection of Pacific Way and Highway 101. The Planning Commission finds the proposal is inconsistent with several Comprehensive Plan policies.

The following Comprehensive Plan policies are relevant to the request.

- *“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. (page 1)*
- *Where extensions are required to the existing system, the City will require the customers requesting service to pay the entire cost of the extension. (page 11)*
- *Fire hydrants are required for all system extensions according to the City’s standards and will be paid for by the customer requesting service. (page 12)*
- *The City will establish minimum fire flow requirements for fire protection and may institute a system of charges or other requirements on a case-by-case basis the existing system is unable to meet the fire protection requirements or where a customer will place an undue fire demand on the water system. (page 12)*
- *To provide for continued surface water quality and adequate drainage within the City of Gearhart. (page 13)*

- *The City of Gearhart will construct and maintain storm drainage facilities as required. The emphasis will be on facilitating the percolation of rainwater into the soil at locations subject to flooding rather than constructing a complete storm drainage system.*
- *Surrounding land use and traffic generation patterns will be considered during the initial stages of planning for any new development along Highway 101. (page 15)*
- *Along the Coast Highway access control techniques will be used in conjunction with ODOT to coordinate traffic and land use patterns, and to help minimize the negative impacts of growth. Area-wide needs supersede site specific needs. (page 15)*
- *In the event of significant new development proposals for land adjacent to the Coast Highway the City will work with ODOT through the District Engineer to ensure unimpeded traffic flow and safety to the fullest extent possible. (page 15)*
- *Adequate parking for residential and commercial uses will be maintained through enforcement of zoning ordinance parking requirements. (page 15)*

FINDINGS: The Planning Commission finds the above Comprehensive Plan policies are relevant to the proposal. In summary, a transportation policy states adequate parking for a commercial use will be maintained through enforcement of city parking requirements. In this case, the large 9100 square-foot building is a permanent structure with a long life that will change in use over time. The building should be provided with the minimum parking required for its size in order to adequately serve the proposed and subsequent commercial uses. The Dollar General store is a nationwide retail box store designed to serve customers in the region. Gearhart policy strives to serve the needs of its residents, not the region. New development in Gearhart is required to provide adequate water, septic, storm drainage and fire protection at the expense of the developer. Acceptable public utility plans have not been provided. Adequate water supply and water pressure to the site is essential and currently not available. Further, Highway 101 has significant drainage problems that create hazardous driving conditions much of the year. The contract City engineer has deemed the proposed drainage plan infeasible. The City must be assured by the developer that a feasible water service plan and a storm drainage plan can be designed and accommodated on the site. According to the Gearhart Transportation System Plan, 2017 highway traffic is projected to increase. Today, factors such as proximity to the Pacific Way intersection, traffic speeds, driver distractions and water ponding create hazardous driving conditions at peak times. Gearhart policy strives to minimize the negative impacts of growth and new land use patterns.

The Planning Commission finds the proposal is inconsistent with the above stated Gearhart plan policies.

O. GZO Article 13 Application, Notice and Hearing Procedures

The Variance application was filed and deemed complete, public notice was mailed and published on August 25, 2017. A public hearing by the Planning Commission was conducted on September 14, 2017.

II. .SUMMARY CONCLUSION

The Planning Commission finds the request to reduce off-street parking from 46 to 27 spaces is inconsistent with several Comprehensive Plan policies and the variance criteria. Further, the proposed plan is incomplete or inadequate as follows:

1. An acceptable plan for adequate water supply and water pressure to the site has not been provided;
2. A site storm water drainage plan that effectively controls storm water from the site has not been provided;
3. A septic system plan has not been provided;
4. Utility and access easements have not been defined;
5. An outdoor lighting plan has not been provided;
6. The landscape plan lacks imagination and aesthetics. A revised plan is recommended utilizing native plants and native deciduous trees.

III. DECISION

Based on the above findings and the public testimony on September 14, 2017 the Planning Commission decided to DENY City File #17-012V.

Signed: Virginia Dideum Date: 9/19/17
Virginia Dideum, Planning Commission President

DATE MAILED: 09 20 17 CZ

APPEAL

In accordance with the Gearhart Zoning Code Section 13.060, the decision of the Planning Commission may be appealed to the City Council within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information described in Section 13.060.