

CITY OF GEARHART PLANNING COMMISSION
STAFF REPORT – *REVISED* (Changes to the 9-6-18 staff report are italicized)

October 4, 2018

From: Carole Connell, AICP City Planner
City File #18-005ZMA

Application Purpose: An application for approval of a Comprehensive Plan and Zone Map Amendment to reclassify 10 tax lots (27 acres) from Rural Agricultural RA to a Medium Density R-2 designation.

This is a quasi-judicial zone change application for privately owned land therefore the Planning Commission makes a recommendation to City Council. Only City Council may enact a zone change.

NOTE: The applicant's Conceptual Site Plan (P1.2) provides a conceptual layout for a 25-lot single family subdivision. The plan is conceptual only and is not a part of the zone change decision. Future residential development of the site will require a land division application and city approval.

Property Owner: Palmberg Paving Company Inc.
499 ridge Drive
Gearhart, OR 97138

Applicant: Li Alligood, AICP
Otak Inc
808 SW 3rd Avenue Suite 300
Portland, Oregon 97204

Location: East of Highway 101, north of Pacific Way and west of McCormick Gardens Rd and further described as Assessors Plat 61003DC Tax Lots 600, 700, 800, 900, 1000, 1100, 1200 and 1300; and Assessors Plat 61010AB Tax Lots 1100 and 1201.

Pre-App Conference: 10-12-17
Completeness: 08-09-18
Notice Mailed: 08-24-18
Notice Published: 08-24-18
Initial PC hearing: 09-13-18, continued to 10-11-18

120-day deadline: 12-07-18

Exhibits: Applicant's application & narrative; Sheet P1.0 Aerial Existing Conditions; Sheet P1.1 Proposed Zoning; Sheet P1.2 Conceptual Site Plan; Appendix A and Figure 6 Wetland Delineation, Appendix B Traffic Impact Analysis; Appendix C Geotechnical Report; Appendix D DEQ No further action & Preliminary Septic Evaluation by Clatsop County Public Health; Appendix E FEMA FIRM Map 2018

New exhibits: Applicant's Memo 10-2-18 in response to Goal 10 Findings including Draft Clatsop County Residential Lands Analysis; Applicant's 10-2-18 Memo in response to neighbor concerns

Division of State Lands (DSL) Letter of Concurrence 7-26-18
ODOT email comment 9-4-18
G. Henricks, Clatsop County email comment 8-31-18
Fair Housing Council letter 9-12-18 *and 10-4-18 email*
Oregon Coast Alliance letter 9-13-18

Applicable Criteria:

- GZO Section 3.2 Medium Density Residential Zone R-2
- GZO Section 3.13 Freshwater Wetland and Lake Zone
- GZO Article 5 Flood Hazard Overlay Zone
- GZO Section 6.330 Transportation Impact Analysis
- GZO Article 11 Amendments
- GZO Article 13 Application, Notice and Hearing Procedures
- Gearhart Comprehensive Plan
- Gearhart Transportation System Plan

Agency Coordination: The application includes coordination with the Division of State Lands (DSL), the DEQ (2007) and Clatsop County Public Health. The City also notified Clatsop County Planning, the ODOT, EPA, DSL, Oregon Dept. of Fish & Wildlife and the National Marine Fisheries Service.

- The Fire Chief letter dated 8-20-18 indicates no objection to the zone change. A detailed site plan will be required prior to approval of a proposed development to determine compliance with fire access and water supply requirements, and whether or not a secondary access is required.

- The City Manager email dated 9-4-18 said there is nearby water supply, a water system must be designed at the time of development and Pacific Way is in need of repair and widening to support extra traffic.
- The Police Chief letter dated 8-10-18 said the project is within walking distance of Dollar General. He said road improvements are needed on Pacific Way east of Railroad Avenue to McCormick Gardens Rd.
- The City Building Official email dated 8-21-18 indicates concurrence with the Fire Chief's comments.
- The City Public Works Director email dated 8-21-18 indicates no concerns at this time but will require approval of a water system when a development proposal is submitted.
- Clatsop County Planning email dated 8-31-18 indicated the existing RA zoning is intended to be a buffer between higher density to the west and lower density unincorporated lands to the east, and that this proposal is not consistent with that intent. Further, "what steps might the City require to limit the total amount of development on the 27 acres to 25 – 42 units?"

