



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

01/18/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Gearhart Plan Amendment
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, January 31, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Chad Sweet, City of Gearhart
Angela Lazarean, DLCD Urban Planner
Matt Spangler, DLCD Regional Representative
Angela Lazarean, DLCD Urban Planner
Thomas Hogue, DLCD Economic Development Policy Analyst

<paa> YA

FORM 2

DLCD NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF

JAN 11 2012

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Gearhart Local File No.: 2011-003-MA
(If no number, use none)

Date of Adoption: 01/04/12 (Must be filled in) Date Mailed: 01/10/12 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 8/29/11

☐ Comprehensive Plan Text Amendment ☐ Comprehensive Plan Map Amendment
☐ Land Use Regulation Amendment ☒ Zoning Map Amendment
☐ New Land Use Regulation ☐ Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write see Attached.≡

Vacant land owned by the City of Gearhart was changed from R-2 25000 sq ft and
C-1 5000 sq ft to P-Parks and open space.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write same.≡ If you did not give notice for the proposed amendment, write AN/A.≡

Same

Plan Map Changed from: R-2 and C-1 to P - Parks and open space.

Zone Map Changed from: R-2 and C-1 to P - Parks and open space.

Location: 6N 10W 10BB Taxlot 5700 Acres Involved: 0.6887

Specify Density: Previous: 7 Multifamily New: 0

Applicable Statewide Planning Goals: 2-5-8-9-10-17

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 001-11 (18947) [16891]

BEFORE THE CITY COUNCIL
FOR THE CITY OF GEARHART, OREGON
ORDINANCE NO. 860

AN ORDINANCE AMENDING THE CITY OF GEARHART ZONING MAP FROM R-2
MEDIUM DENSITY RESIDENTIAL AND C-1 NEIGHBORHOOD COMMERCIAL TO P
PARKS AND OPEN SPACE ON PROPERTY OWNED BY THE CITY OF GEARHART AND
KNOWN AS GEARHART PARK SUBDIVISION Block 6, Lots 5, 6, 8, 10, 11, 12

WHEREAS, on August 25, 2011 the City of Gearhart filed an application for an amendment to the City of Gearhart Zoning Map to amend the zoning of the subject property.

WHEREAS, public notice of this amendment has been provided to the Department of Land Conservation and Development and the public pursuant to law;

WHEREAS, the zoning map amendment was considered by the Gearhart Planning Commission at a public hearing on October 11, 2011 and the Gearhart Planning Commission unanimously recommended approval and forwarded their recommendation to the City Council pursuant to law; and

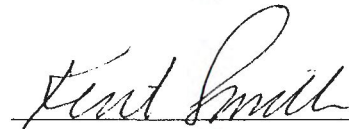
WHEREAS, on November 7, 2011 the City Council of the City of Gearhart received the Gearhart Planning Commission's recommendations on this request and held a public hearing on December 7, 2011 and unanimously finds that this ordinance complies with the applicable criteria including the Post Acknowledgement rules of the Oregon Department of Land Conservation and Development and the laws of the City of Gearhart pursuant to law; now therefore,

THE CITY COUNCIL OF THE CITY OF GEARHART, OREGON ORDAINS AS FOLLOWS:

SECTION 1 The City of Gearhart Zoning Map is hereby amended.

SECTION 2 In support of this ordinance, the City Council adopts the findings of fact in the City Planner Staff Report dated for the City Council public hearing December 7, 2011 and identified as "Exhibit A: Findings of Fact".

SECTION 3 A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days of the date that the final order is signed. The complete case including the final order is available for review at the City.



Mayor Kent Smith

4 Jan 12

Date

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FOR THE CITY OF GEARHART, OREGON
ORDINANCE NO. 860

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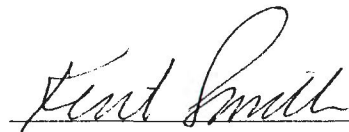
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Mayor Kent Smith

4 Jan 12
Date

BEFORE THE GEARHART CITY COUNCIL
APPLICATION FOR ZONING MAP AMENDMENT #2011-003 MA
City Planner City Council Staff Report Date: 10/19/2011
Public Hearing Dates: Planning Commission: 10/13/2011; City Council: 11/03/2011; 12/07/2011

