

CITY OF GEARHART CITY COUNCIL
STAFF REPORT

April 27, 2017

To: Gearhart City Council
From: Carole Connell, AICP - City Planner
Re: Legislative Zone Code Text Amendment regarding Noxious Weed Removal and Fire Safety in B.A.D. Zone
City File #17-005ZTA

I. SUMMARY OF REQUEST

The City of Gearhart Planning Commission recommended approval of a legislative amendment to the Zoning Ordinance Article 3 Section 3.1240(D) Beaches and Active Dunes Overlay District in order to allow for removal of noxious weeds and limited vegetation removal to create a safety buffer along the Neacoxie Blvd. right-of-way and fire road, including the suggested revisions by the state Department of Land Conservation and Development (DLCD) staff.

II. APPLICABLE REVIEW CRITERIA AND PROCEDURES

- A. Applicable Criteria of the Gearhart Zoning Ordinance (GZO)
 - 1. Article 3 Section 3.12 B.A.D. Overlay District
 - 2. Article 11 Amendments
 - 3. Article 13 Administrative Provisions
 - 4. Gearhart Comprehensive Plan

B. Amendment Process

The Gearhart Zoning Ordinance requires that before amendments to the text of the zoning ordinance are approved, findings will be made that the amendments are consistent with the goals and policies of the Comprehensive Plan, and that there is a public need for the proposed amendment.

The City conducted a Town Hall meeting on this topic on January 5, 2017. The Planning Commission conducted the first public hearing on April 13, 2017. On March 24 Public Notice was posted and mailed to all property owners in and adjoining the B.A.D. Overlay District. The notice also advertised a City Council public hearing scheduled for 5-3-17.

III. PROPOSED AMENDMENT TEXT

- A. GZO Article 3 B.A.D Section 3.1240 (D) (new language is underlined)

- D. Pruning and Trimming of Vegetation

- (1) Except as allowed under subsection (5), (6) and (7) the removal, destruction or uprooting of vegetation shall be prohibited.
- (2) Trimming or pruning of vegetation shall be the minimum necessary to protect views and prevent a fire hazard while maintaining the vigor of the plants to be trimmed. The amount of thinning or pruning shall not exceed 50% of the plants present growth.
- (3) Pruning and trimming shall occur only after a specific program which specifies the vegetation to be trimmed and the extent of trimming proposed has been approved by the City.
- (4) The requirements of this sub-section (2) (D) of Section 3.1240 shall not apply to that portion of the B.A.D. Overlay District lying east of Neacoxie Blvd. and east of the building line between Pacific Way and 3rd Street.
- (5) The removal, destruction or uprooting of noxious weeds as defined by the Oregon Department of Agriculture is permitted. Removal activities shall not lower the elevation of the foredune (DLCD recommendation in italic)
- (6) The removal, destruction or uprooting of vegetation is permitted along the Neacoxie Blvd. ROW and on both sides of the established fire road as needed for a safety buffer zone not to exceed a maximum of 60 feet wide.
- (7) If the removal of noxious weeds in any location encompasses contiguous area of more than 2,000 square feet, any resulting open areas shall be stabilized. Revegetation shall consist of plantings of native or non-native beach grasses or other native vegetation appropriate to the site, including but not limited to kinnikinnick, Pacific rhododendron, wax myrtle and coast strawberry. (DLCD recommendation in italic)

IV. AGENCY & CITIZEN WRITTEN COMMENTS

- A. Dept. of Land Conservation and Development: Meg Reed suggested revisions 3-3-15
- B. Gearhart Police Chief: Jeffrey Bowman 3-14-17
- C. Gearhart Fire Chief: Bill Eddy Fire Chief 3-17-17
- D. Marcia McLeary email: no address or date
- E. Nancie Clark: 11-6-16, 4-13-17 and 4-23-17
- F. Sharon Kloepfer: 3-25-17, 4-13-17 and 4-23-17
- G. John Green & Margaret Green: 2-9-17, 3-25-17, 4-13-17 and 4-23-17 (2 letters)
- H. ODOT: Ken Shonkwiler 3-30-17
- I. Stewart Shultz: letters dated 2-8-17, 4-13-17 and 4-24-17

