



CITY OF GEARHART

Staff Report

For City Council Meeting - 10/2/2024

Subject - Ordinances/Resolutions - Ordinance #942 Section 6.070(8) Preservation & Removal of Trees GZO Text Amendments

Synopsis: Draft ordinance #942 was brought back to Council following a Public Hearing at the August City Council meeting. The draft reflected a redline version dated August 7th. At the meeting, Councilor Kloefer requested additional changes, which were provided to Council and later published on the City blog. Council voted to continue the Public Hearing and table the ordinance discussion to September so the public and Councilors would have time to digest the requested amendments. City Planner Garrett Phillips prepared an additional redline version of staff's interpretation of Kloefer's requested amendments. Council requested staff amend the draft ordinance to include a combination of changes from the various versions, in addition to some verbal amendments. Attached is the new draft ordinance #942 along with an updated redline version. Below is City Planner Garrett Phillips' updated staff report, followed by his Staff report from the last meeting in September.

Synopsis:

Staff Report

September 25, 2024

To: Gearhart City Council

From: Garrett Phillips, AICP City Planner

City File: ***Gearhart Zoning Ordinance Amendments: Section 6.070(8) Preservation and Removal of Trees Amendments***

Attachments: Ordinance
Proposed Amendments
Public Comments
Staff Report for September 4th 2024 City Council Hearing

Summary and Background Information

City of Gearhart's Planning Commission and City Council drafted amendments to 6.070(8) Preservation & Removal of Trees. The Staff Report for the September 4th, 2024 City Council Hearing summarizes the history of public meetings and edits to the draft amendments up until the September 4th, 2024 Hearing. Staff interpreted City Council's direction in the September 4, 2024 meeting as a request to re-draft Ordinance #942

to reflect changes that are more protective of trees. The table below includes a summary of changes from the September 4th Draft to the October 4th Draft.

| Section 6.070(8) | Change from 9/4/24 Draft to 10/4/24 Draft |
|---|---|
| B Definitions | <p>Instead of exempting individual species, exempts species listed as noxious by State of Oregon.</p> <p>Defines “55 inch Tree” “Heritage Tree” and their root zones. Removal of or impact to the root zones of any number of these trees requires a Major Tree Removal Permit.</p> |
| C Applicability | <p>Adds reference to more restrictive tree removal protections in other parts of the Zoning Ordinance for the Freshwater Lake and Overlay Zone and in riparian buffers.</p> |
| D Requirements | <p>Lowers the threshold triggering a major tree removal permit, to removal of more than three trees in twelve months, or removal of a Heritage Tree or 55 Inch Tree.</p> |
| | <p>Changes the decision maker on Major Tree Removal from Planning Commission to City Council.</p> |
| | <p>When replacement trees are required as a condition of approval of a major tree removal permit, replacement tree size and planting timing standards are specified.</p> |
| E Major Tree Removal Permit Criteria | <p>Changes the qualified professional who may provide evidence of tree disease from a “forester or arborist” to a “tree care specialist.”</p> |
| F Exceptions | <p>When there is a safety hazard or dangerous condition, an arborist or tree care specialist is not required to review or document the situation.</p> <p>Clarifies procedure for removing trees in the Airport Hazard Overlay Zone.</p> |
| G Heritage Tree Designation | <p>Establishes criteria for designation of Heritage Trees based on their size, condition, and historical value.</p> |

FINDINGS

I. Applicable Amendment Review Criteria and Procedures

GZO Section 6.070(8) Preservation and Removal of Trees

GZO Article 11 Amendments

GZO Article 13 Administrative & Procedural Provisions

Gearhart Comprehensive Plan

II. Testimony in response to versions up to September 4th

Testimony has been submitted over the course of several meetings and versions of the draft amendments. Generally this fell into the three categories listed below.

- Opposition to additional regulations that require property owners to spend more time and money to remove trees.
- Support for tree removal regulations
- Comments on technical aspects of the ordinance, such as the list of exempt invasive species.

III. Gearhart Zoning Ordinance and Comprehensive Plan Findings

GZO Section 11.010 to 11.030 and Comprehensive Plan Goals 1 and 2 Policies

GZO Section 11.010 to 11.030 and related Comprehensive Plan policies on citizen participation provide the authority and procedure for zoning ordinance amendments. Proposed amendments 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. Comprehensive Plan Goals 1 and 2 are intended to assure citizen involvement is provided in the amendment process and that amendments are consistent with the comprehensive plan. The requires an advertised public hearing 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: Planning Commission initiated the amendments, public hearing notices were published October 21st, 2023, advertising the Planning Commission hearing. City Council considered the proposed amendments in January 2024 and requested Planning Commission to reconsider some aspects of the amendments. Planning Commission reconsidered the amendments in a March 2024 public meeting, and recommended amendments that were considered by the City Council in this August 2024 hearing. An additional City Council Hearing was held September 4th, 2024, and October 4th 2024.

GZO Section 11.040 Amendment Criteria

Before an amendment to the text of the Zoning Ordinance is approved, findings will be made that it is consistent with the policies of the Comprehensive Plan and there is a public need for the proposed amendment.

Finding: A finding related to the Comprehensive Plan is provided later in this report. There is a public need for the amendment because of the following reasons:

- 1) Mature trees are valued by the public and serve many public purposes including but not limited to the following: providing benefits related to public health, aesthetic appearance, noise reduction, reducing stormwater discharges, removing air pollution, removing carbon from the atmosphere, reducing extreme summer temperatures. Therefore, the public and City have an interest in monitoring and managing trees.

- 2) Staff and planning commissioners report that they regularly are asked by residents to investigate tree removal activity and to identify whether violations of the tree removal requirements are occurring, A permit for tree removals will ensure that the City has early knowledge about allowed tree removals.

- 3) The Gearhart Zoning Ordinance tree removal standards protect some trees that are considered invasive. The proposed amendments remove protections for these trees.

- 4) The Gearhart Zoning Ordinance tree removal standards require City approval before correcting a hazard tree situation. The proposed amendments allow property owners to correct hazard tree situations without the City causing delay.

- 5) The Gearhart Zoning Ordinance tree removal standards are ambiguous about how multi-trunk trees are to be measured for the purpose of determining their treatment under the ordinance. The proposed amendments clarify how to measure trees in this situation.

6)

Comprehensive Plan Review Criteria and Findings

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

Finding: See findings above.

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

The purpose of Plan Goal 5 is to conserve, preserve, and protect open space, scenic areas, historic and

natural resources in and around the Gearhart community for future generations. The comprehensive plan references trees in two Goal 5 element policies, and they are quoted here for reference.

“The City will protect identified fresh- water wetlands from conflicting uses and activities, such as filling, drainage and tree removal through the application of a Freshwater Wetland Zone designation.”