I. APPLICATION INFORMATION:

Application Type: Zoning Map Amendment
Applicant: City of Gearhart, Chad Sweet, City Manager
Property Owner: City of Gearhart
Property Location: Vacant Land on Pacific Way west of US 101 across from City Hall
Legal Description: Gearhart Park, Block 6, Lots 5, 6, 8, 10, 11, 12
Tax Assessor Map: 6N 10W 10BB Tax Lot 5700
Size of Property: 30,000 square feet
Current Land Use Zone: R-2 Medium Density Residential Zone (25,000 square feet);
C-1 Neighborhood Commercial Zone (5,000 square feet)
Proposed Land Use Zone: P Parks and Open Space

II. APPLICABLE CRITERIA:

Gearhart Comprehensive Plan
Gearhart Land Use and Zoning Map

Gearhart Zoning Ordinance
Section 3.9 P Parks and Open Space Zone
Article 10 Amendments
Article 11 Administrative Provisions

Gearhart Ordinances
Gearhart Public Works Standards
Oregon Fire Code
Oregon Building Code

Gearhart National Floodplain Insurance Program (NFIP) Flood Rate Insurance Map (FIRM) and
Flood Insurance Study (FIS)

Clatsop County Tax Assessor Maps 6N 10W Sections 4DC, 9AA, 9AB, 9AC, 10BB

OREGON ADMINISTRATIVE RULES (<http://arcweb.sos.state.or.us/banners/rules.htm>)
OREGON REVISED STATUTES (<http://www.leg.state.or.us/ors>)
Chapter 197 Comprehensive Land Use Planning Coordination
Chapter 227 City Planning and Zoning

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III. CITY PLANNER RECOMMENDATION: APPROVAL WITH CONDITIONS

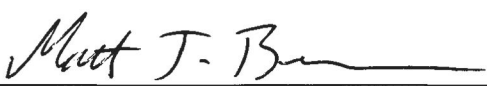
As City Planner, I recommend that the findings of fact support the adoption of the proposed zoning map amendment and I recommend that the Planning Commission “make a motion to recommend to the City Council adoption of the amendment to rezone the subject property from C-1 Neighborhood Commercial and R-2 Medium Density Residential to P Parks and Open Space with the following conditions:

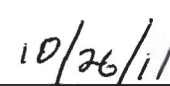
1. Gearhart will retain the right to rezone through the zoning map amendment process the 5,000 square feet of C-1 Neighborhood Commercial Zone land lost in the zone amendment; and
2. The development and use of this property shall be consistent with all applicable criteria including but not limited to city ordinances, resolutions, state and federal laws, and the Gearhart Comprehensive Plan; and
3. The current zoning ordinance requires that use or development of P Zone property requires approval of a conditional use permit and an additional public hearing process.

IV. PLANNING COMMISSION RECOMMENDATION: APPROVAL WITH CONDITIONS

The Planning Commission recommends that the City Council rezone the subject property from C-1 Neighborhood Commercial and R-2 Medium Density Residential to P Parks and Open Space with the following conditions recommended by the City Planner:

1. Gearhart will retain the right to rezone through the zoning map amendment process the 5,000 square feet of C-1 Neighborhood Commercial Zone land lost in the zone amendment; and
2. The development and use of this property shall be consistent with all applicable criteria including but not limited to city ordinances, resolutions, state and federal laws, and the Gearhart Comprehensive Plan; and
3. The current zoning ordinance requires that use or development of P Zone property requires approval of a conditional use permit and an additional public hearing process.


Matt Brown, Planning Commission President


Date

V. SUMMARY OF CITY PLANNER RECOMMENDED FINDINGS OF FACT:

Approval of an amendment to the Gearhart Zoning Map requires that the findings of fact identify that: (a) the amendment is consistent with the Comprehensive Plan's goals and policies; (b) the amendment is necessary to meet a land use need; (c) that the land is physically suitable for the uses to be permitted in terms of slope, geologic stability, flood hazard and other relevant data; (d) the area can be served by the appropriate level of public facilities, and adjacent streets can accommodate the traffic generated by uses permitted; and (e) the amendment is compatible with the land use development pattern in the vicinity of the request.

