



# CITY OF GEARHART

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

November 9, 2017

MEMBERS: Carl Anderson, Jeremy Davis, Terry Graff, David Smith and Russ Taggard.

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

## Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, November 9, 2017 was called to order at 6:00 pm by Vice-president David Smith.

On **MOTION** by Graff, 2nd by Davis, by unanimous motion Virginia Dideum was granted an excused absence from the November 9, 2017 Commission meeting.

Smith noted there are no minutes or financial reports in the packet.

On **MOTION** by Anderson, 2<sup>nd</sup> by Taggard, by unanimous motion approval of the November 2017 commission minutes were delayed until they are provided.

## STAFF REPORTS

Chad Sweet reported on a pending work session with the City Council to discuss Dune Vegetation, he noted work session date and time would be posted on the City Blog.

Sweet also noted there is still a Planning Commission vacancy with the retirement of Richard Owsley. Two applications have been received, the Council will meet in December to vote on a new appointment.

STR vacation rentals are moving forward, all but approximately 10 homes in the R1/R2 zones are licensed. He foresees no big issues with licensing the rest of the properties.

In the election to repeal and replace Ordinance 901 the results are still unofficial there were 492 no votes and 178 yes votes.

Carole Connell reported staff would not be available for the December commission meeting, there are no hearings scheduled, the commission president had voiced interest in cancelling the meeting. By consensus of Commissioners the December 2017 Planning Commission meeting was cancelled.

CORRESPONDENCE

Correspondence was reviewed from John & Margaret Green regarding the dune vegetation committee and correspondence from Oregon Parks and Recreation Department regarding unauthorized dune grading. No action was taken by the Commission.

VISITORS COMMENTS

None

PUBLIC HEARINGS

Smith read the hearing disclosure statement for both public hearings before the Commission.

Land Partition #17-008P submitted by Ray Romine to partition one parcel of land into two (2) lots for property located on Hillila Road and further described as Assessors Plat 7 10 34CA, Tax Lot 3300 was open at 6:10 pm. Smith asked if Commissioners had any exparte contact, conflict of interest or bias to declare. None was voiced. He asked if there were any audience challenges to the Commission hearing the application before the Commission. None was voiced.

Connell reviewed the history of application noting this being the third continuance, the conditions of approval have not changed. Since there will be no Commission meeting in December another waiver extension will be needed by the applicant. The water main extension requirement which was decided by the applicant and staff in August has been in discussion with Romine, his attorney and the City Attorney to resolve. Staff is making a recommendation the Commission make a decision to approve the application subject to the 9 conditions of approval from the staff report dated August 3, 2017.

Graff asked what the status of the water was now.

Connell said the applicant no longer agrees to the 8-inch water extension due to cost and is proposing a 3-inch line, the attorneys are at an impasse. The Commission has had the application for 4 months and it needs to move on because there is always the option to appeal. Connell reviewed the condition specific to the water main requirement. Romine is proposing a 3-inch line, which the city water plans and needs for fire hydrant and water pressure. A 3-inch line is not acceptable.

Taggard asked if the application is approved is the project dead until he meets the conditions.

Connell said yes, the applicant will need to come back to the Commission for a final plat which includes a survey in its final form as required by the county for creating a new lot.

Graff questioned granting approval if the application is refusing to comply with the conditions.

Sweet noted there is a 'stop order' on the home under construction that will not be lifted until there is a resolution to the water supply, the water supply issue will prevent any additional homes from being constructed and the final plat approval from being signed.

Graff asked is the city is negotiating a service less than is required now.

Sweet -no. The city is holding fast on the requirements.

Davis asked if denied what are his options.

Connell – an appeal to the city council.

On **MOTION** by Graff, 2<sup>nd</sup> by Davis, a motion was made to deny land partition application #17-008P submitted by Ray Romine to partition one parcel of land into two (2) lots for property located on Hillila Road and further described as Assessors Plat 7 10 34CA, Tax Lot 3300, based on the water service issue and staff recommendation for an 8-inch water main that the applicant refused to do.

Mark Brien clarified based on an agreement at the preconstruction meeting and getting to a point in construction without having an approved water source a verbal *stop order* was issue, the site has not been posted but by default the project is at a standstill until there is an approved water source.

Chief Eddy clarified where the city looks at the development as a 2-lot partition in compliance with fire code requirements he must look at the project as a whole, an 11-lot subdivision. If the development is done upfront requirements of water and fire turnaround are taken care of, if the project is done one lot at a time you could get around the land partition rule but you cannot skirt the fire regulations it will be an 11-lot subdivision requiring the water supply.

Smith noted previously hearing the applicants report.  
There were no opponents, proponents or neutral comments.

#### Applicants Rebuttal

Romine did not consider the building official demanding he get out of his office as giving him a stop work order. He agrees with fire chief from a zoning and planning perspective this is a simple two lot partition. Wyattte Engineering did engineering for fire code for the 2 houses and came up with something less than a 2-inch line, he feels he is being generous offering a 3-inch line. He noted



acceptable solutions to fire code include wells with pumps and sprinkled systems inside of houses that do not meet flow requirements. The city requirement of an 8-inch water main results in about \$55,000 work versus \$11,000 for a 3-inch line resulting in a “taking” by the city. The water line proposed by the city is too large and too costly to serve two homes. It is not his responsibility what the city wants to do in the future, his responsibility is to the two homes.

The public hearing was closed at 6:30pm.

Smith called for a vote on the **MOTION TO DENY**. Motion passed 3-2 Anderson – nay, Graff – aye, Davis – aye, Taggard – aye, Smith -nay. (See attached)

Land Partition #17-014 submitted by CKI on behalf of Ben Johnson to partition two parcel sof land into two (2) legal lots for property located at the east end of Gronmark Lane and further described as Assessors Plat 7 10 34CA Tax Lots 1801 & 1900 was called to order. Smith asked if Commissioners had any exparte contact, conflict of interest or bias to declare. None was voiced. He asked if there were any audience challenges to the Commission hearing the application before the Commission. None was voiced.

Connell reviewed the staff report, the wetland determination survey just received, the conditions of approval and recommended approval of the preliminary plat. Anderson pointed out typos on the first page of the staff report that will be corrected.

Dean Keranen of CKI, P O Box 2699, Gearhart, Oregon representing Ben Johnson of Sunrise Homes – Keranen said it was a simple two lot partition, the question for the commission would be if a wetland delineation would be necessary or the determination would be sufficient, difference is a determination being the first step necessary for a delineation.

Graff asked if a delineation is something the commission needs to approve.

Connell said according to the ordinance it is something the city is allowed to decide. Sweet said based on a 2011 survey done by CREST there are known wetlands on the property, following a site review it is pretty obvious where the wetland begins and ends and he would recommend accepting the determination. Per conversation with the owner Sweet recommended a *silt net* be erected during the construction process to assure nothing crosses that line.

Davis asked if they would be required to get a determination at some point.



Sweet said no. Connell clarified the commission *may* require a delineation.

Graff asked if it was expensive to get a delineation.

Connell said about twice as much, the applicant paid \$2500 for this determination and a delineation would cost about \$4500.

Keranen said the road is 25 feet away from the wetlands.

Sweet said if the intent was to build right next to the wetland a delineation would be recommended. Connell added they have asked for building envelopes to be noted before the plat is finalized.

Johnson said the proposed buildings are approximately 36' x 35' and 38' x 35' both will fit on the flat portion of the lots.

Graff asked if the applicant was in agreement with all of the proposed conditions.

Keranen – yes.

There were no proponents, no opponents, no neutral comments and no rebuttal by the applicant.

The public hearing was closed at 6:55 pm.

Chief Bill Eddy stated the difference in this application and the Romine application is there is a hydrant within 500' of the new 2 lots as required by fire code and a main extension is not required. The ISO insurance rating for Gearhart is 3 - the lower the rating the better for all Gearhart property owners, this is achieved by maintaining tight access standards to municipal water systems and hydrants. The applicant also put in an apparatus turnaround making it a lot easier for the homes.

Connell recommended changing condition #1 to read "Any excavation, fill or construction within 25 feet of the wetland requires engineered plans and city approval. The applicant shall identify the building envelope for each dwelling on the proposed parcels." And changing condition #7 to add at the end of the first sentence "...and install silt fencing protection."