"The harvesting of trees for commercial purposes shall be prohibited. In other circumstances, trees may be removed subject to the appropriate standards in the Zoning Ordinance."

Finding: Tree removal in significant wetlands and their buffers is regulated by other provisions of the Gearhart Zoning Ordinance outside of Section 6.070(8). The proposed amendments do not conflict with this element of the comprehensive plan.

(III) Coastal Shorelands LCDC Goal 17

Gearhart’s Coastal Shorelands policies include the following related to tree removal:

“The City will implement a program to maintain a 50-foot riparian zone on either side of Neacoxie Creek, Mill Creek and the Necanicum Estuary.”

“Protect and enhance existing dune features and coastal vegetation to promote natural buffers and reduce erosion.”

Finding: Tree removal in riparian zones is regulated by other provisions of the Gearhart Zoning Ordinance outside of Section 6.070(8). The proposed amendments do not conflict with this element of the comprehensive plan.

(IV) Beaches and Dunes LCDC Goal 18

Gearhart’s Beaches and Dunes policies include the following related to tree removal:

“Vegetation removal, in dune areas, shall be kept to the minimum required for the placement of structures. Structures shall be designed as much as possible to minimize the removal of existing vegetation.”

“Protect and enhance existing dune features and coastal vegetation to promote natural buffers and reduce erosion”

Finding: Tree removal in beach and dune areas is regulated by other provisions of the Gearhart Zoning Ordinance outside of Section 6.070(8). The proposed amendments do not conflict with this element of the comprehensive plan.

(V) Other Comprehensive Plan policies

Staff reviewed the Comprehensive Plan, including all sections listed below and found no other policies related to tree removal. Therefore the proposed amendments are consistent with the policies of the comprehensive plan.

General Development Goals

- Air, Water, And Land Resource Quality (Goal 6)
- Geology And Geologic Hazards (Goal 7)
- Flood Hazards (Goal 7)
- Economy & Energy (Goals 9 & 13)
- Housing (Goal 10)
- Public Facilities And Services (Goal 11)
- Transportation (Goal 12)
- Urban Growth (Goal 14)
- Necanicum Estuary (Goals 16 & 17)
- Coastal Shorelands (Goal 17)
- Beaches And Dunes (Goal 18)
- Ocean Resources (Goal 19)

IV. Decision Options

A. Motion to approve Ordinance #942 based on the findings in the staff report or on alternate findings.

“Based on the Planning Commission recommendation and the findings in this report, I move to approve Ordinance #942 amending the Gearhart Zoning Ordinance.”

B. Motion recommending denial of the proposed amendments based on alternate findings.

C. Motion to continue the hearing to a future date for further investigation of some issue or to re-draft the proposed amendments.

Staff Report

July 30, 2024

To: Gearhart City Council

From: Garrett Phillips, AICP City Planner

City File: Gearhart Zoning Ordinance Amendments: Section 6.070(8) Preservation and Removal of Trees Amendments

Attachments: Ordinance

Draft Amendments

Written Public Comments submitted for the June 2024 City Council meeting

Overview

The draft amendments are to Gearhart Zoning Ordinance Section 6.070(8) Preservation and Removal of Trees. City Council can direct staff to make changes to the draft amendments, or adopt the attached ordinance. A summary of the draft amendments is below.

| | | |
|---|---|-----------------------------|
| Change definition of trees, so that tree size is measured in circumference instead of diameter. | Makes it easier for lay people to measure their own trees in relation to the ordinance without performing math. | Planning Commission, 2023 |
| Change definition of trees, so that when there are multiple trunks, only the largest trunk is measured when determining whether the tree is subject to permitting requirements. | Clarifies application of tree permitting requirements. Narrows the range of trees subject to tree permitting requirements. | City Council comments, 2024 |
| Change definition of trees to exclude three invasive species, thereby exempting them from any protections or permit process. | Makes it easier for people to remove the three invasive tree and shrub species. Narrows the range of trees subject to permitting requirements. | City Council comments, 2024 |
| Require that a minor tree removal permit be obtained for removal of up to five trees. Also requires that staff issue the permit. There are no criteria that need to be met to obtain the permit other than filling out an application form. | Improves staff's awareness of tree removal activity, and corresponding responses to inquiries from other residents interested in tree removal activities. Expands the circumstances under which a permit is required. | Planning Commission, 2023 |
| Allows tree owners to remove hazard trees based on the recommendation of an arborist. | Makes it easier for owners to responsibly correct hazard tree situations. | City Council comments, 2024 |

Planning Commission proposed legislative text amendments to the Gearhart Zoning Ordinance (GZO) Section 6.070(8) Preservation and Removal of Trees. The proposed amendments were drafted, deliberated over in open Planning Commission meetings, and refined over the course of several months in 2023. City Council held a hearing in January 2024 and declined to approve the amendments and requested that Planning Commission reconsider and continue working on the amendments. In March 2024, Planning Commission considered feedback from City Council, and discussed a limited scope of issues that City Council feedback was related to, making a new recommendation to City Council.

Planning Commission Process and Discussion

In the March 2024, the Planning Commission discussion centered around the following issues:

- **Clarifying Intent:** Clarifying the intent and rationale of Planning Commission's recommendations for City Council.
- **Process History:** Clarifying how many opportunities the public had to affect the draft ordinance.
- **More Protection for Trees:** Whether to recommend substantive changes to the draft ordinance, such as requiring more protection for trees.
- **Clarity on Tree Definitions and hazard and septic situations:** Whether to recommend changes responding to City Council feedback on multi-trunk trees, invasive species, hazard situations, and emergency septic repair situations.

Clarifying Intent

- The Planning Commission's intent for the draft amendments was to assist staff in keeping track of tree cutting activities, so that they can respond to inquiries from Gearhart residents about whether given instances of tree cutting are permitted. In March 2024, the Planning Commission reiterated their purpose.

Process History

- Planning Commission’s draft amendments were drafted and deliberated over in at least seven open Planning Commission meetings, with the topic posted on the Planning Commission’s agenda in public notices. City Council held a hearing on the matter, and then Planning Commission discussed the topic in an additional public meeting in March 2024. Few members of the public have testified, attended meetings, or reached out to City staff to discuss the amendments throughout the process.

More Tree Protections

- Throughout 2023, the scope of the Planning Commission’s discussion included potentially requiring more substantial protections for trees in more situations, for example, lowering the size and count thresholds for when trees are permitted to be cut down, providing additional protections to very large trees, and adding more restrictive decision criteria that would need to be met to permit tree cutting. After deliberating on these issues, the Planning Commission declined to recommend that they move forward in the draft ordinance. In their March 2024 meeting, the Planning Commission also declined to reconsider these issues.