Clatsop County Public Health Dept.: Staff spoke to Mike McNichol about septic drain field system capacity at the site. Mr. McNichol said they would look at potentially hydric soil constraints at the time of development. He noted if there are problems they can usually be resolved with engineered plans.

- ODOT email dated 9-4-18 said "the proposed path and fire access to US 101 will require an easement, a road approach application, and a permit from ODOT. Please work with Richard Kearns for the application and processing for a road approach permit for fire access."

I. FINDINGS

- A. Proposal: The purpose of the request is to approve a Comprehensive Plan and Zone Map Change for 10 parcels under the ownership of Palmberg Paving Company, changing the zone designation from Rural Agricultural RA to Medium Density Residential R-2.
- B. Site information: The ten contiguous parcels adjoin residential and commercial uses on the highway. The subject land adjoins Pacific Way on the south, McCormick Gardens

Road on the east, rural residential land to the north and Railroad Avenue to the west. The site is vacant except for remnants of past paving business operations on the north end. Gearhart's eastern city limits and the UGB are coincident at McCormick Gardens Road, with the exception of a tax lot that extends east of McCormick Garden Road at the east terminus of Pacific Way.

- C. Plan and Zone Standards: The site is designated Low Density Rural Agricultural RA by the Gearhart Plan and Zone Map. Surrounding property in the UGB is zoned RA to the north and south, and C-2 and R-2 to the west. Adjoining land outside the City and UGB is under Clatsop County jurisdiction and is zoned RA-1 by the county with additional Conservation and Rural Land designations.
- D. GZO Section 3.0 Rural Agricultural Zone: The existing RA zone permits a single family dwelling on a minimum one acre lot, which is the same density as the adjoining county zone designation on land east of McCormick Gardens Road. Accessory structures related to agricultural use are also permitted, as are a manufactured home park or subdivision. Several public or institutional uses are permitted as a Conditional Use in the RA Zone.

Further, the zone allows a cluster development for a parcel with natural resource constraints, but is limited to clustering single family homes each on a minimum 10,000 square foot lot. If this option were chosen the existing zone may allow for an estimated 20 single family lots.

E. GZO Section 3.2 R-2 Zone

The purpose of the Medium Density Residential R-2 zone is to provide housing consisting of a mixture of single-family and multiple family housing. The maximum allowable density shall be six (6) dwelling units per acre. Minimum lot sizes are single family 7,500; duplex 10,000; tri-plex 12,500 and 4-plex 15,000 square feet.

FINDINGS: In an R-2 zone the 27 acre site could allow 168 dwellings ($27 \times 6 = 162$). However the applicant finds environmental constraints reduce the actual buildable area to approximately 7.5 acres. Subject to appropriately engineered excavation and septic system testing the 7.5 acre area allows a maximum density of 45 dwelling units if zoned R-2 ($7.5 \text{ acres} \times 6 \text{ units per acre} = 45$).

The applicant's narrative lists the complete GZO RA and R-2 provisions. Their conceptual plan illustrates 25 single family dwelling lots on the 7.5 acre unconstrained area. The County said the City RA -1 zone is intended to be a buffer zone that protects resource lands to the north and east. Based on the Wetland Delineation an estimated 28% of the site is not constrained and is developable. The remaining 72% of the site will be

restricted by state permitting and will result in maintaining in a significant buffer on the north, west and south boundaries.

F. GZO Section 6.330 Traffic Impact Analysis

Section 6.330 2.A. requires a Traffic Impact Analysis (TIA) when a change in a zoning designation is requested.

FINDINGS: The applicant provided a TIA prepared by Access Engineering, 3-22-18 because the proposed zone change could result in development that will increase the trips to and from the site. The analysis describes the traffic impact based on the highest density development scenario of 20 duplex lots (40 d.u.) and 3 four-plex lots (12 d.u.). Page 10 of the TIA report provides a summary of conclusions.

G. GZO Section 3.13 Freshwater Wetland and Lake Overlay Zone

The purpose of this zone is to conserve significant freshwater wetlands and lakes. The zone overlays and restricts the use on identified wetlands. Low intensity uses which do not result in major alterations are appropriate, such as low intensity recreation, passive restoration measures, wetland rehabilitation activities, enhancement of native vegetation, removal and replacement of invasive non-native vegetation. Conditional uses include active restoration, docks, walkways and paths. Removal of vegetation is prohibited unless approved by permit in accordance with the zone standards.