On **MOTION** by Taggard, 2<sup>nd</sup> by Graff, based on the findings in the city staff report the proposed Preliminary Partition Plat, File #17-014P subject to the conditions of approval as modified in #1 and #7 was unanimously approved. (See attached)

OLD BUSINESS

Goals list – it was recommended by staff to remove line 22 and 23 as projects completed. Discussion is to be continued at the January 2018 Commission meeting.

NEW BUSINESS

None


CONCERNS OF THE COMMISSION

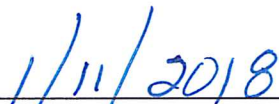
None

QUESTIONS FOR THE LAND USE ATTORNEY

None

On **MOTION** by Graff, 2<sup>nd</sup> by Taggard, the meeting was adjourned at 7:10 pm

  
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Cheryl A. Lund, secretary

  
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approved

**BEFORE THE PLANNING COMMISSION  
OF THE CITY OF GEARHART**

<b>IN THE MATTER OF A PERMIT FOR A TENTATIVE PARTITION PLAN</b>	) ) )	<b>FINAL FINDINGS AND ORDER</b>
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**DENIAL** of a request for a Tentative Land Partition to create one new single family home site with access to Hillila Road

FILE NUMBER: #17-008P Ray Romine

REQUEST: A request by Ray Romine for City approval of a two-lot Land Partition to create one new single family home site

FILE NUMBER: File# 17-008P Romine

OWNER: Ray Romine  
2170 Skyline Drive  
Seaside, Oregon 97138  
romine4@charter.net

APPLICANT: Same as above

SURVEYOR: OTAK Inc.  
Dale Barrett  
4253-A Hwy 101 North  
Gearhart, OR 97138

LOCATION: North side of Hillila Road, North half of Tract A, Map 6-10-3BD  
Tax Lot 3300, Heritage Dunes Subdivision

EXHIBITS:

1. Applicant's land partition application form; Preliminary Partition Plat, OTAK 3-14-17
2. OTAK wetland boundary map illustration 7-19-17
3. DSL Wetland Delineation concurrence letter, 8-3-16
4. Gearhart Wetland Inventory map
5. Gearhart Police Chief: no comment 7-10-17
6. Gearhart Fire Department: letter with conditions 7-12-17



7. Gearhart Public Works: with condition 7-24-17
8. Gearhart Building Inspector: agrees, with Fire Chief 7-25-17
9. Gearhart City Administrator: see wetland inventory; water service required to site.
10. Clatsop County: No reply received
11. City of Gearhart Water Master Plan, Section 5.1.4

PROCEDURES: Application deemed complete: 6-26-17  
 Notice sent: 7-21-17  
 Notice published: 7-21-17  
 Initial Public Hearing: 8-10-17  
 Continuances: 8-10-17, 9-14-17, 10-10-17  
 120-day decision due: 02-02-18

I. APPLICABLE REVIEW CRITERIA

Gearhart Zoning Ordinance criteria relevant to the application are:

- Section 3.1 Low Density Residential R-1
- Section 3.13 Freshwater Wetland and Lake FW Zone
- Section 6.030 Street access; 6.130 Off Street Parking; 6.161; 6.180 Excavation; 6.195 Tree Removal
- Section 13.020 Application Information and Procedures

Gearhart Subdivision Ordinance sections relevant to the application are:

- Sections 23 - 36 Land Partitioning
- Sections 37 - 46 General Regulation and Design Standards
- Sections 47 - 50 Improvements

Gearhart Water Master Plan

Section 5.1.4 – Fire Flow Pipeline Improvements

II. Site Information, Review and Procedures

1. Plan & Zone designations: The site is planned Residential and zoned Low Density Residential R-1. In the R-1 zone the proposed single family dwelling is an outright permitted use. The minimum lot size is 10,000 square feet.
2. Access: Site access is on Hilllila Road, a county road which is paved and has 40 feet of right-of-way. Parcel 2 has direct access to Hilllila Road. The proposed Parcel 1 will have access to Hilllila by a dedicated driveway easement across Parcel 1. The partition plat includes a 10-foot wide roadway dedication on the parcel's Hilllila Road frontage.

3. Site Characteristics: The tree-covered site is in the flood hazard zone "X". Wetlands exist on the west boundary. The east end rises in elevation in a dune formation. The abandoned rail right-of-way is privately owned where it adjoins the east boundary of the subject site. Parcel 2 has been graded and a dwelling is near completion. The dwelling on Parcel 2 is setback from the delineated wetland. Parcel 1 is a future home site.
4. Agency comments: Comments were received from the City Administrator, Gearhart Fire Department, Public Works and Building Official. There were no concerns reported by City Police Chief or Clatsop County.
5. Procedure: Approval of a land partition shall be in accordance with the application and procedural requirements of GZO Article 11 Administrative Provisions and the Gearhart Subdivision Ordinance.

### III. FINDINGS

1. GZO Section 3.1 Low Density Residential R-1: The R-1 zone permits a maximum of 4 dwelling units per acre. The minimum lot size is 10,000 square feet. Lot coverage maximum is 35% and building height maximum is 30 feet or two stories, whichever is less.

FINDINGS: The subject parcel is .96 acres and is proposed to be divided into two 20,946 square foot parcels for 2 single family dwellings. The two proposed parcels exceed the minimum 10,000 square foot lot size. The City Building Official reviewed the construction plans for the dwelling under construction regarding setbacks, height and lot coverage for Parcel 2. A future dwelling on Parcel 1 will be required to meet the same R-1 standards.

Wetland: In a prior 2014 approval the parcel owner was required to perform a site specific wetland delineation to determine if the subject parcel can be developed. The wetland delineation was provided to DSL by Ecological Land Services. DSL approved the delineation in their letter dated 8-3-16. On June 30, 2017 the City Planner and the DSL representative met on site to verify the wetland flagging in relation to the dwelling under construction. DSL was satisfied with the setback of the dwelling and found there had been no wetland fill. There was no additional correspondence from DSL.

2. GZO Section 3.1380 Development Standards in the FW Zone:
  - a) Development, construction or alteration within the FW Zone or within 25 feet of the FW zone boundary requires approval of a development permit from the City.



The application for development permit shall include a site plan drawn to a measurable scale and a narrative describing the proposed site work. A wetland determination or delineation by a qualified professional wetland scientist shall be required by the City, if the wetland boundary cannot be determined without the information.

- b) All activities involving construction or alteration in wetlands or aquatic areas shall be reviewed by the Oregon Department of State lands and the US Army Corps of Engineers to determine whether they have jurisdiction over a proposed use or activity. If the Oregon Department of State lands and / or the US Army Corps of Engineers determine that they have jurisdiction over a proposed use or activity, no construction shall commence until authorizations from these agencies have been obtained. If mitigation is part of a permit authorization process, it shall satisfy city mitigation requirements.
- c) When property proposed for development is wholly or partially within areas identified as wetlands within the City's FW Zone boundary, the City shall file a wetland land use notification form with the Oregon Department of State Lands that identifies the proposed activity consistent with ORS 227.350.
- d) When fill is permitted, a signed stamped report and plan review by a qualified professional such as a licensed engineer and / or a licensed engineering geologist shall be required that recommends that the fill shall cover no more area than the minimum necessary to accomplish the proposed activity, that the fill will not increase sedimentation or flooding to the site or downstream properties and cause adverse impacts to the site and surrounding area. Mitigation of impacts to replace native vegetation or lost wetland functions may be required. A development permit shall be obtained from the City and authorizations from state and federal agencies shall be obtained.
- e) When excavation is permitted, a signed stamped report and plan review by a qualified professional such as licensed engineer and / or a licensed engineering geologist shall be required that recommends that the excavation shall cover no more area than the minimum necessary to accomplish the proposed activity, that the excavation will not increase sedimentation or flooding to the site or downstream properties, and that the activity will not cause adverse impacts to the site and surrounding area.

FINDINGS: The Planning Commission finds a wetland has been identified on the west side of the site. The DSL has concurred with the applicant's wetland delineation. The applicant's site map dated 7-19-17 illustrates the wetland



boundary on Parcel 1 and 2. The City and DSL approved the dwelling location on Parcel 2 based on the required 25' wetland boundary setback. The proposed 25' access and utility easement provides the required setback for dwellings on both parcels. However, as a condition of approval a future building permit on Parcel 1 shall be accompanied by proof of the minimum 25' setback from the wetland as well as excavation and fill plans.