Clarity on Tree Definitions and hazard and septic situations:

- Staff proposed draft ordinance changes in response to January 2024 City Council feedback on the following issues: multi-trunk trees, invasive species, hazard situations, and emergency septic repair situations.
- Planning Commission discussed staff’s draft ordinance changes, making minimal changes, and recommending that the City Council consider the resulting draft amendments reflected in the exhibit.

City Council January 2024 Discussion

Summary of Individual City Council Member Concerns

| Concern | |
|---|---|
| Require more protection for trees, potentially lowering the size threshold for what constitutes a tree. | The proposed amendments do not respond to this topic. |
| Include a purpose statement for the section | The proposed amendments do not respond to this topic. |
| Require consideration of methods other than whole tree removal, such as pruning or limb removal | The proposed amendments do not respond to this topic. |
| More public input should be obtained. | The Planning Commission held an additional public meeting with the topic announced on the agenda. |
| Dangerous tree mitigation should be allowed without any permit process that would slow it down. City staff should not be in the position of determining whether a tree is dangerous | The proposed amendments respond to this topic on the bottom of page 2, by allowing residents to remove a tree based on an arborist’s recommendation without first obtaining a permit. The proposed amendments also allow for staff to make a determination that a hazard tree can be removed. |

| | |
|---|--|
| The permit process will require additional unfunded staff time. | Staff estimate that upon receiving a tree removal application form, it would take approximately 15 to 30 minutes on average to review the form, request any missing information from applicants, and issue/file the permit. Staff do not have a basis for estimating the number of applications that will be submitted, because applications have not been required in the past. |
| The amendments give inappropriate consideration to aesthetic while ignoring homeowners' rights to make their own decisions. | The proposed amendments do not respond to this topic, however the draft amendments presented in January 2024 and presented now do not add any restrictions on tree cutting. |
| Clarify tree definition so that the measurement is only | The proposed amendments respond to this topic |

| | |
|--|---|
| applicable to the largest trunk/branch at breast height in cases of multi-trunk trees. | in the "Definitions" section on page 1. |
| Change the tree definition to exempt several invasive species. | The proposed amendments respond to this topic in the "Definitions" section on page 1. |

June 2024 City Council Meeting

In June 2024 the draft amendments were included on the City Council's agenda. City Council did not discuss the matter at length, and chose to hold a public hearing in August, 2024. Written public and City Councilor comments submitted for the June 2024 meeting are included in the record for this meeting.

Council Options:

1. Motion to approve amended draft Ordinance #942 reading once by title only;
2. Make changes and motion to approve as amended;
3. Take other action desired by the Council.

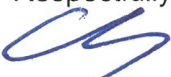
Recommended Motion: Staff needs direction from Council; this is a Council decision.

"Based on the Planning Commission recommendation and the findings in this report, I move to approve Ordinance #942 amending the Gearhart Zoning Ordinance."

Legal Analysis: If approved as is, or "as amended" with minor changes, the ordinance would return in November for a second reading, taking effect 30-days later.

Financial Analysis: The ordinance as written implements a permit process similar to the Beaches & Dunes area permit. The Commission's original intention was not to focus on amending restrictions. Councilor Kloepfer's recommended changes do involve restrictions. There will be no cost for the tree permit application.

Respectfully Submitted,



Chad



ORDINANCE NO. 942

AN ORDINANCE AMENDING THE CITY OF GEARHART ZONING ORDINANCE SECTION 6.070(8) PRESERVATION & REMOVAL OF TREES

WHEREAS, the City of Gearhart wants to clarify the measurement of trees needing a permit to be removed; and

WHEREAS, the City of Gearhart wants to protect the ecological, public health, aesthetic, and historical values provided by trees; and

WHEREAS, the City of Gearhart wants avoid causing property owners to delay correcting hazard and dangerous tree situations; and

WHEREAS, the City wants to collect more data on the number of trees being cut.

NOW, THEREFORE, the City of Gearhart ordains the Zoning Ordinance to read as follows:

Amendments

8. PRESERVATION AND REMOVAL OF TREES

A Purpose:

The purpose of this section is to recognize that trees are a significant aesthetic and environmental resource within the City of Gearhart and to create conditions favorable to the preservation of this plant heritage for the benefit of the current and future residents of the City. The purpose is not to prohibit the removal of all trees, but to ensure that mature trees are removed only where necessary, and to permit the reasonable development and use of property.

B Definitions:

Tree: For the purpose of this section, “tree” is defined as follows: Any tree with a primary trunk greater than thirty-eight (38)-inches in circumference as measured four and one half (4-1/2) feet above the existing grade, and excluding species listed as noxious weeds by the State of Oregon Department of Agriculture’s website.

Fifty-Five Inch Tree: Any tree with a primary trunk greater than fifty-five (55)-inches in circumference as measured four and one half (4-1/2) feet above the existing grade.

Heritage Tree: A tree identified by the City Council as a Heritage Tree.

Heritage Tree and 55 Inch Tree Root Zone: The root zone is equal to the diameter of the trunk at 4.5 feet above the ground times 12 inches in any direction from the trunk. For example, a

Heritage Tree with 55 inch circumference and 17.5 inch diameter has a root zone extending 210 inches (17.5 feet) in all directions from the trunk.

C Applicability: This section applies to the removal of trees in the City of Gearhart, except that it does not apply to tree removal in the following situations:

- (1) in order to construct proposed improvements, including the placement of structures and on-site sewerage disposal facilities, access ways, utilities, and essential grade changes.
- (2) in the B.A.D. Overlay Zone, Freshwater Lake and Wetland Zone, and Goal 5 and Goal 17 riparian buffer areas, the preservation and removal of trees are regulated by other applicable sections of the Gearhart Zoning Ordinance.

D. Requirements:

- (1) Any person proposing to remove, cut down, or otherwise destroy a tree shall first obtain a minor or major tree removal permit from the City.
- (2) One or more minor tree removal permits may be granted for the removal of up to three total trees within any twelve month period. Upon submittal of a complete application and verification by City staff that the proposed permit will not authorize the removal of more than three trees in a 12 month period, will not authorize removal or impact the root zone of a Heritage Tree or 55 Inch Tree, and that the proposal is consistent with the Gearhart Zoning Ordinance, the permit shall be issued.
- (3) Removal of more than three trees, or removal or impact to the root zone of one or more Heritage Trees or 55 Inch Trees within any twelve month period may be permitted as a major tree removal permit. The City Council may grant or deny a request for a major tree removal permit on the basis of the criteria set forth below in Section 6.070(8)(E), except as provided in Section 6.070(8)(F) below
- (4) Such conditions as are deemed necessary and appropriate to ensure the proper enforcement of this section may be made part of the major removal permit. Such conditions may involve, but are not limited to the following:
 - a. The replacement of the trees proposed for removal with trees of a suitable type, size and location. Replacement trees must measure at minimum 3" in diameter, measured four and ½ feet above ground , and must be planted within one year of tree removal.
 - b. A Plan for protecting trees on the project site during and after development.
 - c. Restrictions on cuts, fills and grading within the vicinity of remaining trees.
- (5) Tree removal that is to be undertaken in conjunction with a specific development project shall occur only after a building permit has been issued, or the Planning Commission or City Council has approved an activity requiring the removal of the trees.
- (6) An approved tree removal permit shall be void after one year from its issuance

unless a shorter period was specified as a condition for approval.