In addition:

- Development, construction or alteration within the FW Zone or within 25' of the zone requires approval of a development permit from the City.

FINDINGS: The Freshwater and Lake Overlay Zone does not permit housing on an identified wetland. The applicant has provided a certified Wetland Delineation from Pacific Habitat Services. The wetlands are identified on figure 6 of the report. Of the 27 acre study boundary 10.34 acres are wetland and 4.69 acres are waters of the State/US. At the time of a specific development proposal the applicant's concept plan provides an example of a developable area boundary that complies with protection of the wetlands.

The DSL Letter of Concurrence finds nine identified wetlands. Wetlands A, B & H (9.96 acres) and the pond are subject to state Removal-Fill Law which requires a permit for cumulative fill or annual excavation of 50 cubic yards or more. Any filling of wetlands will require permitting and approval from DSL. Further, permitting by the Corps of Engineers for purposes of the Clean Water Act is required prior to a future land use development approval.

II. ARTICLE 11 AMENDMENTS

AMENDMENT APPROVAL CRITERIA

A decision must be based on adequate findings demonstrating compliance with each of the Zone Map Amendment approval criteria.

1. Before an amendment to the Zoning Map is approved, findings will be made that the following standards have been satisfied:

A. The amendment shall be consistent with the Comprehensive Plan.

FINDINGS: The subject land is inside the Gearhart Urban Growth Boundary therefore is planned for future development. Comprehensive Plan policies relevant to this zone change request are:

Residential Plan Policies:

1. *The City will preserve and maintain the predominantly residential character of Gearhart through appropriate zoning and land use development regulations.*
2. *The City will not designate additional property for commercial development.*
3. *The City, through provisions in its Zoning Ordinance shall allow for needed housing types such as manufactured dwellings, duplexes, multi-family dwellings, and residential care facilities and residential homes.*
4. *The City will cooperate with efforts of the Clatsop County Regional Housing Authority, the Northwest Housing Association, the Area Agency on Aging, the Oregon Housing and Community Services Agency and other entities in their efforts to ensure decent affordable housing and housing rehabilitation in the Gearhart Area.*
5. *The City will not tolerate discriminatory housing practices.*

FINDINGS: The subject zone change complies with the above Comprehensive policies because:

- The zone change to residential R-2 maintains the predominantly residential character of Gearhart;
- The zone change does not add commercial development opportunities;
- The zone change to R-2 allows for several housing types, excluding vacation rentals;
- The zone change provides an opportunity for development of more affordable housing units such as duplexes, tri-plexes and multi-family units, which would support regional housing goals and prohibit discriminatory housing practices.

Flood Hazard Plan Policies

6. *The City will rely on the requirements of its Flood Hazard Overlay Zone to regulate development in flood hazard areas to ensure that provisions of the National Flood Insurance Program are met.*

FINDINGS: The applicant's Appendix B is the current FEMA FIRM Map 2018. The map indicates the property is included in FIRM Zone A and AE. A future development proposal will be required to comply with GZO Article 5 Flood Hazard Overlay Zone standards and provisions.

Transportation Plan Policies

7. *Improve connectivity for people walking or biking by completing gaps in the current network of pedestrian and bicycle facilities.*
8. *Protect the function of existing and planned roadways as identified in the adopted Transportation System Plan (TSP) by ensuring that all development proposals, plan amendments, and zone changes are consistent with the planned transportation system.*

FINDINGS: The subject zone change applies a new land use designation to the 10 parcels, but does not approve a development. In the future, a development proposal shall comply with transportation plans and policies. The site has frontage on Railroad Avenue (60' ROW), McCormick Garden Road (40' ROW) and Pacific Way (40' ROW). Roadway dedications, road improvements, connections and a secondary access will be carefully considered in relation to the impact of a proposed development and the TSP plan policies and construction standards.

The Concept Plan illustrates a single access via an 800' cul-de-sac street with two half cul-de-sacs, and a 25' wide shared use path from the cul-de-sac terminus west to 5th Street at U.S. 101.