3. Article 6 Supplementary Provisions

- a) Section 6.030 Street access: requires a minimum of 25 feet of frontage.

FINDINGS: The Planning Commission finds that Parcel 2 has an estimated 233 feet of frontage on Hillila Road. Parcel 1 has an estimated 25.5' of Parcel 2's frontage for use as a private driveway easement. An easement can be a substitute for actual street frontage. The Commission finds an easement to a maximum of one parcel is a reasonable alternative to a public street.

- b) Section 6.130 Off-Street Parking: Two off-street parking spaces are required per dwelling.

FINDINGS: The Planning Commission finds that when a building permit is requested the Building Official will require that two off-street parking spaces be provided on each parcel.

- c) Section 6.161 Landscape Plan on Hwy 101: All new subdivisions are required to provide a minimum 10' wide landscaped buffer on lots adjacent to Highway 101.

FINDINGS: The Planning Commission finds that the subject partition does not have frontage on Highway 101.

- d) Section 6.180 Excavation: Removal of more than 1,000 SF of vegetation or excavation of more than 50 cubic yards shall first require an excavation and fill permit from the City Administrator.

FINDINGS: The Planning Commission finds that before vegetation removal, excavation or grading commences on Parcel 1 the applicant shall obtain city approved plans, and this should be a condition of approval.

- e) Section 6.195 Tree Removal: The purpose of this section is to assure that mature trees are removed only when necessary. A tree is defined as at least 12 inches in

diameter at 4.5 feet above grade. Any person planning to cut more than 5 trees within a 12 month period shall first obtain a tree removal permit from the City.

FINDINGS: The Planning Commission finds the application does not describe tree removal plans for Parcel 1. If more than 5 trees are planned to be removed, the applicant shall first obtain a tree removal permit from the City, which should be a condition of approval.

- f) Section 6.200 Protection of Archaeological Sites: The Building Official shall review building permits and the City Administrator shall review other land use actions that may affect a known archaeological site.

FINDINGS: The Planning Commission is not aware of an archaeological site on the subject parcel.

4. Subdivision Ordinance Sections 23 – 36 Land Partitioning submittal requirements

- a) Sections 24 to 36 describe partition plat submittal requirements, review procedures and final plat filing requirements.

FINDINGS: The Planning Commission finds that the relevant data has been provided except that vegetation and tree removal plans, excavation and fill plans or site contours have not been provided for Parcel 1. This information can be provided with the final plat submittal or at the time of a building permit submittal for Parcel 1.

5. Subdivision Ordinance Sections 37-46 General Regulation and Design Standards

- a) Section 37 – Principals of Acceptability

A land division, whether by a subdivision, creation of a street, or a partitioning shall conform to any development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by this ordinance.

FINDINGS: The Planning Commission finds the applicant proposes a land partition to create two parcels for two single family dwellings on Hillila Road. Approval is subject to compliance with the design standards of the Gearhart Subdivision Ordinance. The Commission finds Sections 41 Blocks, Section 42 Large Building Sites, Section 44 Land for Public Purposes and Section 45 Unsuitable Land are not applicable in this case.



- b) Section 38 - Streets: A land partition shall conform to the city street design standards.

FINDINGS: The Planning Commission finds no new public or private streets are planned to the two parcels. Instead, access to Parcel 1 is proposed by a 25.5' access and utility easement. The applicant will be required to establish a shared driveway maintenance agreement for the driveway. The driveway must be improved to Fire District specifications. Access from Hillila Road to the existing dwelling on Parcel 2 is also available in the easement.

- c) Section 39 - Recreation and Utility Easements:

FINDINGS: The Planning Commission finds there are no plans for recreation easements on the subject site. A 25.5'-foot access and utility easement is proposed across Parcel 2 to provide utilities to Parcel 1. Existing utilities include natural gas, water, communications and electrical lines. A condition of approval that a water main be installed per city and fire requirements should be required.

- d) Section 40 - Building Sites: Each lot shall be appropriate for the location, environmental features and for the type of development proposed. Each lot shall abut a street for a width of at least 25 feet. Through lots shall be avoided. Lot lines shall run at right angles to the street. Land which the Commission finds unsuitable for partitioning for reasons including flooding, improper drainage, wetlands or other concerns shall be set aside for a use which does not pose a danger or a negative impact.

FINDINGS: The Planning Commission finds proposed Parcels 1 and 2 are appropriately sized and shaped for street frontage. Parcel 1 has street frontage by a legal access easement across Parcel 2. The parcels are not through lots located between two streets. Lot lines run at right angles to the street. There is a known wetland on the west side of the parcels that is unsuitable for any development. The wetland delineation was approved by DSL on 8-3-16. The dwelling on Parcel 2 exceeds the 25-foot minimum setback from the wetland boundary. A dwelling on Parcel 1 will be required to meet the wetland setback.

- e) Section 43 – Water Courses: The land divider shall dedicate a right-of-way for storm drainage purposes, conforming to the lines of any natural water course or channel, stream or creek that traverses the partition, or find an alternative method to dispose of storm water.



FINDINGS: The Planning Commission finds that the proposal does not identify a natural water course on the site and does not include a plan for storm water runoff. At the time of a building permit request the applicant will be required to illustrate the location of roof drains and driveway drainage.

f) Section 46 – Wetlands and Areas Subject to Inundation: The Planning Commission may prohibit the partition of any portion of property which lies within the floodplain or wetlands of any stream or drainage course. These areas shall be preserved from damage or destruction resulting from clearing, grading or dumping of earth, waste or stumps.

FINDINGS: The Planning Commission finds that the official Gearhart Local Wetland Inventory LWI map illustrates a wetland on the west side of the parcel. The proposed partition provides area for two home sites west of and outside of the designated wetland. Staff requested contours of Parcel 1 to assure proper home placement is available. City staff met with the DSL representative at the site on June 29, 2017 and found the wetlands were flagged. DSL recommended the flagging be confirmed for accuracy. Staff requested the engineer confirm the flagging, and OTAK provided the data on an exhibit dated 7-19-17.

6. Subdivision Ordinance Sections 47 – 50 Improvements

a) Section 47 Improvement Standards and Approval

All improvements must conform to the requirements of the Gearhart subdivision ordinance and any other improvement standards or specifications adopted by the City, and installed in accordance with the following procedure:

- 1) Improvements shall not be commenced until plans have been approved by the city. Some plans may be required prior to approval by the Planning Commission. All plans must be prepared in accordance with the requirements of the city.
- 2) Improvement work shall not be commenced until the City has been notified.
- 3) All required improvements shall be constructed under the inspection and to the satisfaction of the City.
- 4) All underground utilities shall be constructed prior to surfacing of the streets.
- 5) A map showing all public improvements as built shall be filed with the Building Official upon completion of the improvements.

FINDINGS: The Planning Commission finds that plans for required water improvements do not conform to the standards or specifications of the City, and have not been approved by the city, so this criteria is not met.

b) Section 48 Improvement Requirements:

- 1) Public streets shall be improved.
- 2) Structures necessary for drainage, access and public safety shall be installed.
- 3) Storm water facilities or ground water recharge facilities shall be installed per city specifications.
- 4) Water mains and fire hydrants must be installed per design, layout and location approved by the city.

Water:

The Planning Commission finds, through written and oral testimony, that the applicant refuses to comply with the city's requirements regarding water mains. The application does not comply with the requirements set forth in the City Water Master Plan, which requires, in Section 5.1.4.2, an extension of the main line east of the subject site, using an 8 inch pipe, in order to meet water pressure for fire flow demands.

Before the partition plan was filed City staff indicated in a meeting with the applicant that an 8 inch water main must be extended from its current terminus across the parcel's Hillia Road frontage to serve two homes on the site. The applicant agreed to extend the 8" water main, until a later date when he requested a bid for the cost of the extension. During the hearings the applicant testified he will only extend a 3" line. This fails to comply with the city's required design specifications.

The applicant stated he will connect the two homes to City of Warrenton water service and has their permission to do so. In an email from the City of Warrenton on September 7, 2017 James Dunn said, "The City does not have a written policy, but there is no intent or desire to provide water service in another agency's service area. Furthermore it is common practice not to do so. Mr. Romine has not received permission to connect to the City of Warrenton's water main."