- J. Thad Clark: 4-13-17 and 4-23-17
- K. Truman Seely: 10-29-16 and 4-13-17
- L. Robert Buzzard III: 4-13-17
- M. Robin Cavendish: 4-12-17
- N. Tara Sinclair: 4-13-17
- O. Margaret Marino: 4-11-17 draft amendment 4-21-17
- P. Department of Forestry: Neal Bond 4-24-17
- Q. Deputy Fire Marshal Randolph “Tad” Petersen to Ms. Kloepfer: 4-26-17
- R. Tom & Alix Meier Goodman and Laura Meier: 4-17-17
- S. Greg Goodman and Susan Schnitzer: 4-16-17
- T. Susan Workman: 4-17-17
- U. Mark Gregoire: 4-19-17
- V. Chris Conway 4-19-17
- W. Morrie (Joanne) Conway:4-19-17
- X. Charles & Caroline Swindells: 4-20-17
- Y. Bill Berg: for 5-3-17
- Z. Linda Hoard: 4-26-17
- AA. Wayne Meucci & Jane Schott: 4-26-17
- BB. Bill Corti: 4-25-17
- CC. Dianne Widdop: 4-26-17

Data Sources:

- Margaret Marino
- Kathleen Sayce report and resume
- Clatsop Soil and Water District report – Aug 2016

V. FINDINGS OF COMPLIANCE FOR THE PROPOSED CODE AMENDMENTS

GZO Section 11.040 Amendment Criteria.

The following is a response to the code amendment approval criteria:

A. IS THE AMENDMENT CONSISTENT WITH THE POLICIES OF THE COMPREHENSIVE PLAN?

The proposed code amendment relates to the Comprehensive Plan as follows:

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

Comprehensive Plan Goals 1 and 2 are intended to assure citizen involvement is provided in the amendment process. Policy 1 states “*the City will ensure that citizens, including*

residents and property owners, have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and development of policies.”

The steps also 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.

FINDINGS: Gearhart Goal 1 & 2 Plan policies direct procedures for citizen involvement in the development of policies; ensure the citizens receive responses to their comments at meetings or in writing, and that the city will maintain a record of meetings. When making Zoning Code revisions the goals and policies of the Plan provide the underlying principles to measure the amendments against, and policies assure when revisions are made the broader community interest is served by the modification.

The City conducted a public Town Hall Meeting on January 5, 2017 to listen to a panel of experts discuss vegetation growth in the Gearhart beach dunes. Notice of a public hearing of the amendment was published, posted and mailed to affected property owners on March 24, 2017 advertising both the Planning Commission and City Council hearings. The DLCD was notified more than 35 days before the initial Planning Commission hearing scheduled for April 13, 2017, in accordance with GZO Article 13 Administrative Provisions. All meetings are taped to maintain a record.

Prior to the initial hearing written comments from citizens and the “Gearhart Committee for study of Dune Management” were received and are attached for consideration.

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

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

FINDINGS: The City finds the code amendment supports the goal to conserve, preserve and protect open space and natural resources, enhancing native species growth, while also improving emergency access and fire protection in the dunes. The amendments are limited to clarifying existing language so that 1) noxious weeds can be removed, destroyed or uprooted and replaced with native vegetation without affecting the foredune, and 2) limited removal, destruction or uprooting of vegetation will be allowed along the Neacoxie Road right-of-way and the fire road a maximum width of 60 feet.

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

The Air Water and Land Resource Quality policies assure there will be standards that protect air, water, and land resource quality including laws that prevent noise pollution.

FINDINGS: The City finds the code amendment does not directly relate to this goal.

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

The Gearhart Geology, Geologic Hazards and Flood Hazards policies shall work in coordination with applicable local, state, and federal standards to identify geologic hazard areas and flood hazard zone identified by the FEMA Flood Rate Insurance Map.

FINDINGS: The City finds the code amendment may relate to flood hazard protection policies. DLCD staff recommends revegetation with native plants for sand stabilization, and that noxious weed removal not lower the elevation of the foredune.

(5) Recreation (LCDC Goal 8)

The Gearhart Recreation Goal policies encourage further development of recreation facilities in the Gearhart area that are commensurate with air, land, water, environmental, and scenic resources.

FINDINGS: The City finds the dunes are active recreation areas for city residents and visitors. The limited amount of vegetation removal proposed to be permitted will not significantly affect the condition or use of the dunes recreation area.

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

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

FINDINGS: The City finds the code amendment does not directly relate to this goal.

(7) Housing (LCDC Goal 10)

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

FINDINGS: The City finds the code amendments do not directly relate to this goal.

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

The Gearhart Public Facilities and Services Goal policies assure compliance with applicable local, state, and federal environmental noise, air, water, and solid waste standards.