- a. Consistent with the Comprehensive Plan: The findings of fact describe how the rezone of this property is consistent with each of the goals and policies of the Gearhart Comprehensive Plan. Specific support for the rezone is found in Gearhart Comprehensive Plan Open Space and Recreation Goal 8 which states that the city will "encourage further development of recreational facilities in the Gearhart area commensurate with air, land, water, environmental and scenic resources" and "explore and use various means of acquiring and developing park land including the donation of land or money, land, labor, funds or equipment for the development of recreation facilities".
- b. The Amendment is necessary to meet a land use need: The Gearhart Comprehensive Plan Goal 8, Policy 3 requires the City to explore the acquisition of park land to provide parks adequate for future demand. The rezone is to provide a park zone to land currently zoned for residential and neighborhood commercial development. Since the rezone will result in a net loss of 5,000 square feet of C-I Neighborhood Commercial Zone land the City may retain a right to transfer the 5,000 square feet of C-I Zone land to other property through an additional application for zoning map amendment.
- c. The land is physically suitable for the uses to be permitted in terms of slope, geologic stability, flood hazard and other relevant data: The subject property is generally flat with areas of gentle slope along the northern and western boundary of the property. Gearhart Comprehensive Plan maps identify that no wetlands, aquatic areas, or foredunes are identified on the property. The site is currently identified by the FEMA FIRM to be located outside of the 500 year floodplain. At the time development is proposed, the city will fully evaluate the site for flood zone designation and a septic system that may be present.

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- d. The area can be served by appropriate levels of public facilities, and adjacent streets can accommodate the traffic generated by the uses permitted: The land is located along Pacific Way, a wide public street that provides access to Gearhart from US Highway 101. Public parking is available adjacent to the site. Use of the site currently requires Planning Commission approval of a Conditional Use Permit. Approval of a Conditional Use Permit requires a public hearing. During the Conditional Use Permit process, the City will evaluate the need for public facilities including streets and parking.
- e. The amendment is compatible with the land use development pattern in the vicinity of the request: This site is vacant land that has historically served the city as open space. It was the original site of the Gearhart School recreation field and playground and now lies vacant. The land is adjacent to the Trail End Art Center used by artists, adjacent to other C-1 Neighborhood Commercial Zone Uses, adjacent to R-2 Residential Zone land, and across the street from other P Zone land, City Hall and the Gearhart Fire Station. As commercial land is a finite resource based on current comprehensive plan policy that prohibits the creation of additional commercial land, the city may retain the right to replace the 5,000 square feet of C-1 Zone land lost in the rezone.

VI. CITY PLANNER RECOMMENDED FINDINGS OF FACT:

Parks and Open Space Zone:

The Gearhart Zoning Ordinance states that "Parks and Open Space Zone is included because unique relationships often exist between the uses of such parks and open space lands and properties that abut and surround them." In a P Zone no uses are currently permitted outright. Subject to the provisions of Article 7 Conditional uses and standards listed in the P Zone, a public park and recreation facility, non-public recreation facility, public service and public utility use, and dwelling for caretaker or watchman or housing for staff are permitted. Approval of a conditional use requires a public hearing with first decision by the Planning Commission. At the time of the conditional use permit for a proposed use in the P Zone the applicant shall present to the Planning Commission a detailed site plan of the proposed use. The Planning Commission may adopt the proposal as the development standards for the particular property or it may set other standards if it appears that the proposed standards may cause damage or harm to the public health, safety or welfare.

Zoning Amendment Process:

The Gearhart Comprehensive Plan Process Policies states that approval of an amendment to the Gearhart Zoning Map requires that the findings of fact identify that: (a) the amendment is consistent with the Comprehensive Plan's goals and policies; (b) the amendment is necessary to

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meet a land use need; (c) that the land is physically suitable for the uses to be permitted in terms of slope, geologic stability, flood hazard and other relevant data; (d) the area can be served by the appropriate level of public facilities, and adjacent streets can accommodate the traffic generated by uses permitted; and (e) the amendment is compatible with the land use development pattern in the vicinity of the request.

a. Consistent with the Goals and Policies of the Gearhart Comprehensive Plan:

General Development Goals

The proposed rezone is consistent with the Gearhart General Development Goal policies to maintain the residential character of Gearhart, to not increase the amount of commercial land in Gearhart, to preserve the low density, semi-rural character of Gearhart. Since site development requires additional processes, the city can ensure that development occurs in a manner that is in harmony with the sensitive coastal environment that defines Gearhart.

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

The proposed amendments are consistent with the Gearhart Citizen Involvement, Revision, Implementation and Process Goals (LCDC Goals 1 & 2) and Goal policies as the process to rezone the subject property requires an advertised public hearing process with a recommendation by the Planning Commission and a decision by the City Council that is based on findings of fact.

Open Space, Scenic Areas, Historic and Natural Resources (LCDC Goal 5)

The proposed rezone is consistent with the Gearhart Open Space, Scenic Areas, Historic and Natural Resources Goal 5 policies to conserve, preserve, and protect open space, scenic areas, historic and natural resources in and around the Gearhart Community for future generations.