The development also requires a new fire hydrant because the nearest hydrant is located approximately 625 – 650 feet west of the northernmost Parcel 1. This exceeds the maximum distance of 500 feet, as mandated by the Oregon Fire Code. Therefore an 8 inch line is required to service a new hydrant at the parcel. The applicant installed an 8" line to his adjoining parcels he partitioned to the west, but has repeatedly indicated he will not extend the 8" line to the subject partition. The applicant's subject partition is the last one available in a series of adjoining land partitions he has created over several years.



In addition to testimony from Fire Chief Bill Eddy, the Fire Department's initial letter dated July 11, 2017 outlines several access requirements for fire access safety in accordance with Oregon Fire Code (OFC). Prior to approval the applicant must provide information showing compliance with the following:

- Driveway Access improvement: The applicant shall provide documentation from a registered engineer that the finished construction of the road is in accordance with the OFC Road Standards. This includes an improved surface of no less than 14 feet wide; if the driveway is greater than 150 feet from Hillila Road an area to safely turnaround a fire department apparatus may be required per OFC 503.1.1.
  - Signage: The applicant shall install a "NO PARKING – FIRE LANE" sign on both sides of the access easement, unless the driveway width provides for on-street parking.
  - Water Supply: The minimum available fire flow for single family dwellings served by the municipal water supply shall be 1,000 gallons per minute. If the structure is over 3,600 square feet the required fire flow shall be determined according to OFC Appendix B (OFC B105).
  - Hydrant Spacing: The Fire Chief and Building Inspector shall approve the existing hydrant spacing of an estimated 650' to Parcel 1, or require installation of a new hydrant in accordance with the minimum 500-foot spacing requirement.
- 5) Underground utilities shall be installed.
  - 6) Street lighting per city specifications shall be installed.
  - 7) Street signs shall be installed per city specifications.
  - 8) If necessary, a drainage easement shall be installed for the safety of the adjoining property.
  - 9) Damage to public streets related to the development shall be restored to existing conditions before the damage.

**FINDINGS:** The Planning Commission finds that all public and private utilities are available to proposed Parcel 1 and 2, except for city water service pursuant to city requirements.

Underground utilities are required. If applicable, street lighting and street sign locations and specifications shall be determined by City staff. City staff has not indicated a need for drainage improvements or easements. Damage to public streets related to the development shall be restored to existing conditions before the damage.



Because applicant has failed to submit plans for a water main that comply with city requirements and specifications and has expressly testified that he will not comply with city requirements related to the water main and the fire hydrant, this criteria is not met.

- c) Section 49 – Monuments: Surveyed monuments shall be set according to ORS 92.060 and city specifications outlined in Section 49 - Monuments

FINDINGS: The above requirement should be a condition of approval.

- d) Section 50 – Survey Requirements: The surveyed plat shall be set according to ORS 92 and city specifications outlined in Section 50 – Survey Requirements.

FINDINGS: The above requirement should be a condition of approval.

#### IV. DECISION

The City initially recommended approval of the partition plan subject to conditions to satisfy city standards. Subsequent to three hearing continuances, on November 9, 2017 The Planning Commission DENIED the proposed Tentative Partition Plan because the Planning commission determined that the criteria related to water improvements standards, specifically requirement of an 8 inch water main pipe required for adequate water pressure under fire flow, and the fire hydrant required under the Oregon Fire Code, is not met, and could not be met pursuant to a condition of approval, because the applicant has failed to submit plans showing compliance with the requirements and during his testimony would not affirmatively agree to comply with any condition of approval imposing such requirements.

Signed:   
David Smith, Planning Commission Vice-President

Date: 11/27/2017

DATE MAILED: 11/28/2017

#### V. APPEAL

In accordance with the Gearhart Zoning Code Section 13.060(2), 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 outlined in Section 13.060(3).

**BEFORE THE PLANNING COMMISSION  
OF THE CITY OF GEARHART**

<b>IN THE MATTER OF A PERMIT FOR A TENTATIVE PARTITION PLAN</b>	) ) )	<b>FINAL FINDINGS AND ORDER <i>AMENDED 11.28.17</i></b>
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**DENIAL** of a request for a Tentative Land Partition to create one new single family home site with access to Hillila Road

FILE NUMBER: #17-008P Ray Romine

REQUEST: A request by Ray Romine for City approval of a two-lot Land Partition to create one new single family home site

FILE NUMBER: File# 17-008P Romine

OWNER: Ray Romine  
2170 Skyline Drive  
Seaside, Oregon 97138  
romine4@charter.net

APPLICANT: Same as above

SURVEYOR: OTAK Inc.  
Dale Barrett  
4253-A Hwy 101 North  
Gearhart, OR 97138

LOCATION: North side of Hillila Road, North half of Tract A, Map 6-10-3BD  
Tax Lot 3300, Heritage Dunes Subdivision

EXHIBITS:

1. Applicant's land partition application form; Preliminary Partition Plat, OTAK 3-14-17
2. OTAK wetland boundary map illustration 7-19-17
3. DSL Wetland Delineation concurrence letter, 8-3-16
4. Gearhart Wetland Inventory map
5. Gearhart Police Chief: no comment 7-10-17
6. Gearhart Fire Department: letter with conditions 7-12-17

7. Gearhart Public Works: with condition 7-24-17
8. Gearhart Building Inspector: agrees with Fire Chief 7-25-17
9. Gearhart City Administrator: see wetland inventory; water service required to site.
10. Clatsop County: No reply received
11. City of Gearhart Water Master Plan, Section 5.1.4

PROCEDURES:      Application deemed complete: 6-26-17  
                          Notice sent: 7-21-17  
                          Notice published: 7-21-17  
                          Initial Public Hearing: 8-10-17  
                          Continuances: 8-10-17, 9-14-17, 10-10-17  
                          120-day decision due: 02-02-18

I.      APPLICABLE REVIEW CRITERIA

Gearhart Zoning Ordinance criteria relevant to the application are:

- Section 3.1 Low Density Residential R-1
- Section 3.13 Freshwater Wetland and Lake FW Zone
- Section 6.030 Street access; 6.130 Off Street Parking; 6.161; 6.180 Excavation; 6.195 Tree Removal
- Section 13.020 Application Information and Procedures

Gearhart Subdivision Ordinance sections relevant to the application are:

- Sections 23 - 36 Land Partitioning
- Sections 37 - 46 General Regulation and Design Standards
- Sections 47 - 50 Improvements

Gearhart Water Master Plan

Section 5.1.4 – Fire Flow Pipeline Improvements

*Oregon Fire Code – Chapter 5, Appendix C, and Chapter 33 ( enclosed)*

II.      Site Information, Review and Procedures

1. Plan & Zone designations: The site is planned Residential and zoned Low Density Residential R-1. In the R-1 zone the proposed single family dwelling is an outright permitted use. The minimum lot size is 10,000 square feet.
2. Access: Site access is on Hillila Road, a county road which is paved and has 40 feet of right-of-way. Parcel 2 has direct access to Hillila Road. The proposed Parcel 1 will have access to Hillila by a dedicated driveway easement across Parcel 1. The



has repeatedly indicated he will not extend the 8" line to the subject partition. The applicant's subject partition is the last one available in a series of adjoining land partitions he has created over several years.

In addition to testimony from Fire Chief Bill Eddy, the Fire Department's initial letter dated July 11, 2017 outlines several access requirements for fire access safety in accordance with Oregon Fire Code (OFC). Prior to approval the applicant must provide information showing compliance with the following:

- Driveway Access improvement: The applicant shall provide documentation from a registered engineer that the finished construction of the road is in accordance with the OFC Road Standards. This includes an improved surface of no less than 14 feet wide; if the driveway is greater than 150 feet from Hillila Road an area to safely turnaround a fire department apparatus may be required per OFC 503.1.1.
- Signage: The applicant shall install a "NO PARKING – FIRE LANE" sign on both sides of the access easement, unless the driveway width provides for on-street parking.
- Water Supply: The minimum available fire flow for single family dwellings served by the municipal water supply shall be 1,000 gallons per minute. If the structure is over 3,600 square feet the required fire flow shall be determined according to OFC Appendix C (OFC C105).
- Hydrant Spacing: The Fire Chief and Building Inspector shall approve the existing hydrant spacing of an estimated 650' to Parcel 1, or require installation of a new hydrant in accordance with the minimum 500-foot spacing requirement.