FINDINGS: The City finds the code amendment will aid fire, police and emergency access to Gearhart beaches and dunes.

Historically the fire road has been a first line of defense. It was a fire break allowing firefighters to fight a fire before it got to the homes. Due to heavy vegetation growth it's no longer safe to send firefighters into the south part of the dunes if a fire were to happen.

Over the last 10 to 15 years the fire load including larger woody materials such as scotch broom and trees have grown up to the fire lane. Thicker, larger, woody materials burn much hotter and longer than beach grass. Beach grass in comparison is relatively easy to put out quickly. Larger diameter woody materials are much more difficult as they produce much hotter and dangerous fires. The more dense woody material you have in an area the greater a fire break needs to be.

If a fire were to happen in grass lands the fire department may only need a 30 foot fire break to protect the fire fighters and trucks. An area with thicker woody vegetation needs a larger fire break due to fire load. The fire chief has requested a fire break one and one half times the height of the vegetation next to the fire road. A 20 foot tree may require a 30 foot fire buffer from the roadway. If there are 20 foot trees on both sides of the fire road a 60 foot buffer may be required.

Without an adequate buffer around the fire road, firefighters may be required to abandon firefighting on the dunes and move to a defensive position along Ocean Avenue and wait for the fire to come to them.

Another use of the fire road would be a safety zone for people enjoying the dunes to escape a fire if it were to happen at a time such as the 4th of July.

(9) Transportation (LCDC Goal 12)

The Gearhart Transportation Goal policies are established to provide and encourage safe, convenient, and economic systems for all modes of transportation in the Gearhart area.

FINDINGS: The City finds the code amendment promotes safe access to the beaches and dune area.

(10) Urban Growth (LCDC Goal 14)

The Gearhart Urban Growth Goal policies are established to manage urban growth.

FINDINGS: The City finds the code amendment does not directly relate to this goal.

(11) Necanicum Estuary (LCDC Goals 16)

The Gearhart Necanicum Estuary Goal policies are established to maintain all identified marsh areas in their natural, productive condition.

FINDINGS: The City finds fire access road is near the banks of the Necanicum estuary but the proposed amendment is not related to development on the banks of the river. The limited amount of vegetation removal permitted and the provision for erosion control will avoid possible negative impacts in the subject area.

(12) Coastal Shorelands (LCDC Goal 17)

The Gearhart Coastal Shorelands Goal is to conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent waters; and

GOAL

To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of the coastal shoreland area.

Policy 8: The City will cooperate with affected agencies to protect the habitat of the snowy plover. Specifically the City will:

- a. Support the efforts of the Oregon Department of Fish and Wildlife Service to ensure compatibility with snowy plover compatibility.

FINDINGS: The City finds the noxious weed provisions will be limited in location and area generally above the snowy plover habitat. However, trees in the area provide shelter for predatory birds that hunt the snowy plover.

(13) Beaches and Dunes (LCDC Goal 18)

The Gearhart Beaches and Dunes Goal is to conserve, protect, where appropriate develop and where appropriate restore the resources and benefits of coastal beach and dune area. In addition, the goal is to reduce the hazard to human life and property from actual or man-induced actions associated with coastal beach and dune area.

Policy 14: Permanent revegetation shall be started at the site during the next growing season after construction. Final grading or utility placement time limitations will be dependent upon circumstances.

Policy 17: The City will evaluate the impact of a proposed land-use action on surrounding areas.

FINDINGS: The City finds the code amendment promotes the elimination of noxious weeds and the restoration of native vegetation in the dune area. The amendments also seek to reduce fire hazards to human life and property in the dunes and surrounding areas.

(14) Ocean Resources (LCDC Goal 19)

The Gearhart Ocean Resources Goal policies are established to assure cooperation 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.

FINDINGS: The City finds the code amendment is not directly related to this goal.

B. IS THERE A PUBLIC NEED FOR THE AMENDMENTS?

The Planning Commission found there is a need to control the growth of vegetation and noxious weeds in the B.A.D. Overly District in order to fight wild land fires and assure the safety of the firefighters; and to eliminate the growth of noxious weeds that should be replaced with native plants to maintain stabilization of the dunes.

VI. PLANNING COMMISSION RECOMMENDATION

Based on the requirements of the applicable GZO Article 11 Amendments and Article 13 Administrative Provisions and the findings in this report, on April 13, 2017 the Planning Commission recommended City Council approval of the proposed amendments as described herein.