

# CITY OF GEARHART STAFF REPORT

October 2, 2020

To: Gearhart Planning Commission  
From: Carole Connell, AICP City Planner  
Re: October 8, 2020 initial Public Hearing  
City File # 19-003ZTA Neighborhood Commercial C-1 Legislative Amendments

**Attachments:** Exhibit A Draft 10-1-20 Proposed C-1 Legislative Amendments; existing C-1 zone provisions; Summary of certain proposed C-1 terms; Map of C-1 zoned properties

---

## I. Proposal

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

**Affected Area:** The C-1 zone is bordered on the west by the Post Office and The Sweet Shop, a vacant lot, a vacant building, and the Pacific Way Café on Pacific Way; a professional office (CKI) and the Barber Shop adjoining Cottage Street; the Natural Nook and the Garden Shop adjoining Pacific Way on the east side of Cottage Street. The affected area includes 13 parcels.

## II. Applicable Amendment Review Criteria and Procedures

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

## III. Testimony received to date:

- a. Joy Sigler 9-18-20
- b. Traci Williams 9-18-20
- c. Stuart Emmons 9-21-20
- d. Ann Samuelson 9-22-20
- e. Matt Brown to Stuart Emmons 9-22-20
- f. Valerie Rich 9-24-20
- g. Jill & Tony Harvey 10-1-20
- h. Alix Goodman 10-1-20
- i. Kathleen Callison 10-1-20
- j. Margaret Marino 10-2-20

## Introduction

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

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

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businesses to have more options, increased revenue and be more successful and vibrant while eliminating some of the outdated and restrictive language.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

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

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

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

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

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

The first evidentiary public hearing by the Planning Commission is 10-8-20. The Planning Commission may continue the hearing or decide to act on the amendments in the form of a recommendation to the City Council. The City Council will hold a public hearing on the Planning Commission's recommendation. The Council's final decision will be in the form of a legislative ordinance amending the Gearhart Zoning Ordinance. A person defined as a "party" to the subject amendment process may appeal the City Council decision to the state Land Use Board of Appeals (Article 12). Anyone who sent a letter or testified at the hearing will be notified of the decisions.

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

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

#### B. Zoning Ordinance Amendments

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

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

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

#### VI. GZO Section 11.040 Amendment Approval Criteria

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

#### Amendment Criterion 1: Comprehensive Plan Compliance

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

(1) General Development Goals

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

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

- a. *The City will preserve and maintain the predominately residential character of Gearhart through appropriate zoning and land use development regulations.*
- b. *The City will implement the City’s land use development regulations through the continued development of Gearhart as a residential community.*
- c. *The City will recognize the importance of the City’s residential neighborhoods and the need to protect them from the negative impacts of transient rental of property, and to discourage increased levels of traffic and similar disruptions.*
- d. *The City will limit commercial activity in the City, in terms of both land devoted to commercial uses, and the types of uses permitted in commercial zones to a level that is compatible with Gearhart’s residential character.*
- e. *The City will prevent the City from becoming a tourist destination. To achieve this policy the City, through its land-use designations, shall seek to accommodate only a limited level of tourist development.*
- f. *The City will work to achieve a level of commercial development that supports the needs of the residents of Gearhart, rather than serving a regional commercial center role, or providing for major tourist destination facilities.*
- g. *The City shall not designate additional property for commercial development.*
- h. *The City will maintain a commercial zone in the center of the City that provides for the needs of residents.*
- i. *The City will limit the number of business uses in the C-1 zone so that the zone does not become a destination for tourists.*
- j. *The City will achieve a compact town center in the vicinity of Pacific Way and Cottage Avenue.*

*k. The City will establish Zoning Ordinance standards to protect residential uses from adjacent commercial development.*

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

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

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

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

The City’s planning framework ensures information is available to citizens, that the Planning Commission and City Council represent the wide diversity of views and interests in the community. Citizen involvement and an open review process are provided to ensure the citizens receive responses to their comments at meetings in the meeting minutes or in writing, and that the city will maintain a record of meetings. The procedures require an advertised public hearing process with a recommendation by the Planning Commission and a decision by the City Council based on findings that there is a

public need for the amendments and that the amendments are in compliance with the Gearhart Comprehensive Plan and Statewide Planning Goals.

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

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

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

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

Between April 2019 and August 2020, the Planning Commission held 11 more public meetings including an additional work session with City Council on 10-30-19 to develop the proposed amendments. All 14 meetings were public and were announced on the City Blog and website. Working drafts were available to the public as were newspaper stories and lots of talk around town. After meeting interruptions by COVID and fires the Planning Commission directed staff to begin the public hearing process. Notices were published, sent to DLCD, and all property owners of land zoned C-1 announcing the first public hearing on October 8, 2020. The Commission and City Council will provide opportunity for comment and feedback during the public hearings.

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

*(Continuation of Comprehensive Plan Goals analysis)*

- (3) Open Space, Scenic Areas, Historic and Natural Resources (LCDC Goal 5)
- (4) Air, Water, and Land Resource Quality (LCDC Goal 6)
- (5) Geology and Geologic Hazards; Flood Hazards (LCDC Goal 7)
- (6) Recreation (LCDC Goal 8)

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

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

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

FINDINGS: The above policy intends to “ensure there will be a stable and healthy economy in Gearhart through all available human resources.”

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

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

(8) Housing (LCDC Goal 10)

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

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

*(Continuation of Comprehensive Plan Goals analysis)*

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

(10) Transportation (LCDC Goal 12)

(11) Urban Growth (LCDC Goal 14)

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

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

(14) Beaches and Dunes (LCDC Goal 18)

(15) Ocean Resources (LCDC Goal 19)

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

Amendment Criterion #2 Demonstration of Public Need

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

VII. RECOMMENDATION

City staff recommends approval of the proposed amendments described in Exhibit A city file # 19-003ZTA C-1 Zone, as may be modified by the Planning Commission at the conclusion of their public hearing.

Motion options:



1. Based on the findings in this report, as may be amended by the Commission, I move to approve and forward the proposed Commercial C-1 draft 10-1-20 amendments to City Council.
2. I move to continue the subject hearing until...
3. Based on revised findings to support denial, I move to deny the proposed amendments and make no changes to the existing C-1 zone