- 5) Underground utilities shall be installed.
- 6) Street lighting per city specifications shall be installed.
- 7) Street signs shall be installed per city specifications.
- 8) If necessary, a drainage easement shall be installed for the safety of the adjoining property.
- 9) Damage to public streets related to the development shall be restored to existing conditions before the damage.

**FINDINGS:** The Planning Commission finds that all public and private utilities are available to proposed Parcel 1 and 2, except for city water service pursuant to city requirements.

Underground utilities are required. If applicable, street lighting and street sign locations and specifications shall be determined by City staff. City staff has not

# Part III—Building and Equipment Design Features

## CHAPTER 5

### FIRE SERVICE FEATURES

#### SECTION 501 GENERAL

**501.1 Scope.** Fire service features for buildings, structures and premises shall comply with this chapter. See also Oregon Revised Statutes (ORS) 92.044, 203, 221, 195.065, 368.039, 478.920 and Oregon Administrative Rule (OAR) 918-480-0100.

ORS Chapter 92.044, 203, 221, 368.039, 195.065, 478.920 and OAR Chapter 918 are not a part of this code but are reproduced or paraphrased here for the reader's convenience.

ORS 92.044 is the adoption of standards and procedures governing approval of plats and plans; delegation to planning commission; fees.

ORS 203 is the county bodies; county home rule.

ORS 221 is the organization and government of cities.

ORS 368.039 allows road standards adopted by local government to supersede standards in the fire codes and requires consultation with local fire agency.

ORS 195.065 requires local governments and special districts that provide urban service to enter into urban service agreements. For the purpose of this statute, "urban service" means: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

ORS 478.920 describes elements that may be included in the scope of a fire prevention code adopted by a rural fire protection district, including but not limited to: mobile fire apparatus means of approach to buildings and structures, and providing fire-fighting water supplies and fire detection and suppression apparatus adequate for the protection of buildings and structures.

OAR 918-480-0100 describes the procedure for approving the installation of automatic fire sprinklers where fire apparatus access or fire-fighting water supply do not meet local standards.

**501.2 Permits.** A permit shall be required as set forth in Sections 105.6 and 105.7.

**501.3 Construction documents.** *Construction documents* for proposed fire apparatus access, location of *fire lanes*, security gates across fire apparatus access roads and *construction documents* and hydraulic calculations for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

**501.4 Timing of installation.** When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when *approved* alternative methods of protection are provided.

Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2.

#### SECTION 502 DEFINITIONS

**502.1 Definitions.** The following terms are defined in Chapter 2:

AGENCY.

FIRE APPARATUS ACCESS ROAD.

FIRE COMMAND CENTER.

FIRE DEPARTMENT MASTER KEY.

FIRE LANE.

KEY BOX.

TRAFFIC CALMING DEVICES.

#### SECTION 503 FIRE APPARATUS ACCESS ROADS

**503.1 Where required.** Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3. See Appendix D.

**503.1.1 Buildings and facilities.** *Approved* fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an *approved* route around the exterior of the building or facility.

**Exception:** The *fire code official* is authorized to modify Sections 503.1 and 503.2 where any of the following applies:

1. The building is equipped throughout with an *approved automatic sprinkler system* installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an *approved* alternative means of fire protection is provided.
3. There are not more than two Group R-3 or Group U occupancies.



## APPENDIX C

# FIRE HYDRANT LOCATIONS AND DISTRIBUTION

*The provisions contained in this appendix are adopted by the State of Oregon.*

### SECTION C101 GENERAL

**C101.1 Scope.** Fire hydrants shall be provided in accordance with this appendix for the protection of buildings, or portions of buildings, hereafter constructed.

### SECTION C102 LOCATION

**C102.1 Fire hydrant locations.** Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets.

### SECTION C103 NUMBER OF FIRE HYDRANTS

**C103.1 Fire hydrants available.** The minimum number of fire hydrants available to a building shall not be less than that listed in Table C105.1. The number of fire hydrants available to a complex or subdivision shall not be less than that determined by spacing requirements listed in Table C105.1 when applied to fire apparatus access roads and perimeter public streets from which fire operations could be conducted.

### SECTION C104

#### CONSIDERATION OF EXISTING FIRE HYDRANTS

**C104.1 Existing fire hydrants.** Existing fire hydrants on public streets are allowed to be considered as available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads.

### SECTION C105 DISTRIBUTION OF FIRE HYDRANTS

**C105.1 Hydrant spacing.** The average spacing between fire hydrants shall not exceed that listed in Table C105.1.

**Exception:** The fire chief is authorized to accept a deficiency of up to 10 percent where existing fire hydrants provide all or a portion of the required fire hydrant service.

Regardless of the average spacing, fire hydrants shall be located such that all points on streets and access roads adjacent to a building are within the distances listed in Table C105.1.

**TABLE C105.1  
NUMBER AND DISTRIBUTION OF FIRE HYDRANTS**

FIRE-FLOW REQUIREMENT (gpm)	MINIMUM NUMBER OF HYDRANTS	AVERAGE SPACING BETWEEN HYDRANTS <sup>a, b, c</sup> (feet)	MAXIMUM DISTANCE FROM ANY POINT ON STREET OR ROAD FRONTAGE TO A HYDRANT <sup>d</sup>
1,750 or less	1	500	250
2,000-2,250	2	450	225
2,500	3	450	225
3,000	3	400	225
3,500-4,000	4	350	210
4,500-5,000	5	300	180
5,500	6	300	180
6,000	6	250	150
6,500-7,000	7	250	150
7,500 or more	8 or more <sup>e</sup>	200	120

For SI: 1 foot = 304.8 mm, 1 gallon per minute = 3.785 L/m.

- a. Reduce by 100 feet for dead-end streets or roads.
- b. Where streets are provided with median dividers which cannot be crossed by fire fighters pulling hose lines, or where arterial streets are provided with four or more traffic lanes and have a traffic count of more than 30,000 vehicles per day, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis up to a fire-flow requirement of 7,000 gallons per minute and 400 feet for higher fire-flow requirements.
- c. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, fire hydrants shall be provided at spacing not to exceed 1,000 feet to provide for transportation hazards.
- d. Reduce by 50 feet for dead-end streets or roads.
- e. One hydrant for each 1,000 gallons per minute or fraction thereof.



## CHAPTER 33

# FIRE SAFETY DURING CONSTRUCTION AND DEMOLITION

### SECTION 3301 GENERAL

**3301.1 Scope.** This chapter shall apply to structures in the course of construction, *alteration* or demolition, including those in underground locations. Compliance with NFPA 241 is required for items not specifically addressed herein.

**3301.2 Purpose.** This chapter prescribes minimum safeguards for construction, *alteration* and demolition operations to provide reasonable safety to life and property from fire during such operations.

### SECTION 3302 DEFINITIONS

**3302.1 Terms defined in Chapter 2.** Words and terms used in this chapter and defined in Chapter 2 shall have the meanings ascribed to them as defined therein.

### SECTION 3303 TEMPORARY HEATING EQUIPMENT

**3303.1 Listed.** Temporary heating devices shall be *listed* and *labeled* in accordance with the *International Mechanical Code* or the *International Fuel Gas Code*. Installation, maintenance and use of temporary heating devices shall be in accordance with the terms of the listing.

**3303.2 Oil-fired heaters.** Oil-fired heaters shall comply with Section 603.

**3303.3 LP-gas heaters.** Fuel supplies for liquefied-petroleum gas-fired heaters shall comply with Chapter 61 and the *International Fuel Gas Code*.

**3303.4 Refueling.** Refueling operations for liquid-fueled equipment or appliances shall be conducted in accordance with Section 5705. The equipment or appliance shall be allowed to cool prior to refueling.

**3303.5 Installation.** Clearance to combustibles from temporary heating devices shall be maintained in accordance with the *labeled* equipment. When in operation, temporary heating devices shall be fixed in place and protected from damage, dislodgement or overturning in accordance with the manufacturer's instructions.

**3303.6 Supervision.** The use of temporary heating devices shall be supervised and maintained only by competent personnel.

### SECTION 3304 PRECAUTIONS AGAINST FIRE

**3304.1 Smoking.** Smoking shall be prohibited except in *approved* areas. Signs shall be posted in accordance with Section 310. In *approved* areas where smoking is permitted,

*approved* ashtrays shall be provided in accordance with Section 310.