E. Major Tree Removal Permit Criteria: The granting of a major tree removal permit shall be based on a finding that at least one of the following criteria is met:

- (1) Necessity to remove trees which poses a safety hazard.
- (2) Necessity to remove trees which are diseased. Evidence of disease may be provided by a qualified tree care specialist who will not be involved in their removal.
- (3) Solar access; and the need to remove trees which deposit needles or other debris on rooftops. The burden of proof is on the applicant to show that other design alternatives which do not require the tree removal are not practical or will create a significant economic hardship.

F. Exception:

- (1) A tree, Heritage Tree, or 55 Inch Tree posing a safety hazard or dangerous condition may be removed without first obtaining a permit.
- (2) The City Administrator or designee may grant the immediate removal of trees for a required septic system emergency repair. In such cases, the septic system permit shall be submitted to the City with a tree removal permit within 10 days after the corrective action has occurred.
- (3) Any number of trees, Heritage Trees or 55 inch Trees measuring a height within 20 feet of the maximum height limits of an applicable Airport Hazard Overlay Zone may be removed after obtaining a Minor Tree Removal permit

G. Heritage Tree Designation:

- (1) Heritage trees shall be those trees designated by the City Council following review of a nomination form submitted by a citizen and accepted, in writing, by the property owner. If a proposed Heritage Tree is on private property, the property owner must give written consent to the Heritage Tree Application before such application can proceed.
- (2) The following criteria shall be used:
 - a. Minimum circumference at four and one half feet above ground level = point value 5
 - b. Rapid growing (Douglas Fir, Giant Sequoia, etc.) – 138"
 - c. Moderate growing (Oregon White Oak, Scarlet Oak) – 107"
 - d. Slow and smaller growing (Ginkgo, Madrone) – 86"
- (3) Location factor point values:
 - 6 Commercial areas
 - 5 Yard adjacent to street
 - 4 Side yard
 - 3 Wooded lot within subdivision

1 Forested area

(4) Condition factor point values:

- 5 Excellent – perfect form, little or no dead wood, all limbs have good attachments, no sign of decay
- 4 Very good – good form, multi-leaders, but with good attachments, 10% or less large dead wood
- 2 Good – unbalanced or incomplete crown, tight limb angles, 15% – 20% larger dead wood
- 1 Poor – evidence of some decay, 20% – 30% larger dead wood, history of being topped
- 0 Very poor – structurally unsound, extensive decay, dieback, poor form, unbalanced or greatly reduced crown.

(5) Historical factor is determined by the tree’s relative historic significance. Historic significance may be determined by the tree’s association with historic or famous events, the cultural history of the nation, State, community or person or persons who have significantly contributed to the history of the nation, state or community. Local historians may be called upon for research assistance for this category. Point values:

- 5 Very significant
- 4 Significant
- 3 Somewhat significant
- 2 Marginally significant
- 1 Not significant

(6) Formula: size x location x condition x historical factor = heritage tree points

(7) Trees shall accumulate a minimum off 180 points to receive consideration as a heritage tree.

(8) Upon a tree being designated as a Heritage Tree, a plaque so designating may be placed upon or near said tree. A Heritage Tree may not be removed without a public hearing and approved major tree removal permit at least 30 days prior to the proposed date of removal.

H. Appeals of a decision of the City Administrator or City Council shall be in accordance with Section 13.060.

I. Enforcement. Enforcement of this section shall be in accordance with Article 15 of this ordinance, or by other ordinances the City Council may adopt to implement the purpose of this section.

Passed by the City Council of Gearhart this ____ day of _____, 2024.

Yeas: ____

Nays: ____

Absent: ____

Abstain: ____

Approved and signed by the Mayor of Gearhart this ____ day of _____, 2024.

Mayor Kerry Smith

ATTEST:

City Administrator, Chad Sweet

8. PRESERVATION AND REMOVAL OF TREES

A. Purpose:

The purpose of this section is to recognize that trees are a significant aesthetic and environmental resource within the City of Gearhart and to create conditions favorable to the preservation of this plant heritage for the benefit of the current and future residents of the City. The purpose is not to prohibit the removal of all trees, but to ensure that mature trees are removed only where necessary, and to permit the reasonable development and use of property.

B. Definitions:

Tree: For the purpose of this section, "tree" is defined as follows: Any tree with a primary trunk greater than thirty-eight (38)-inches in circumference as measured four and one half (4-1/2) feet above the existing grade, and excluding Common Hawthorn, Cherry Laurel, and Tree of Heaven species listed as noxious weeds by the State of Oregon Department of Agriculture's website

Fifty-Five Inch Tree: Any tree with a primary trunk greater than fifty-five (55)-inches in circumference as measured four and one half (4-1/2) feet above the existing grade.

Heritage Tree: A tree identified by the City Council as a Heritage Tree.

Heritage Tree and 55 Inch Tree Root Zone: The root zone is equal the diameter of the trunk at 4.5 feet above the ground times 12 inches in any direction from the trunk. For example, a Heritage Tree with 55 inch circumference and 17.5 inch diameter has a root zone extending 210 inches (17.5 feet) in all directions from the trunk.

C. Applicability: This section applies to the removal of trees in the City of Gearhart, except that it does not apply to tree removal in the following situations:

(1) in order to construct proposed improvements, including the placement of structures and on-site sewerage disposal facilities, access ways, utilities, and essential grade changes.

(2) in the B.A.D. Overlay Zone, Freshwater Lake and Wetland Zone, and Goal 5 and Goal 17 riparian buffer areas, the preservation and removal of trees are regulated by other applicable sections of the Gearhart Zoning Ordinance.

D. Requirements:

- (1) Any person proposing to remove, cut down, or otherwise destroy a tree shall first obtain a minor or major tree removal permit from the City.
- (2) One or more minor tree removal permits may be granted for the removal of up to five total trees within any twelve month period. Upon submittal of a complete application and verification by City staff that the proposed permit will not authorize the removal of more than five trees in a 12 month period, will not authorize removal or impact the root zone of a Heritage Tree or 55 Inch Tree, and that the proposal is consistent with the Gearhart Zoning Ordinance, the permit shall be issued.