Air, Water, and Land Resource Quality (LCDC Goal 6)

The proposed amendment is consistent with Air, Water and Land Resource Quality Goal 6 and development of this property requires additional processes where the city will ensure that the adequate separation and buffering of industrial and transportation noise, air and water quality, hazardous waste and solid waste is provided.

Geology and Geologic Hazards; Flood Hazards (LCDC Goal 7)

The proposed rezone is consistent with Geology and Geologic Hazards, Flood Hazards Goal 7 as development or use of the site requires approval of a conditional use permit through additional processes where the city will ensure that geologic and flood hazards are identified and mitigated, and the requirements of Oregon Fire Code and Oregon Building Code are met. The site is generally flat with areas of gentle slope along the northern and western boundary of the property.

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Gearhart Comprehensive Plan maps identify that no wetlands, aquatic areas, or foredunes are identified on the property. The site is currently identified by the FEMA FIRM to be located outside of the 500 year floodplain. At the time development is proposed, the city will fully evaluate the site for flood zone designation and a septic system that may be present.

Recreation (LCDC Goal 8)

The proposed rezone is consistent with Recreation Goal 8 as the amendment encourages further development of recreation facilities in the Gearhart area commensurate with air, land, water, environmental, and scenic resources and acquires park land by donation for the development of recreation facilities. Specific support for the rezone is found in Gearhart Comprehensive Plan Open Space and Recreation Goal 8 which states that the city will “encourage further development of recreational facilities in the Gearhart area commensurate with air, land, water, environmental and scenic resources” and “explore and use various means of acquiring and developing park land including the donation of land or money, land, labor, funds or equipment for the development of recreation facilities”.

Economy and Energy (LCDC Goal 9 and LCDC 13)

The rezone is consistent with Gearhart Economy and Energy Goal 13 policies to ensure a stable and healthy economy in Gearhart through all available resources, both human and natural resources, to promote the conservation, development of alternative sources and the efficient use of energy, to guide land use decisions in such a way so as to make a more efficient use of energy resources and to promote activities which reduce the use of non-renewable energy resources.

Since approval of the proposed map amendment will deplete the City commercial land zone resource and Gearhart Comprehensive Plan policy currently prohibits the creation of additional commercial zone land, the City will retain the right to file an additional zone map amendment to replace the C-1 Neighborhood Commercial land.

Housing (LCDC Goal 10)

The proposed amendments are consistent with Gearhart Housing (LCDC Goal 10) and Goal policies since the City has sufficient residential buildable lands that ensure that the 25,000 square feet of R-2 Zone land lost will not adversely affect the ability of Gearhart to ensure decent, affordable housing and housing availability for all residents of the Gearhart area. If a need for additional R-2 Zone land is identified in the future, the city can follow the zoning map amendment process to apply to add land within this resource zone.

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Public Facilities and Services (LCDC Goal 11)

The proposed amendments are consistent with Public Facilities and Services (LCDC Goal 11) and Goal policies as they comply with applicable local, state, and federal environmental noise, air, water, and solid waste standards. The land is located along Pacific Way, a wide public street that provides access to Gearhart from US Highway 101. Public parking is available adjacent to the site. Use of the site currently requires Planning Commission approval of a Conditional Use Permit. Approval of a Conditional Use Permit requires a public hearing. During the Conditional Use Permit process, the City will evaluate the need for public facilities including streets and parking. At the time that development is proposed, the City will require that suitable public facilities and services are provided at the cost of the developer. Gearhart public works standards shall be met.

Transportation (LCDC Goal 12)

The proposed amendments are consistent with Transportation (LCDC Goal 12) and Goal policies as the amendments do not adversely impact the ability to provide and encourage safe, convenient, and economic systems for all modes of transportation in the Gearhart area. The land is located along Pacific Way, a wide public street that provides access to Gearhart from US Highway 101. Public parking is available adjacent to the site. Use of the site currently requires Planning Commission approval of a Conditional Use Permit. Approval of a Conditional Use Permit requires a public hearing. During the Conditional Use Permit process, the City will evaluate the need for public facilities including streets and parking. At the time that development is proposed, the City will require that suitable transportation facilities are provided at the cost of the developer.

Urban Growth (LCDC Goal 14)

The proposed amendments are consistent with Urban Growth Goal 14 policies as they do not adversely affect the ability of the City to manage urban growth. No expansion of the urban growth boundary is proposed by the zone map amendment. The map amendment does not increase development densities allowed in the City.