**3304.2 Waste disposal.** Combustible debris shall not be accumulated within buildings. Combustible debris, rubbish and waste material shall be removed from buildings at the end of each shift of work. Combustible debris, rubbish and waste material shall not be disposed of by burning on the site unless *approved*.

**3304.3 Open burning.** *Open burning* shall comply with Section 307.

**3304.4 Spontaneous ignition.** Materials susceptible to spontaneous ignition, such as oily rags, shall be stored in a *listed* disposal container.

**3304.5 Fire watch.** When required by the *fire code official* for building demolition, or building construction during working hours that is hazardous in nature, qualified personnel shall be provided to serve as an on-site fire watch. Fire watch personnel shall be provided with at least one approved means for notification of the fire department and their sole duty shall be to perform constant patrols and watch for the occurrence of fire.

**3304.6 Cutting and welding.** Operations involving the use of cutting and welding shall be done in accordance with Chapter 35.

**3304.7 Electrical.** Temporary wiring for electrical power and lighting installations used in connection with the construction, *alteration* or demolition of buildings, structures, equipment or similar activities shall comply with NFPA 70.

### SECTION 3305 FLAMMABLE AND COMBUSTIBLE LIQUIDS

**3305.1 Storage of flammable and combustible liquids.** Storage of flammable and *combustible liquids* shall be in accordance with Section 5704.

**3305.2 Class I and Class II liquids.** The storage, use and handling of flammable and *combustible liquids* at construction sites shall be in accordance with Section 5706.2. Ventilation shall be provided for operations involving the application of materials containing flammable solvents.

**3305.3 Housekeeping.** Flammable and combustible liquid storage areas shall be maintained clear of combustible vegetation and waste materials. Such storage areas shall not be used for the storage of combustible materials.

**3305.4 Precautions against fire.** Sources of ignition and smoking shall be prohibited in flammable and *combustible liquid* storage areas. Signs shall be posted in accordance with Section 310.

**3305.5 Handling at point of final use.** Class I and II liquids shall be kept in *approved* safety containers.



3305.6 Leakage and spills. Leaking vessels shall be immediately repaired or taken out of service and spills shall be cleaned up and disposed of properly.

SECTION 3306  
FLAMMABLE GASES

3306.1 Storage and handling. The storage, use and handling of flammable gases shall comply with Chapter 58.

SECTION 3307  
EXPLOSIVE MATERIALS

3307.1 Storage and handling. *Explosive* materials shall be stored, used and handled in accordance with Chapter 56.

3307.2 Supervision. Blasting operations shall be conducted in accordance with Chapter 56.

3307.3 Demolition using explosives. *Approved* fire hoses for use by demolition personnel shall be maintained at the demolition site whenever *explosives* are used for demolition. Such fire hoses shall be connected to an *approved* water supply and shall be capable of being brought to bear on post-*detonation* fires anywhere on the site of the demolition operation.

SECTION 3308  
OWNER'S RESPONSIBILITY  
FOR FIRE PROTECTION

3308.1 Program superintendent. The *owner* shall designate a person to be the fire prevention program superintendent who shall be responsible for the fire prevention program and ensure that it is carried out through completion of the project. The fire prevention program superintendent shall have the authority to enforce the provisions of this chapter and other provisions as necessary to secure the intent of this chapter. Where guard service is provided, the superintendent shall be responsible for the guard service.

3308.2 Prefire plans. The fire prevention program superintendent shall develop and maintain an *approved* prefire plan in cooperation with the fire chief. The fire chief and the *fire code official* shall be notified of changes affecting the utilization of information contained in such prefire plans.

3308.3 Training. Training of responsible personnel in the use of fire protection equipment shall be the responsibility of the fire prevention program superintendent.

3308.4 Fire protection devices. The fire prevention program superintendent shall determine that all fire protection equipment is maintained and serviced in accordance with this code. The quantity and type of fire protection equipment shall be *approved*.

3308.5 Hot work operations. The fire prevention program superintendent shall be responsible for supervising the permit system for hot work operations in accordance with Chapter 35.

3308.6 Impairment of fire protection systems. Impairments to any *fire protection system* shall be in accordance with Section 901.

3308.7 Temporary covering of fire protection devices. Coverings placed on or over fire protection devices to protect them from damage during construction processes shall be immediately removed upon the completion of the construction processes in the room or area in which the devices are installed.

SECTION 3309  
FIRE REPORTING

3309.1 Emergency telephone. Readily accessible emergency telephone facilities shall be provided in an *approved* location at the construction site. The street address of the construction site and the emergency notification telephone number (9-1-1) of the fire department shall be posted adjacent to the telephone.

SECTION 3310  
ACCESS FOR FIRE FIGHTING

3310.1 Required access. *Approved* vehicle access for fire fighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet (30 480 mm) of temporary or permanent fire department connections. Vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Vehicle access shall be maintained until permanent fire apparatus access roads are available.

3310.2 Key boxes. Key boxes shall be provided as required by Chapter 5.

SECTION 3311  
MEANS OF EGRESS

[B] 3311.1 Stairways required. Where a building has been constructed to a *building height* of 50 feet (15 240 mm) or four stories, or where an existing building exceeding 50 feet (15 240 mm) in *building height* is altered, at least one temporary lighted *stairway* shall be provided unless one or more of the permanent *stairways* are erected as the construction progresses.

3311.2 Maintenance. Required *means of egress* shall be maintained during construction and demolition, remodeling or *alterations* and additions to any building.

Exception: *Approved* temporary *means of egress* systems and facilities.

SECTION 3312  
WATER SUPPLY FOR FIRE PROTECTION

3312.1 When required. An *approved* water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site.



### SECTION 3313 STANDPIPES

**3313.1 Where required.** In buildings required to have standpipes by Section 905.3.1, not less than one standpipe shall be provided for use during construction. Such standpipes shall be installed when the progress of construction is not more than 40 feet (12 192 mm) in height above the lowest level of fire department vehicle access. Such standpipe shall be provided with fire department hose connections at accessible locations adjacent to usable stairs. Such standpipes shall be extended as construction progresses to within one floor of the highest point of construction having secured decking or flooring.

**3313.2 Buildings being demolished.** Where a building is being demolished and a standpipe is existing within such a building, such standpipe shall be maintained in an operable condition so as to be available for use by the fire department. Such standpipe shall be demolished with the building but shall not be demolished more than one floor below the floor being demolished.

**3313.3 Detailed requirements.** Standpipes shall be installed in accordance with the provisions of Section 905.

**Exception:** Standpipes shall be either temporary or permanent in nature, and with or without a water supply, provided that such standpipes comply with the requirements of Section 905 as to capacity, outlets and materials.

### SECTION 3314 AUTOMATIC SPRINKLER SYSTEM

**3314.1 Completion before occupancy.** In buildings where an *automatic sprinkler system* is required by this code or the *International Building Code*, it shall be unlawful to occupy any portion of a building or structure until the *automatic sprinkler system* installation has been tested and *approved*, except as provided in Section 105.3.4.

**3314.2 Operation of valves.** Operation of sprinkler control valves shall be allowed only by properly authorized personnel and shall be accompanied by notification of duly designated parties. When the sprinkler protection is being regularly turned off and on to facilitate connection of newly completed segments, the sprinkler control valves shall be checked at the end of each work period to ascertain that protection is in service.

### SECTION 3315 PORTABLE FIRE EXTINGUISHERS

**3315.1 Where required.** Structures under construction, *alteration* or demolition shall be provided with not less than one *approved* portable fire extinguisher in accordance with Section 906 and sized for not less than ordinary hazard as follows:

1. At each *stairway* on all floor levels where combustible materials have accumulated.
2. In every storage and construction shed.

3. Additional portable fire extinguishers shall be provided where special hazards exist including, but not limited to, the storage and use of flammable and *combustible liquids*.

### SECTION 3316 MOTORIZED CONSTRUCTION EQUIPMENT

**3316.1 Conditions of use.** Internal-combustion-powered construction equipment shall be used in accordance with all of the following conditions:

1. Equipment shall be located so that exhausts do not discharge against combustible material.
2. Exhausts shall be piped to the outside of the building.
3. Equipment shall not be refueled while in operation.
4. Fuel for equipment shall be stored in an *approved* area outside of the building.

### SECTION 3317 SAFEGUARDING ROOFING OPERATIONS

**3317.1 General.** Roofing operations utilizing heat-producing systems or other ignition sources shall be conducted in accordance with Sections 3317.2 and 3317.3 and Chapter 35.

