

Gearhart Planning Commission Minutes for October 13, 2022

MEMBERS: Virginia Dideum, Don Frank, Terry Graff, Sharon Kloepfer, Russ Taggard, Judy Schector, and John Mesberg

STAFF: Chad Sweet, Carole Connell, and Angoleana Brien

Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, October 13, 2022, was called to order at 6:00 p.m. by President Virginia Dideum. *Members and staff were present.*

CONSENT AGENDA

On **MOTION** by Graff, 2nd by Taggard, the consent agenda for October 13, 2022, was approved by unanimous motion. Said agenda approved Minutes for September 8, 2022 and the financial report for September 27, 2022. There was no correspondence.

STAFF REPORT

Connell mentioned that at the January meeting tentatively, Department of Land Conservation Development (DLCD) staff Brett Estes is going to be providing land use training for the planning commission. Sweet says vacation rentals are at 71% active, which he believes was at 110% to 115%, so it has decreased relatively little by little. He also gave a brief overview of the information that was provided for the Elk's collaborative Declaration of Cooperation to assist with some of the questions the commission had. The commission can read through the background history and potentially be able to go through the list next month and start talking about some of the following steps the city can take.

COMMISSIONERS REPORT

None

GOALS LIST

Don Frank gave an overview of the initial summary of the Comprehensive Plan he and Kloepfer have been working on. They have begun narrowing down the comp plan to a rack card that will be available for the community to have a simple version of understanding the comp plan, with other information such as a link to the city website. He asked the other commissioners to review it and provide some feedback on their opinions, such as corrections or additions.

VISITORS COMMENTS

None

PUBLIC HEARINGS

File #22-07.ZMA - Zone change request submitted by Iron Tribe located at 1401 Oster Rd and further described as Assessors Plat 6.10.10D, Taxlot 1400. Said request is to change the zone from Rural Agricultural RA Section 3.0 Rural Agricultural Zone to Commercial C-2 Section 3.5 General Commercial Zone. In order to locate a Residential Facility as defined in GZO Section 1 Definitions.

Dideum opened the public hearing for 22-07.ZMA to the public at 6:08 p.m. and read the disclosure statement.

Dideum asked if any Commissioners needed to declare an ex-parte conflict, a conflict of interest, or a personal bias. Frank, Taggard, Schector, Kloepfer, Graff, and Dideum all visited the site.

Dideum asked the audience if there were any challenges to the commissions ability to make any impartial decisions. There were none.

Dideum read testament.

City Planner Connell gave an overview summary of the staff report.

City Attorney Watts focused on the importance of the reasoning because it is based on health and safety due to Gearhart being unique compared to other cities because all of the homes in Gearhart are on septic systems. When looking at different uses and newer uses, an example of this would be our short-term rentals. The city looked at the septic tanks and the capacity and had maximum occupancies on those homes because the use was different than traditional use in residential. Looking at this indicated is there could be as many as fifteen occupants living in the home. As the city looked at the Gearhart code to the extent that the city would need to work with the applicant to work out some of the health concerns, such as making sure their drain field is sufficiently sized and making sure their septic is sufficiently sized. Watts said that it would fit within the C-2, and the applicant asked for the C-1 not an R-3, he would ask and prefer that that not be the designation. But if the city makes some adjustments in the C-2 and makes sure that the occupants living there are safe and the wastewater is being managed, then C-2 would be easier than trying to do occupancy that would go across the R-1 zoning or the RA zoning. The focus is to ensure the health and safety of sanitary septic for everyone as well as meet the needs of this organization. The size of the land well exceeds the required 10,000 square feet, which is sized due to septic health and safety issues. Watts believes this to be an easier path to get to where the applicant and stakeholders would like to go.

Connell said that the LCDC rep was more comfortable with the R-3 zone because it keeps the land available for housing and not taking any out of our inventory.

Watts said the applicant is asking for a C-2, we have a letter from a lawyer objecting to an R-3 zone designation. His advice to the council is given that they asked for the C-2 zone, and there is an objection to the R-3 zone it seems like the path of least resistance would be the C-2.

Frank asked Watts if it is changed to R-3 and if there is no other R-3 in that vicinity if that is called spot zoning, and how he feels about it.

Watts said yes, the spot zoning is of concern to him.

Taggard said his concern is that there is a substantial amount of comments over the comp plan saying no more C-2 zone designations within the city. Taggard asked Watts if he was suggesting that they make a commercial designation from what he was saying, though that's against the intent of the comp plan.

Watts said that we have multiple factors we're looking at, goal ten which is a variety of housing options, a DHS-funded program, state agencies in others weighing in on this, so there is no easy answer on how the city can do this, and every answer has legal risk. Watts opinion is doing an additional .8 acres is a lower risk than trying to shoehorn it and do another designation that might not work.

Mesberg asked Watts to clarify again why C-2 gives more advantages to septic regulation versus leaving it RA or going to R-3.

Watts said that our regulations should be consistent across the zone unless we are clearly able to articulate, such as short-term rentals, why it would be different. The way that the city did the short-term rentals was in order to get the permit, people had to do the septic inspection, they weren't allowed to use the cesspool, and we had the occupancy in. Though this is not completely analysis of that situation, making adjustments to a C-2 zone would have substantially less ripple effects than doing something all across a residential zone, in his opinion.

Mesberg said he was asking because some of the correspondence suggested concerns about precedent-setting in relationship to spot zoning or changing it to a particular zoning, and he is tempted to suggest that it be left RA as Connells' analysis suggests and allow this use because it seems to be permitted in RA or any of our residential districts. He feels that there would be more advantages in leaving it but understands Watts concerns.