- (3) Removal of more than ~~five~~ three trees, or removal or impact to the root zone of one or more Heritage Trees or 55 Inch Trees within any twelve month period may be permitted as a major tree removal permit. The ~~Planning Commission~~ City Council may grant or deny a request for a major tree removal permit on the basis of the criteria set forth below in Section 6.070(8)(E), except as provided in Section 6.070(8)(F) below

 - (1) Such conditions as are deemed necessary and appropriate to ensure the proper enforcement of this section may be made part of the major removal permit. Such conditions may involve, but are not limited to the following:
 - a. The replacement of the trees proposed for removal with trees of a suitable type, size and location. Replacement trees must measure at minimum 3" in diameter, measured four and 1/2 feet above ground , and must be planted within one year of tree removal.
 - b. A Plan for protecting trees on the project site during and after development.
 - c. Restrictions on cuts, fills and grading within the vicinity of remaining trees.

 - (2) Tree removal that is to be undertaken in conjunction with a specific development project shall occur only after a building permit has been issued, or the Planning Commission or City Council has approved an activity requiring the removal of the trees.

 - (3) An approved tree removal permit shall be void after one year from its issuance unless a shorter period was specified as a condition for approval.
- E. Major Tree Removal Permit Criteria: The granting of a major tree removal permit shall be based on a finding that at least one of the following criteria is met:
- (1) Necessity to remove trees which poses a safety hazard.

 - (2) Necessity to remove trees which are diseased. Evidence of disease may be provided by a qualified tree care specialist who will not be involved in their removal.
- Solar access; and the need to remove trees which deposit needles or other debris on rooftops. The burden of proof is on the applicant to show that other design alternatives which do not require the tree removal are not practical or will create a significant economic hardship.

F. Exception:

- (1) A tree, Heritage Tree, or 55 Inch Tree posing a safety hazard or dangerous condition may be removed without first obtaining a permit if an arborist recommends removal as the corrective action. In such cases, the condition and corrective action shall be documented in writing by an arborist, and submitted to the City with a tree removal application within 10 days after the corrective action has occurred.

- (4) The City Administrator or designee may grant the immediate removal of trees for a required septic system emergency repair. In such cases, the septic

system permit shall be submitted to the City with a tree removal permit within 10 days after the corrective action has occurred.

Any number of trees, Heritage Trees or 55 inch Trees measuring a height within 20 feet of the maximum height limits of an applicable Airport Hazard Overlay Zone may be removed after obtaining a Minor Tree Removal permit

G. Heritage Tree Designation:

(1) Heritage trees shall be those trees designated by the City Council following review of a nomination form submitted by a citizen and accepted, in writing, by the property owner. If a proposed Heritage Tree is on private property, the property owner must give written consent to the Heritage Tree Application before such application can proceed.

2. The following criteria shall be used:

(1) Minimum circumference at four and one half feet above ground level = point value 5

a. Rapid growing (Douglas Fir, Giant Sequoia, etc.) – 138"

b. Moderate growing (Oregon White Oak, Scarlet Oak) – 107"

c. Slow and smaller growing (Ginkgo, Madrone) – 86"

(2) Location factor point values:

6 Commercial areas

5 Yard adjacent to street

4 Side yard

3 Wooded lot within subdivision

1 Forested area

(3) Condition factor point values:

5 Excellent – perfect form, little or no dead wood, all limbs have good attachments, no sign of decay

4 Very good – good form, multi-leaders, but with good attachments, 10% or less large dead wood

2 Good – unbalanced or incomplete crown, tight limb angles, 15% – 20% larger dead wood

Key: ~~Deletions~~, Additions, In Response to September 4, 2024 City Council

1 Poor – evidence of some decay, 20%
– 30% larger dead wood, history of
being topped

0 Very poor – structurally unsound,
extensive decay, dieback, poor form,
unbalanced or greatly reduced
crown.

(4) Historical factor is determined by the tree's relative historic significance. Historic significance may be determined by the tree's association with historic or famous events, the cultural history of the nation, State, community or person or persons who have significantly contributed to the history of the nation, state or community. Local historians may be called upon for research assistance for this category. Point values:

5 Very significant

4 Significant

3 Somewhat significant

2 Marginally significant

1 Not significant

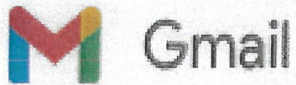
(5) Formula: size x location x condition x historical factor = heritage tree points

(6) Trees shall accumulate a minimum off 180 points to receive consideration as a heritage tree.

3. Upon a tree being designated as a Heritage Tree, a plaque so designating may be placed upon or near said tree. A Heritage Tree may not be removed without a public hearing and approved major tree removal permit at least 30 days prior to the proposed date of removal.

H. Appeals of a decision of the City Administrator or City Council shall be in accordance with Section 13.060.

I. Enforcement. Enforcement of this section shall be in accordance with Article 15 of this ordinance, or by other ordinances the City Council may adopt to implement the purpose of this section.



Krysti Ficker <krysti@cityofgearhart.com>

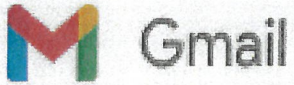
Gearhart tree preservation

Molly Meyer <mjmeyer99@gmail.com>
To: Krysti@cityofgearhart.com

Sat, Aug 31, 2024 at 9:33 AM

Kristi, please post this as public comment for the hearing on Wednesday.
Thank you, Molly Meyer

I am in favor of tree preservation in Gearhart. Living trees benefit everyone including past, present, and future generations, but once they are cut down, they benefit only a few. Our trees in Gearhart provide green space, block the wind, cool the air temperature, and much much more. I feel it is important for us to protect every tree we have for the future generations of Gearhart.



Krysti Ficker <krysti@cityofgearhart.com>

Tree Preservation comment

Mike Baker <fishermanmjb@gmail.com>
To: Krysti@cityofgearhart.com

Sun, Sep 1, 2024 at 10:28 AM

Hello,

I am in favor of the Preservation and Removal of Trees amendment and encourage the city council to approve. Saving as many trees as possible for their beauty, carbon sequestration, cooling and habitat for eagles, osprey, owls and other frequent flyers is a necessity for a healthy environment.

Thank you to everyone who has worked on this amendment.

Michael Baker
658 Summit Ave.
Gearhart

Sent from my iPhone



Chad Sweet <chadsweet@cityofgearhart.com>

Tree ordinance public hearing on September 4, 2024

1 message

Deanna Mancill <dmancill@msn.com>

Mon, Aug 26, 2024 at 4:40 PM

To: "councilorsharon@cityofgearhart.com" <councilorsharon@cityofgearhart.com>, "councilorgould@cityofgearhart.com" <councilorgould@cityofgearhart.com>, "chadsweet@cityofgearhart.com" <chadsweet@cityofgearhart.com>, "councilorfackerell@cityofgearhart.com" <councilorfackerell@cityofgearhart.com>, "mayorsmith@cityofgearhart.com" <mayorsmith@cityofgearhart.com>, "councilordevereaux@cityofgearhart.com" <councilordevereaux@cityofgearhart.com>

Gearhart city council and Chad Sweet:

I believe the tree ordinance omitted trees that should not be in the "protected" status. The ordinance, as written, excludes common Hawthorne, cherry laurel, tree of heaven, and holly. This is not a complete list of the invasive trees that are a problem.