**3317.2 Asphalt and tar kettles.** Asphalt and tar kettles shall be operated in accordance with Section 303.

**3317.3 Fire extinguishers for roofing operations.** Fire extinguishers shall comply with Section 906. There shall be not less than one multipurpose portable fire extinguisher with a minimum 3-A 40-B:C rating on the roof being covered or repaired.

### SECTION 3318 COMBUSTIBLE TRASH CHUTES

**3318.1 General.** Combustible trash chutes shall not be used in nonsprinklered buildings.

**Exception:** Combustible trash chutes are allowed in nonsprinklered Type I or Type II structures prior to the installation of any combustible interior finish or in preexisting noncombustible exterior buildings not exceeding four stories in height [48 feet (14 630 mm)] with approved safety plan.

**3318.2 Safety plans.** An approved safety plan, as applicable to this section, shall address the following:

1. A continuous fire watch (during working hours) stationed at all drop boxes with a continuous means of water application and a means of communication (radio or cell phone).
2. Water application shall be provided at each chute access opening or an approved barrier shall be provided at each opening. The approved barrier shall extend 3 feet (914 mm) to each side of the chute.
3. Where water application is provided at the chute access opening, a trained person shall be continuously



assigned (during working hours) with an approved means of communication.

4. Signage shall be posted at each chute access to read as follows:

NO SMOKING, OPEN FLAME  
WELDING OR CUTTING WITHIN  
20 FEET (6096 mm) OF CHUTE ACCESS



Gearhart Zoning Ordinance criteria relevant to the application are:

- Section 3.1 Low Density Residential R-1
- Section 3.13 Freshwater Wetland and Lake FW Zone
- Section 6.030 Street access; 6.130 Off Street Parking; 6.161; 6.180 Excavation; 6.195 Tree Removal
- Section 11.010 Application Information and Procedures

Gearhart Subdivision Ordinance sections relevant to the application are:

- Sections 23 - 26 Land Partitioning
- Sections 37 - 46 General Regulation and Design Standards
- Sections 47 - 50 Improvements

## II. Site Information, Review and Procedures

1. Plan & Zone designations: The site is planned Residential and zoned Low Density Residential R-1. In the R-1 zone the proposed single family dwelling is an outright permitted use. The minimum lot size is 10,000 square feet.
2. Access: Site access is on a private access easement extending from Highway 101 east to the proposed Parcel 2. Parcel 1 will have access from the Gronmark Lane easement by a dedicated driveway easement across Parcel 2.
3. Site Characteristics:  
The two existing parcels were not created in accordance with city and state land partition requirements. Clatsop County created tax lot 1900 when the railroad right-of-way was abandoned. It is a landlocked, narrow and possibly unbuildable parcel. Tax Lot 1801 was created by deed, not by land partitioning. The proposal reconfigures the two parcels into two full size lots for two dwellings.

Heavily vegetated wetlands exist on the west side of Tax Lot 1801. The east end rises in elevation in a dune formation to the old rail bed. As reconfigured both parcels will have wetland and dune area with the dwellings planned on the east side of each.

4. Agency comments: Comments were received from the City Administrator, Gearhart Fire Department and City Public Works. There were no concerns reported by City Police Chief or Clatsop County.
5. Procedure: Approval of a land partition shall be in accordance with the application and procedural requirements of GZO Article 11 Administrative Provisions and the Gearhart Subdivision Ordinance.

## III. FINDINGS



1. GZO Section 3.1 Low Density Residential R-1: The R-1 zone permits a maximum of 4 dwelling units per acre. The minimum lot size is 10,000 square feet. Lot coverage maximum is 35% and building height maximum is 30 feet or two stories, whichever is less.

FINDINGS: Parcel 1 is 11,888 sf and Parcel 2 is 11,906 sf. The two proposed parcels exceed the minimum 10,000 square foot lot size and create 2 dwellings on 23,794 sf (.54 acre). A future dwelling on each parcel will be required to meet the R-1 lot coverage maximum and the minimum property line setback standards.

2. GZO Section 3.1380 Development Standards in the FW Zone:
  - a) Development, construction or alteration within the FW Zone or within 25 feet of the FW zone boundary requires approval of a development permit from the City. The application for development permit shall include a site plan drawn to a measurable scale and a narrative describing the proposed site work. A wetland determination or delineation by a qualified professional wetland scientist shall be required by the City, if the wetland boundary cannot be determined without the information.
  - b) All activities involving construction or alteration in wetlands or aquatic areas shall be reviewed by the Oregon Department of State lands and the US Army Corps of Engineers to determine whether they have jurisdiction over a proposed use or activity. If the Oregon Department of State lands and / or the US Army Corps of Engineers determine that they have jurisdiction over a proposed use or activity, no construction shall commence until authorizations from these agencies have been obtained. If mitigation is part of a permit authorization process, it shall satisfy city mitigation requirements.
  - c) When property proposed for development is wholly or partially within areas identified as wetlands within the City's FW Zone boundary, the City shall file a wetland land use notification form with the Oregon Department of State Lands that identifies the proposed activity consistent with ORS 227.350.
  - d) When fill is permitted, a signed stamped report and plan review by a qualified professional such as a licensed engineer and / or a licensed engineering geologist shall be required that recommends that the fill shall cover no more area than the minimum necessary to accomplish the proposed activity, that the fill will not increase sedimentation or flooding to the site or downstream properties and cause adverse impacts to the site and surrounding area. Mitigation of impacts to replace

native vegetation or lost wetland functions may be required. A development permit shall be obtained from the City and authorizations from state and federal agencies shall be obtained.

- e) When excavation is permitted, a signed stamped report and plan review by a qualified professional such as licensed engineer and / or a licensed engineering geologist shall be required that recommends that the excavation shall cover no more area than the minimum necessary to accomplish the proposed activity, that the excavation will not increase sedimentation or flooding to the site or downstream properties, and that the activity will not cause adverse impacts to the site and surrounding area.

FINDINGS: The Planning Commission finds the City and the applicant have identified wetland area on the west side of the site. The City requested that the applicant provide a wetland delineation. The applicant subsequently provided a site-specific wetland determination, which is less in-depth than the delineation. Because the applicant's wetland determination resulted in a smaller wetland boundary than the City's wetland inventory the Planning Commission decided the wetland delineation was not required. Any excavation, fill or construction within 25 feet of the wetland requires engineered plans and city approval. The building envelope for the each parcel and the driveway easement across Parcel 2 for access to Parcel 1 shall be identified in relation to the wetland determination.

3. Article 6 Supplementary Provisions

- a) Section 6.030 Street access: requires a minimum of 25 feet of street frontage.

FINDINGS: The Planning Commission finds that all existing parcels on Gronmark Lane were created without public street frontage, except the parcel abutting the highway. City subdivision standards permit an easement as a substitute for public street frontage. In the current parcel configuration tax lot 1900 (rail ROW) is landlocked. The proposed reconfiguration and legal partitioning of the two parcels also creates a landlocked Parcel 1. To provide access to Parcel 1 the applicant proposes a legal access easement across Parcel 2 that is 25 feet wide.

- b) Section 6.130 Off-Street Parking: Two off-street parking spaces are required per dwelling.

FINDINGS: The Planning Commission finds that when a building permit is requested the Building Official will require that two off-street parking spaces be



provided on each parcel. The two parcels are large enough for two off-street parking spaces and will likely include a 2-car garage.

- c) Section 6.161 Landscape Plan on Hwy 101: All new subdivisions are required to provide a minimum 10' wide landscaped buffer on lots adjacent to Highway 101.

FINDINGS: The Planning Commission finds that the subject partition does not have frontage on Highway 101.

- d) Section 6.180 Excavation: Removal of more than 1,000 SF of vegetation or excavation of more than 50 cubic yards shall first require an excavation and fill permit from the City Administrator.

FINDINGS: The Planning Commission finds that before vegetation removal, excavation or grading commences on either parcel the applicant shall obtain city approved plans, and this should be a condition of approval.

- e) Section 6.195 Tree Removal: The purpose of this section is to assure that mature trees are removed only when necessary. A tree is defined as at least 12 inches in diameter at 4.5 feet above grade. Any person planning to cut more than 5 trees within a 12 month period shall first obtain a tree removal permit from the City.