Necanicum Estuary (LCDC Goals 16 & 17)

The proposed amendments are consistent with the Necanicum Estuary (LCDC Goals 16 and 17) and Goal policies as they do not adversely affect the ability of the City to manage the Necanicum Estuary consistent with local goals, policies, and regulations, state law and federal regulations as the site proposed for map amendment is not located within the Necanicum Estuary and any use of the property is required to be consistent with applicable criteria including but not limited local, state, and federal laws that coordinate to protect the Necanicum Estuary. City maps identify that the subject property contains no wetlands, aquatic areas, flood zones or Necanicum Estuary.

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Coastal Shorelands (LCDC Goal 17)

The proposed amendments are consistent with Coastal Shorelands (LCDC Goal 17) and Goal policies as they do not adversely impact the ability of the City to conserve, protect, develop, and restore the resources and benefits of all coastal shorelands consistent with local goals, policies, and regulations, state law and federal regulations.

Beaches and Dunes (LCDC Goal 18)

The proposed amendments are consistent with Beaches and Dunes (LCDC Goal 18) and Goal policies as they do not adversely impact the ability of the City to conserve, protect, develop, and restore the resources and benefits of coastal beach and dune area consistent with local goals, policies, and regulations, state law and federal regulations. City maps identify that no portion of the property lies within a fore dune. The subject property is located west of the Gearhart dune Hazard Line and the Oceanfront Building Line.

Ocean Resources (LCDC Goal 19)

The proposed amendments are consistent with Ocean Resources (LCDC Goal 19) and Goal policies as they do not adversely impact the ability of the City to cooperate with appropriate state and federal agencies in conserving the long term values, benefits and natural resources of the near-shore ocean and the continental shelf.

- b. The Amendment is necessary to meet a land use need: The Gearhart Comprehensive Plan goal 8, Policy 3 requires the city to explore the acquisition of park land to provide parks adequate for future demand commensurate with air, land, water, environmental, and scenic resources. The rezone is to provide a park zone to land currently zoned for residential and neighborhood commercial development. Since the rezone will result in a net loss of 5,000 square feet of C-1 Neighborhood Commercial Zone land the City may retain a right to transfer the 5,000 square feet of C-1 Zone land to other property through an additional application for zoning map amendment. While the City currently does not have a formal Park Master Plan, an inventory of public property zoned P Parks and Open Space finds that 92.6 acres of P Zone land is located west of the Gearhart Building Line with limited suitability for park development and 1.15 acres of land is suitable for park development.
- c. The land is physically suitable for the uses to be permitted in terms of slope, geologic stability, flood hazard and other relevant data: The subject property is generally flat with areas of gentle slope along the northern and western boundary of the property. Gearhart Comprehensive Plan maps identify that no wetlands, aquatic areas, or foredunes are

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identified on the property. The subject property is currently identified by the FEMA FIRM to be located outside of the 500 year floodplain. At the time development is proposed, the city will fully evaluate the site for flood zone designation and a septic system that may be present.

- d. The area can be served by appropriate levels of public facilities, and adjacent streets can accommodate the traffic generated by the uses permitted: The land is located along Pacific Way, a wide public street that provides access to Gearhart from US Highway 101. Public parking is available adjacent to the site. Use of the site currently requires Planning Commission approval of a Conditional Use Permit. Approval of a Conditional Use Permit requires a public hearing. During the Conditional Use Permit process, the City will evaluate the need for public facilities including streets and parking.
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Article 11 Administrative Provisions

Findings of Fact:

The provisions of Article 11 are fully referenced, applicable and adopted into these findings of fact. The amendment process shall be consistent with Article 11 Administrative Provisions.

OREGON STATEWIDE PLANNING GOALS; OREGON ADMINISTRATIVE RULES
Division 660; OREGON REVISED STATUTES, Chapters 197 Comprehensive Land Use
Planning Coordination and Chapter 227 City Planning and Zoning

Findings of Fact:

The City Comprehensive Plan is acknowledged by the Department of Land Conservation and Development (DLCD). The City sent notification to DLCD 45 days prior to the first public hearing held on October 19, 2011. This map amendment does not create an inconsistency of the Gearhart Comprehensive Plan with the Oregon Administrative Rules and Oregon Revised Statutes.

Box 2510
97138

FIRST-CLASS



US POSTAGE \$01.28⁰



JAN 10 2012
ZIP 97103
0801 1052811

FIRST CLASS

DEPT OF

JAN 11 2012

LAND CONSERVATION
AND DEVELOPMENT

Attention: Plan Amendment Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem OR 97301-2540