My information comes from the "Invasive Plant Atlas of the United States" the University of Georgia Center for Invasive Species and Ecosystem Health and the National Park Service.

Invasive species are non-native plants that compete with native plants, crowding out the native plants. Siberian Elm along Neacoxie Creek was planted by the Civilian Conservation Corps in the 1930's as part of a restoration project. Many states planted Siberian elm in the 1930's, and all of them regret the decision. Twenty-five states, including Oregon, consider it invasive, according to the USDA Forest Service.

The Siberian elms reproduce by seed, produced by the mother trees along Woodland Avenue and the Neacoxie Creek riverbank. It has won the award: Weed of the Week. Our 2004 restoration project done by the Neacoxie Creek Watershed Commission on Nora Taylor's land was only the start of addressing this issue.

I hope the tree ordinance, as written, does not prevent the Necanicum Watershed Council from continuing their restoration work along Neacoxie Creek. Let's not make it too complicated!

The Weeping Willow is the other plant that needs to be listed. The root system invades septic systems and utilities. Protecting that tree does not make any sense.

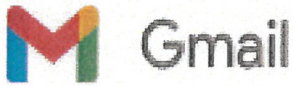
I propose an amendment to the ordinance:

The common Hawthorne, cherry laurel, tree of heaven, holly, Siberian Elm and Weeping Willow are not in the "protected status." This is not a complete list, and as situations warrant, further guidance should refer to the "Invasive Plant Atlas of the United States."

Please enter this letter into the public record. Thank you.

Deanna Mancill
2945 Hwy 101 North
Gearhart, Oregon

dmancill@msn.com



Krysti Ficker <krysti@cityofgearhart.com>

Support - Tree Preservation in Gearhart

Todd Miller <toddemiller@outlook.com>
To: "krysti@cityofgearhart.com" <krysti@cityofgearhart.com>
Cc: Paula Miller <paulalreno@yahoo.com>

Thu, Aug 29, 2024 at 9:06 AM

Please include into public record our support of tree preservation in Gearhart, OR as residents at 762 2nd St.

Thank you, Todd and Paula Miller

Preserving Our Living Legacy: A Stewardship Responsibility

In Gearhart stand trees that have witnessed centuries of history. Some hidden along the banks of the Neacoxie, others towering in the backyards of our homes. These ancient sentinels are not just trees; they are guardians of our natural heritage, embodying the essence of our landscape and a core part of what makes Gearhart home. As stewards of this land, we are entrusted with their protection.

Aldo Leopold wisely said, "We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect." These trees are not resources to exploit, or obstacles to be overcome, but a community of life we must preserve. Any decision or regulation that does not respect the role of these talisman and our role to protect them endangers our connection to this land and jeopardizes a legacy that, once lost, can never be restored.

Terry Tempest Williams reminds us, "The eyes of the future are looking back at us and they are praying for us to see beyond our own time." Our responsibility is clear: we must protect these trees, not only for their ecological value but because it is our duty to future generations. In their silent majesty, they provide critical habitat, filter our air, and stabilize our environment in ways no man-made system can replicate.

Now, we must choose preservation over possible destruction, ensuring that progress and conservation coexist. But always err on the side of protection of the wilderness, and these legacy trees that formed the foundation of Gearhart Park. Let us honor our role as caretakers, safeguarding these ancient trees for those who will walk beneath their branches long after we are gone.

We ask you take some time. Walk the Ridge Path, stroll to the end of the streets that lead to the Neacoxie, and peer up at the treasure that represents the heart of this great town. We implore our community leaders and residents to stand together in protecting these natural treasures, ensuring that future generations can continue to experience the beauty and wisdom they offer.

Todd and Paula Miller



Krysti Ficker <krysti@cityofgearhart.com>

Fwd: Comment Letter - Section 6.070. - Trees

Angoleana Torres <planning@cityofgearhart.com>

Wed, Jul 31, 2024 at 8:27 AM

To: Krysti Ficker <krysti@cityofgearhart.com>

Cc: Garrett Phillips <gphillips@columbiaestuary.org>, Peter Watts <peter@peterowattspc.com>, Chad Sweet <chadsweet@cityofgearhart.com>

Please see the below correspondence.

----- Forwarded message -----

From: Daniel O'Neil <dvo@danielvoneil.com>

Date: Tue, Jul 30, 2024 at 5:25 PM

Subject: Comment Letter - Section 6.070. - Trees

To: planning@cityofgearhart.com <planning@cityofgearhart.com>

Hello,

Please find attached my letter regarding the trees ordinance. I've also pasted it below.

Thanks,
Daniel

--

To whom it may concern,

Gearhart claims to be proud of its "semi-rural" character, which is one reason I choose to live here. Our coastline is naturally forested, so rural here and elsewhere in Clatsop County suggests stands of mature trees. While Seaside presents an urban appearance, Gearhart still maintains a more wooded look, especially where I live, near Woodland Ave. But over the last few years I've watched Gearhart lose many tall trees, only a few of which were replanted.

I support any tightening of the city's rules to protect trees in Gearhart. It takes an hour to remove a 30-foot spruce or pine, but it takes decades to grow such a tree. If we don't protect them now, what will this town look like in ten years? (Like the industrial forestlands to our east?)

I worry about concessions for "solar access" and pine needles, which seem to allow for indiscriminate removal, considering how little sun we get, and how much visitors (non-full time residents) value sunshine while "at the beach." If someone in Gearhart wants more sunlight, shouldn't they find it instead in a sunny climate or in a geography naturally devoid of trees, e.g. Bend?

I'd like to suggest replanting requirements for tree removals. It will take decades for a 6-foot tree to become dangerous or block out the sun again. Meanwhile, that tree would provide habitat for birds and other animals and would enrich the soil. It would also maintain the desired "semi-rural" aesthetic Gearhart wishes to promote.

Beyond the removal of trees for danger or "solar access," I've noticed several wooded lots developed with little regard for the trees onsite, (e.g. North Marion, between 7th and 8th). I've also seen massive homes replace mature spruce forest (e.g. Ridge Path, between D and E). I see other lots currently for sale, and considering the size of homes being built in Gearhart today, I know many of the tall trees on those lots will soon fall to make room for another likely mostly-vacant second home. More protections here will be needed to keep a few wooded lots left in Gearhart, to the benefit of people, animals, and plants – our entire ecosystem.

Finally, I have to say that the review process for this was rather complicated. What exactly is the law, and what are the suggested changes? A simple document answering these two questions would save a lot of time and trouble, instead of links to a range of documents. This might also increase public involvement.