FINDINGS: The application does not describe tree removal plans. If more than 5 trees are planned to be removed, the applicant shall first obtain a tree removal permit from the City, which should be a condition of approval.

- f) Section 6.200 Protection of Archaeological Sites: The Building Official shall review building permits and the City Administrator shall review other land use actions that may affect a known archaeological site.

FINDINGS: The City is not aware of an archaeological site on the subject parcel.

#### 4. Subdivision Ordinance Sections 23 – 36 Land Partitioning submittal requirements

- a) Sections 24 to 36 describe partition plat submittal requirements, review procedures and final plat filing requirements.

FINDINGS: The Planning Commission finds that the relevant data has been provided except that vegetation and tree removal plans, excavation and fill plans or site contours have not been provided. It is recommended that a building envelope in



accordance with R-1 setback standards be provided. This information can be provided with the final plat submittal or at the time of a building permit request.

5. Subdivision Ordinance Sections 37-46 General Regulation and Design Standards

- a) Section 38 - Streets (a summary of relevant subsections): A land partition shall conform to the city street design standards.

**FINDINGS:** The Planning Commission finds no new public or private streets are planned to the two parcels. Instead, access to Parcel 2 is provided by the existing Gronmark Lane easement that extends along the west 75 feet of the parcel's south property line. Access to Parcel 1 is proposed by a 25' access and utility easement across Parcel 2. The applicant will be required to establish a shared driveway maintenance agreement for the driveway. The driveway must be improved to Fire District specifications.

**Fire Access:** The Gearhart Fire Department letter dated 10-10-17 indicates the proposed access road, turnaround design and fire hydrant access shall be in compliance with Fire Department access and water supply requirements. The Fire Chief said the access road and driveway shall be a minimum of 14-foot wide improved surface.

- b) Section 39 - Recreation and Utility Easements:

**FINDINGS:** The Planning Commission finds there are no plans for recreation easements on the subject site. **Access:** A 25 foot access and utility easement is proposed across Parcel 2 to provide access and utilities to Parcel 1, and natural gas, water, communications and electrical lines. **Water:** The City Administrator said there is no indication of the size of the water main pipe being extended and there is no information what size water pipe will be extended to each dwelling. He said the water main extension may need to be designed and submitted to the Clatsop County Health Department prior to installation. A condition of approval regarding water line approvals should be required.

- c) Section 40 - Building Sites: Each lot shall be appropriate for the location, environmental features and for the type of development proposed. Each lot shall abut a street for a width of at least 25 feet. Through lots shall be avoided. Lot lines shall run at right angles to the street. Land which the Commission finds unsuitable for partitioning for reasons including flooding, improper drainage, wetlands or other

concerns shall be set aside for a use which does not pose a danger or a negative impact.

FINDINGS: The Planning Commission finds proposed Parcels 1 and 2 are appropriately sized and shaped. Parcel 1 has private street access by a legal access easement across Parcel 2. The parcels are not through lots located between two streets. Lot lines run at right angles to the street. There is a known wetland on the west side of the parcels that is unsuitable for any development.

d) Section 43 – Water Courses: The land divider shall dedicate a right-of-way for storm drainage purposes, conforming to the lines of any natural water course or channel, stream or creek that traverses the partition, or find an alternative method to dispose of storm water.

FINDINGS: The Planning Commission finds that the proposal does not identify a natural water course on the site and does not include a plan for storm water runoff. At the time of a building permit request the applicant will be required to illustrate the location of roof drains and driveway drainage.

e) Section 46 – Wetlands and Areas Subject to Inundation: The Planning Commission may prohibit the partition of any portion of property which lies within the floodplain or wetlands of any stream or drainage course. These areas shall be preserved from damage or destruction resulting from clearing, grading or dumping of earth, waste or stumps.

FINDINGS: The Planning Commission finds that the official Gearhart Local Wetland Inventory LWI map and the applicant's wetland determination illustrate a wetland on the west side of the parcels. The proposed partition provides area for two home sites east of and outside of the designated wetland. Prior to any site work flagging the wetland boundaries is required and a silt fence shall be installed.

## 6. Subdivision Ordinance Sections 47 – 50 Improvements

### a) Section 47 Improvement Standards and Approval

- 1) Improvements shall not be commenced until plans have been approved by the city. Some plans may be required prior to approval by the Planning Commission.
- 2) Improvement work shall not be commenced until the City has been notified.
- 3) All required improvements shall be constructed under the inspection and to the satisfaction of the City.
- 4) All underground utilities shall be constructed prior to surfacing of the streets.



5) A map showing all public improvements as built shall be filed with the Building Official upon completion of the improvements.

FINDINGS: The Planning Commission requires that improvements shall not commence until all utility and plans have been approved and the plat has been recorded. The applicant shall notify the city before work commences and also provide a map to the City showing all public improvements upon completion of installation.

b) Section 48 Improvement Requirements:

- 1) Public streets shall be improved.
- 2) Structures necessary for drainage, access and public safety shall be installed.
- 3) Storm water facilities or ground water recharge facilities shall be installed per city specifications.
- 4) Water mains and fire hydrants shall be installed per city specifications.
- 5) Underground utilities shall be installed.
- 6) Street lighting per city specifications shall be installed.
- 7) Street signs shall be installed per city specifications.
- 8) If necessary, a drainage easement shall be installed for the safety of the adjoining property.
- 9) Damage to public streets related to the development shall be restored to existing conditions before the damage.

FINDINGS: The Planning Commission finds that public and private utilities are available to Parcel 1 and 2. Street lighting and street signs are not required on private streets. The City Building Official will determine drainage improvements or easements. Damage to public streets (Highway 101) related to the development shall be restored to existing conditions before the damage.

- c) Section 49 – Monuments: Surveyed monuments shall be set according to ORS 92.060 and city specifications outlined in Section 49 - Monuments

FINDINGS: The above requirement should be a condition of approval.

- d) Section 50 – Survey Requirements: The surveyed plat shall be set according to ORS 92 and city specifications outlined in Section 50 – Survey Requirements.

FINDINGS: The above requirement should be a condition of approval.

#### IV. DECISION

On November 9, 2017 the Planning Commission approved the proposed Tentative Partition Plan based on the findings in this decision and subject to the following conditions of approval:

1. Any excavation, fill or construction within 25 feet of the wetland determination boundary requires engineered plans and city approval.
2. Removal of more than 1,000 SF of vegetation or excavation of more than 50 cubic yards on Parcel 1 shall first require an excavation and fill permit from the City Administrator.
3. In accordance with the Gearhart Fire Department letter, prior to occupancy a minimum 14-foot wide improved surface access driveway to Parcel 1 shall be constructed. In addition adequate fire truck turnaround shall be supplied as approved by the Fire Chief.
4. Water Service: Prior to submittal of the final partition plat indicate the size of the water main pipe being extended from the Gronmark Lane easement and the size of the water pipe to each dwelling. The water main extension may need to be designed and submitted to the Clatsop County Health Department prior to installation.
5. The applicant is required to illustrate the location of roof drains, driveway drainage and possible drainage easements for approval by the City Building Official.
6. The final partition plat shall include declaration of a common private road maintenance agreement between the two parcels to assure the driveway is adequately maintained.
7. Prior to development on each parcel the applicant will be required to flag the approved wetland delineation and install silt fencing protection. Site wetlands shall be preserved from damage or destruction resulting from clearing, grading or dumping of earth, waste or stumps.
8. If more than 5 trees are planned to be removed, the applicant shall first obtain a tree removal permit from the City, which should be a condition of approval.
9. The applicant shall notify the City prior to commencing street and utility work and shall provide a map to the City showing all public improvements upon completion of those improvement installations. Any damage to Highway 101 as a result of the work shall be restored to existing conditions prior to occupancy approval.



10. Surveyed monuments shall be set according to ORS 92.060 and city specifications outlined in Section 49 – Monuments. The surveyed plat of the partition shall be set according to ORS 92.060 and city specifications outlined in Section 50 – Survey Requirements.

11. This approval is valid for one year from the date this final decision was signed. Within that one year the Partition Plat shall be submitted to the City for approval. If necessary, the applicant may request that the City grant an extension to the one year expiration.

Signed:   
David Smith, Planning Commission Vice-President

Date: 11/27/2017

DATE MAILED: 11/28/2017

#### APPEAL

In accordance with the Gearhart Zoning Code Section 13.060(2), 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 outlined in Section 13.060(3).