The applicant has provided a Traffic Impact Analysis (Appendix B Access Engineering LLC) that analyses impacts of the maximum R-2 development possible on the constrained site. Maximum development consists of 20 duplex lots, three four-plex lots for a total of 40 single-family residences (20 duplex lots) and 12 apartments (3 four-plex lots). At this density the scenario would generate 70 peak hour trips, compare to the RA zone development potential. The transportation engineer concludes "the worst-case high density scenario where all trips are assigned to reach Hwy 101 and Pacific Way found the intersection will still function well above the ODOT mobility standard and the Gearhart mobility standard through the Gearhart TSP horizon year of 2040." See Traffic Impact Analysis Conclusions and Recommendations on page 10.

Additional Findings regarding Comprehensive Plan Compliance

9. *Following the initial public hearing before the Planning Commission, the applicant, agencies and staff prepared additional findings to address concerns raised by neighbors, The Fair Housing Council and The Oregon Coast Alliance.*

a. *Goal 10 Housing*

Goal 10 Housing & ORS 197.175(2)(a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved by the commission;

The applicant addressed the Buildable Lands Inventory in their attached memo dated 10-2-18. The memo was forwarded to the Fair Housing Council. On October 4, 2018 Jennifer Bragar, the President of the Fair Housing Council (FHC) in collaboration with the Housing Land Advocates (HLA) provided the following new response to the Palmberg Zone Change:

“HLA and FHCO have reviewed your memorandum with draft Goal 10 findings. Thank you for your effort, your review of the out-of-date HNA and bringing the discussion up to date with reference to the soon-to-occur County-wide Goal 10 planning efforts. These are the kind of Goal 10 findings that will allow planners to measure whether housing goals will be reached in the long term. As your caveat at the end suggests – there is no guarantee that affordable housing or dense housing will be built at this site – but with these findings, the problem is identified and the City is taking steps to try to alleviate some of the concerns.

Hopefully, more findings like this will inspire the City and County-wide planning effort to consider additional tools to help alleviate the affordable housing crisis – minimum densities, additional density bonuses for providing permanently affordable housing in the mix, and other types of incentives, as well as allowing cottage type development that helps focus on design and density at the same time.

We appreciate that the City and applicant took our concerns seriously – if the density does materialize, it will be a lasting legacy for the property owner to provide housing in his community for generations to come.”

b. *Soils*

The 1979 Background Report of the Gearhart Comprehensive Plan on page 3 & 9 describes three “mucky peat” soil types in the subject area as “generally not suitable for urban development because of the high water table and the low load supporting capacity subject to subsidence. Impacts can be addressed in the development of a comprehensive ground water management plan. Peat and organic soil are extremely compressible and generally considered entirely unsuitable for supporting structural foundations.”

Now, roughly 40 years later the applicant has provided a site specific Preliminary Geotechnical Engineering Report, prepared by HGSI Hardman Geotechnical Services Inc., June 7, 2018, to evaluate the subsurface conditions at the site. Eight (8) test pits were done in the upland area identified for potential development.

In conclusive remarks the report identifies “the primary constraints of localized and unpredictable undocumented fills, and relatively shallow groundwater with the potential of caving sands in trench excavations”. However, their results indicate the proposed development is geo-technically feasible provided the recommendations in the report are followed. The proposed residential structures may be supported on shallow foundations bearing on competent undisturbed native soils, and/or engineered fill, designed and constructed as recommended in the report. The report assumes residential structures will have raised floors and crawlspaces. The report recommends consulting HGIS during the preparation of the grading plan to ensure that geotechnical issues are addressed and to assist in optimizing the grading plan to minimize the amount of undocumented fill removal needed.

In addition the firm has provided a memo to clarify the site is capable of supporting multi-family as well as single family structures (pending).

c. ORCA letter concerns:

- (1) Contaminated Soils: The DEQ studied the site and Independent Cleanup Final Report and found in 2006 that residual petroleum impacts in the plant area were at or below risk-level standards, but that the auto wrecking yard area on tax lot 1000 needed more sampling. Additional investigation in 2007 concluded a No Further Action (NFA) determination is also warranted for tax lot 1000. They said localized areas of soil contamination must be managed accordingly. Soil that is excavated or moved on-site during development must be managed according to County, State and Federal regulations. DEQ issued the NFA determination.*
- (2) Buffer: The concern to maintain a buffer is largely accomplished by protection of the site’s natural resource constraints, whereby 72% of the site is unbuildable and provides a buffer on three sides of the site.*
- (3) Affordable Housing “buzzword”: The current zoning allows single-family dwellings on lots that range from 10,000 square feet to 1 acre. The current zone allows an estimated maximum of 20 single family dwellings on the 27 acre site.*

The proposed zoning could accommodate single-family, duplex, tri-plex and four plex dwellings ranging from 25 – 52 dwellings or more. The zone change request increases the number of dwellings permitted, especially attached units that could be rented or sold for less than single-

family dwellings on large lots required by the current zone. It is not guaranteed how a future owner will develop the site, but the zone change provides several options for various types and tenures of homes.