Connell says the condition of approval would require DEQ approval analysis before occupancy for their septic system and its capacity. If it passed and the system failed with more people there, then they would have to upgrade the septic system anyway, per DEQ standards.

Kloepfer asked if discriminatory housing practices take part in any role in this consideration.

Watts said if you look at the material Connell provided under the federally protected classes, this would not be his concern, Watts says in looking at the code and at their use and plans, and with them being incredibly transparent in what they intend, and figure out the most compatible zoning fit for this use to be allowed. This facility is similar to a treatment facility with requirements for occupants living in the house and the expectations they have for the occupants to follow that protocol. What are the legal arguments we are able to make in order to meet our state goal ten obligations while also following our code and comp plan. Looking at the legalities and zoning ordinances, in his opinion, this would be the path of least resistance.

APPLICANTS TESTIMONY

Meli Rose 5415 NE 38th Ave, Vancouver, WA. 98661 - She said they picked this house because of the location and the parking. They want to do things right and are not wanting to make waves. They have a long history of success and are focused on bringing families back together. If septic is an issue and they need to address it, then they are open to accomplishing that. All other entities they have been through this process with have treated this situation as a single-family home because they are not doing services in the home, just a safe place for them to come home to while required to stay clean and sober, working on their goals, getting the guidance and support they need while working to improve their situation and reunite with their children. They are good neighbors and are accredited by the National Accreditation Board of residences, and have policies and procedures for being a good neighbor. They keep the homes clean with regular inspections in the home.

Toney Fleming 34426 Bergam St. Warren, OR. 97053 - He has been a program director for ten years. They are a residential program for life skills and are there to assist them in achieving a better life. They require the occupants to save half of their income to be put into saving so that when they accomplish their goals, they are not without and have funds to help them continue to succeed. They help them to pay back debt and get a car, along with other hurdles needed to overcome to succeed. There was one place there were issues based on "not in my backyard", Senator Betsey Johnson helped with setting up a meeting to try and work out these concerns by communicating. However, this did not improve the situation of feeling comfortable and safe for the tenants to help them succeed, so eventually, the occupants of this house location were moved to a new location.

Shawn Bower 2215 SE 138th, Portland, OR. 97233 - They are a network of people in recovery from all kinds of pressures and warriors. Their success rate has lowered foster care by roughly 25%. He wanted to make clear they are not coming into the county to take money from the county, they have a contract with ODHS. They become a stakeholder in the community and hire within. The goal is to get parents back to sustainability.

Taggard asked how they give guidance and how it is implemented.

Fleming said they have a set of housing guidelines that are fairly comprehensive. There is an eight o'clock curfew, you have to sign in and sign out, where you are gonna go, the expected time of return and the actual time of return, a manager on site that lives there, and a mentor who is a forty-hour position. They have a list of mandates from DHS or correction and have some mandates of their own.

Schector asked what the typical length of stay for the family is.

Fleming said six to nine months.

Frank asked if you can you run that property with five residents that live there, is that viable.

Rose said no because there could be as many as one to three families consisting of two adults and one child there, and then a house manager. It is not viable to be under the guidelines of only having up to five people.

Fleming did say that most of their residents are single moms and single dads, but they do have couples as well. Frank asked if they had looked at other housing options in the city or county area that don't require a zone change.

Rose said they have looked at many places, but they just really like the location size and parking area of this location and that it would fit the needs of the organization and guidelines for the tenants well.

Commissioner President Dideum asked if there were any proponents. None

Commissioner President Dideum asked if there were any opponents.

Deana Moncil 2925 Hwy 101, Gearhart, OR. 97138 - She is within one hundred feet of the proposal. She went over the zoning and airport requirements. It was determined that within five hundred feet of the runway protection zone should be RA. She has submitted letters in reference to this as well. She is also concerned that an increase in occupant density of people to 15 or 16 would overload the groundwater and overuse of the septic system. She is ok with the number of occupants and leaving it an RA zone but does not believe it to be appropriate to change the zone to a C-2 zone.

Commissioner President Dideum asked if there were any neutral.

Bob Morey 271 D St. Gearhart, OR. 97138, PO Box 2759 - He believes that this should be approved in the existing zone without any zone change and just make sure that the septic system is understood.

Dideum closed the public hearing for 22-07.ZMA at 7:26 pm.

Discussion occurred with commissioners on HB 2583, the airport, safety septic, parking, and whether or not there is an allowance for keeping it an RA zone.

There was a discussion over what if the applicant withdrew their application, what would happen. The planning commission communicated that they will need to go through the proper channels in the zone that it is in and the required septs for the approval of the building code and DEQ.

Final outcome was the applicant withdrew their application.

UNFINISHED BUSINESS

None

NEW BUSINESS

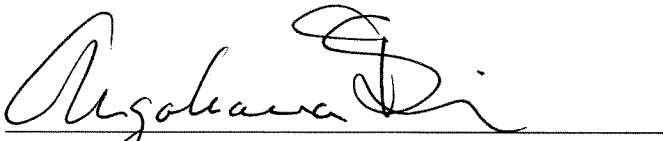
None

CONCERNS OF THE COMMISSION

Graff stated that he would not be able to make it to the November hearing.

Dideum said that she would like things to be adjusted so that the commission is not receiving correspondence at the last minute due to there not being enough time for them to read them all when received so late and to change the cutoff date.

The meeting was adjourned at 7:56 pm.



Angoleana R Brien, Secretary,

11/14/2022
Approved