What's at risk if we continue to remove Gearhart's trees? From semi-rural to semi-urban. Maintaining semi-rural begins with protecting Gearhart's trees.

Cordially,

Daniel and Lori O'Neil

828 D St.
Gearhart

7/30/24

 **O'Neil - Gearhart Trees.pdf**
35K

To whom it may concern,

Gearhart claims to be proud of its “semi-rural” character, which is one reason I choose to live here. Our coastline is naturally forested, so rural here and elsewhere in Clatsop County suggests stands of mature trees. While Seaside presents an urban appearance, Gearhart still maintains a more wooded look, especially where I live, near Woodland Ave. But over the last few years I’ve watched Gearhart lose many tall trees, only a few of which were replanted.

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What’s at risk if we continue to remove Gearhart’s trees? From semi-rural to semi-urban. Maintaining semi-rural begins with protecting Gearhart’s trees.

Cordially,

Daniel and Lori O’Neil

828 D St.
Gearhart

7/30/24

July 3rd, 2024

To the Gearhart Mayor, City Manager, Council members & Planning Committee members,

As a citizen of Gearhart, 33 year resident of Clatsop County, avid gardener and steward of green spaces, I would like to address the decision makers of Gearhart to mindfully consider the following:

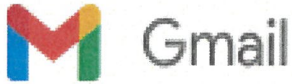
- Creating better, more effective guidelines for stewardship of our riparian zone on the Necoxie creek and estuary. They are part of the Gearhart history and our heritage.
- Monitor and enforce the 50 ft. riparian zone and protect and care for ALL the trees along the Necoxie.
- Preserve the trees along the Ridge Path and continue to advocate for native plant species to thrive there.
- Address the knotweed and other invasive species along the Necoxie Creek and the Ridge path with an active plan to remove them.
- Encourage residents to plant native species and award Pollinator Friendly Garden status placards to those who participate.
- Make Gearhart a Pollinator Friendly City and discourage the use of harmful pesticides that can end up in our creeks and waterways.

We have a very unique community and ecosystem here in Gearhart. Something we should all take time to see the wonder in. SO many here take it for granted. But its future lies in your hands. This delicate balance of people and nature, that both should be one in the same. I look forward to seeing the progress you make in addressing these concerns and considerations.

Respectfully,

Angela Sidlo

Angela Sidlo
516 Summit Avenue
Gearhart, OR 97138



Fw: Gearhart Zoning Ordinance Section 6.070, tree ordinance, public hearing

Deanna Mancill <dmancill@msn.com>

Sun, Jul 14, 2024 at 2:37 PM

To: "councilorsharon@cityofgearhart.com" <councilorsharon@cityofgearhart.com>, "councilorgould@cityofgearhart.com" <councilorgould@cityofgearhart.com>, "chadsweet@cityofgearhart.com" <chadsweet@cityofgearhart.com>, "councilorfackerell@cityofgearhart.com" <councilorfackerell@cityofgearhart.com>, "councilordevereaux@cityofgearhart.com" <councilordevereaux@cityofgearhart.com>, "mayorsmith@cityofgearhart.com" <mayorsmith@cityofgearhart.com>

Dear City Council:

Please find the correspondence sent to the Gearhart Planning Commission. I misread the public notice I received.

Please enter this letter into the public record for the public hearing.

Sincerely,

Deanna Mancill
2945 Hwy 101 North
Gearhart, Oregon 97138

dmancill@msn.com

From: Deanna Mancill <dmancill@msn.com>

Sent: Sunday, July 14, 2024 1:35 PM

To: Angoleana Torres <building@cityofgearhart.com>; planning@cityofgearhart.com
<planning@cityofgearhart.com>

Subject: Gearhart Zoning Ordinance Section 6.070, tree ordinance, public hearing

Dear Gearhart Planning Commission and Angoleana Torres:

I have reviewed the proposed changes to the tree ordinance and have noted glaring omissions to what we are trying to accomplish other than trying to protect private property rights.

I have been researching the Gearhart Comprehensive Plan from the 1980's, which references "Significant Shoreland and Wetland Habitats in the Clatsop Plains", 1983, Duncan Thomas report commissioned by Clatsop County. Neacoxie Creek has the Goal 17 Coastal Shorelands designations, and a 50' setback from Neacoxie Creek.

The Necanicum Estuary Inventory Plan was adopted in 1984 by the Board of County Commissioners with Seaside and Gearhart as partners. Anything the City of Gearhart approves within the Coastal Shoreland boundary affects the Necanicum Estuary and affects Seaside and Clatsop County. Not only does the Oregon Department of Fish and Wildlife need to be consulted, but Seaside and Clatsop County. Tree and vegetation removal within this boundary needs to be carefully reviewed and the ecological values need to be maintained.

In 2002, the City of Gearhart Planning Commission adopted the Neacoxie Watershed Stewardship Policy, with the assistance of Neal Maine, Phil and Deanna Mancill, Sarah Nebeker and Bill Berg. Our watershed

commission focused on education and restoration of Neacoxie Creek.

One item from the tree ordinance that was not addressed were the invasive trees in the city. In the 1930's, the Civilian Conservation Corps planted Chinese Elm trees along Neacoxie Creek as part of restoration and erosion control. They are not native and are very invasive! One mother tree sent hundreds of runners along the creek, including busting through a house foundation wall!

The Invasive Species list on the Gearhart zoning ordinance relies on information from the Oregon Department of Agriculture, which does not identify the trees that are a nuisance and are a threat to septic systems. Oregon State University extension service has elm, birch, poplar, and weeping willow among the offending trees. OSU recommends at least 25' or more for a setback from septic systems, including sewer pipe.

I had to sign an Oregon DEQ Easement Agreement that had covenants and restrictions that required me to not do anything detrimental to the entire septic system, like planting trees next to the sewer pipe or drainfield. I had two tax lots for the septic tank and drainfield. My neighbor had a similar agreement with the DEQ, but the Tax Assessor's office allowed them to combine the two lots into one. Somehow the County Health Department thought it invalidated the DEQ Easement Agreement.

The neighbor planted a weeping willow in 2010 on top of their sewer pipe. The tree is over thirty feet tall and the tree roots can extend over 90 feet. My sewer pipe is 25' feet away, well within my property line 10' setback.

The City of Gearhart building official refused to do anything about the safety and health hazard it presents to a functioning septic system. I was forced to get additional insurance on that sewer pipe, because regular Homeowners insurance doesn't cover this.

I do agree with the provision: (1) The City Administrator or designee may grant the immediate removal of trees which pose a safety hazard or dangerous condition, but add this to provision: public health hazard to septic systems.

My tax lot is very small and I used to have large birch trees and douglas fir trees on my property. There was no area in the yard that could safely accomodate large trees. The Great Coastal Gale of 2007 took all the trees down. Lucky they did not land on the house!