The “Clatsop County Housing Study” is underway and includes preliminary housing data for the county and each of its cities. The study is financially supported by the City of Gearhart, and Russ Taggard’s is on the study’s Technical Advisory Committee. Preliminary results for Gearhart have been provided to the City for this application review (attached).

- (4) City purchase 27 acres for public park: The Parks and Recreation section of the Comprehensive Plan Background Report (page 34) indicates a desire to retain a focus on passive recreation in the city, with two goals 1) to extend the Ridge Path to Gun Club Road and 2) to provide a central city park including a children’s park and a covered bandstand and low intensity uses. The report has not been updated in about 40 years. At this time the City does not have a Parks Master Plan to identify future park locations and estimated park costs. The City does not have funding to buy the land for a public park.*

COMP PLAN COMPLIANCE CONCLUSION: the proposed zone change complies with the Gearhart Comprehensive Plan residential housing policies. Additional findings have been prepared to address Goal 10 requirements regarding the Buildable Lands Inventory. The Fair Housing Council subsequently indicated their support for the zone change. Additional findings were prepared to address neighbor concerns, many of which must be specifically addressed at the time of a future development proposal.

B. The amendment will meet a land use need.

FINDINGS: Local housing authorities and others have determined there is a need for more affordable housing in the north coast region. City housing plan policies intend to ensure affordable housing opportunities will be provided. The purpose of the Medium Density Residential R-2 zone is to provide a mixture of single-family and multiple family housing. The maximum allowable R-2 density shall be six (6) dwelling units per acre, as compared to RA single family density of one (1) unit per acre or an R-1 designation allowing four (4) dwellings per acre.

In an R-2 zone the 27 acre site theoretically could accommodate 162 dwellings. However the applicant finds environmental constraints reduce the actual buildable area to approximately 7.5 acres. Subject to appropriately engineered excavation and septic system testing, it is estimated the 7.5 acre area may accommodate up to 52 dwelling units if zoned R-2. The property is not being developed at this time.

However, if the zone is change to R-2 a developer will have the option to build a variety of dwelling types and tenures in the site than currently permitted.

- C. The uses permitted by the amendment are compatible with the land use development pattern in the vicinity of the request.

FINDINGS: Residential uses allowed by the R-2 zone are compatible with the residential and highway commercial development pattern established west of the site, illustrated on applicant's sheet P1.1. All other sides of the property are currently zoned RA. The significant acreage prohibited from development on the subject site will maintain a suitable buffer on the north, east and south sides, as illustrated on sheet P1.2.

- D. The land is physically suitable for the uses to be allowed in terms of slope, soils, flood hazards and other relevant considerations.

FINDINGS: The application materials indicate nearly 20 acres of the 27 acre parcel is undevelopable due to environmental constraints such as wetlands, a large pond and floodplain. The site warrants a clustering of homes on the developable portion identified on the applicant's concept plan. Only a portion of the land is suitable for development as acknowledged by the applicant's concept Plan Sheet P1.2.

- E. Public facilities and services, including transportation systems and access, are available to accommodate the uses proposed.

FINDINGS: The subject property has access to three city streets, city water and city fire services. A future development plan may be subject to a secondary access, easement and public street improvements as well as a water improvements plan and septic system approval by Clatsop County Health.

III. DECISION OPTIONS

A decision must be based on adequate findings demonstrating compliance with each of the Plan/Zone Map Amendment approval criteria in A – E above.

Motion options:

1. Based on the findings in this report I move we recommend City Council approve the request; or

2. I move to continue the public hearing on this matter until November 8, 2018, subject to applicant's waiver of the 120-day decision rule; or
3. I move additional findings be prepared to support City Council denial of the request.