The trees that are really vital are the "heritage trees" along Neacoxie Creek. They are over 200 years old and within the Goal 17 Coastal Shorelands exception.

The ordinance obviously needs a great deal of work as currently written. In some ways, it is too restrictive and in other ways does not address the invasive trees within our city. It falls far short of what needs to be done.

Please enter this into the public record. Thank you.

Sincerely,

Deanna Mancill
2945 Hwy 101 North
Gearhart, Oregon 97138

dmancill@msn.com

City Council
City of Gearhart
698 Pacific Way
Gearhart, OR 97138

Re: #23-05ZTA

Dear Gearhart City Council,

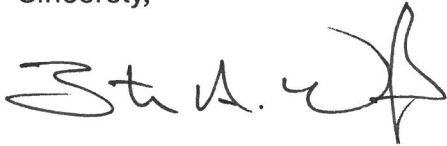
I have great concern for the provision about 'needles' and 'solar access' in the proposed zoning ordinance.

It is excessively vague. Could one neighbor require the trees on an adjacent site which are not 'danger trees' be cut so the house would shed no needles or be cut to accommodate solar access? Whom will determine the amount of 'needle mitigation' or 'solar access?'

It has been my experience that zone changes in Gearhart are usually more detrimental to the ownership rights of most homeowners. In the past, Sound and Vacation Rental Ordinances included carve out exceptions that benefit a few and are unfavorable to most homeowners in Gearhart.


I think a significant amount of specific detail is necessary in this ordinance or it should be tabled. It should not be left to be determined at the administrative level.

Sincerely,



Steven Weed
647 N Marion Ave
PO Box 2304
Gearhart, OR 97138

RECEIVED
JUL 18 2024

BY: 



Krysti Ficker <krysti@cityofgearhart.com>

Re: Testimony for Tree Ordinance hearing

2 messages

Angoleana Torres <planning@cityofgearhart.com>
To: Cameron La Follette <cameron@oregoncoastalliance.org>
Cc: Krysti Ficker <krysti@cityofgearhart.com>

Tue, Aug 6, 2024 at 8:12 AM

Dear Cameron,

Thank you for your email. I have received your testimony and successfully opened the attachment. However, please note that all correspondence was due by Friday, August 2nd. As a result, your testimony will be entered as late correspondence and posted after the hearing.

If you would like your testimony to be part of the hearing, you will need to be present at the hearing tomorrow and read it during the hearing. I have included Krysti in this email to ensure this is added to the late correspondence.

Thank you for your understanding.

On Mon, Aug 5, 2024 at 8:59 PM Cameron La Follette <cameron@oregoncoastalliance.org> wrote:

Dear Mr. Phillips,

I sent a letter to members of City Council about the proposed amendments to the tree ordinance, but that was before the current hearing scheduled for the 7th. Attached is the testimony. Please enter it into the record for the hearing.

Please let me know you have received this, and have been able to open the testimony and place it in the record.

Thank you,

Cameron

—

Cameron La Follette
Executive Director
Oregon Coast Alliance
P.O. Box 857
Astoria, OR 97103
(503) 391-0210
cameron@oregoncoastalliance.org
www.oregoncoastalliance.org

--
Thank you,

Angoleana Torres
City of Gearhart
Planning Assistant & Building Permit Tech
[698 Pacific Way](http://698.PacificWay.com)
[Gearhart, OR. 97138](http://Gearhart,OR.97138.com)
(503)738-5501 Ext 106

Cameron La Follette <cameron@oregoncoastalliance.org>
To: Angoleana Torres <planning@cityofgearhart.com>
Cc: Krysti Ficker <krysti@cityofgearhart.com>

Tue, Aug 6, 2024 at 11:44 AM

Dear Angelina,

Thank you for the reply, and for opening the testimony and placing it in the record.

Please do note that under Oregon law, no testimony is 'late' **unless** provided after the record is closed. Cities and counties are perfectly able to express that they would prefer testimony by an early date before the hearing in order to place it in the packet or otherwise give decision-makers more time to read it. But all testimony submitted before and/or during the hearing is legitimately part of the record **and** is to be given to decision-makers.

This is not late testimony. It would only be late if I sought to provide it to you after the hearing once the record is closed. Such is not the case. Please distribute the testimony now to decision-makers, and post it to the website as testimony for this upcoming hearing.

Thank you,

Cameron

—

Cameron La Follette
Oregon Coast Alliance

[Quoted text hidden]



Krysti Ficker <krysti@cityofgearhart.com>

testimony at the public hearing of 7 August 2024

Bob Carson <carsonrj@whitman.edu>

Sat, Aug 3, 2024 at 3:54 PM

To: jhill@cityofgearhart.com, krysti@cityofgearhart.com

Please include my input, and if possible, have it read at the meeting. Thanks very much, Bob

City of Gearhart Council meeting, 7 August 2024

Public hearing: preservation and removal of trees

Please read this at the public meeting (2 minutes long)

Robert Carson, 226 Ridge Drive, Gearhart

My wife Clare was raised in Clatsop County; we have been coming to Gearhart for more than ½ century. With its waters (wetlands, streams, and the ocean), dunes, and wildlife (especially birds), Gearhart is a special town. Trees provide carbon sequestration (to help combat Earth's greatest problem), habitat, beauty, and shade. Every tree is valuable, so it should be exceptional circumstances when one needs to be removed.

We must have the strongest possible tree preservation ordinance. No trees should be cut down in wetlands. Of significant importance are the old-growth Sitka spruce along the Ridge Path. (No building permits should be issued on land within reach of the next tsunami.) Trees should be part of required landscaping for new development.

The residents, homeowners, business owners, and public officials should be making the decisions about Gearhart trees. There should be no input from those with a conflict of interest, specifically businesses or individuals who receive payment for tree removal.

Indeed, if Gearhart has not already done so, the city should apply to the Arbor Day Foundation to be a Tree City USA. The total number of tree species in Gearhart is exceptionally large (list available upon request) thanks to planting by homeowners. Our native trees like lodgepole (shore) pine, western hemlock, Douglas fir, Sitka spruce, red alder (a nitrogen fixer), and bigleaf maple are magnificent.

I ardently support a strong ordinance regarding the preservation and removal of trees, and encouragement to plant more trees. Thank you.

Respectfully, Bob (3 August 2024)

--

Robert J. Carson
Phillips Professor of Geology & Environmental Studies, Emeritus
Whitman College (on traditional Cayuse, Umatilla, and Walla Walla homelands)

Address: 705 Boyer Avenue
Walla Walla, WA 99362 USA

Email: carsonrj@whitman.edu

Web Site: <http://people.whitman.edu/~carsonrj>

Home Phone: (509) 529-6328 (messages welcome)

Cell Phone: (509) 520-7647 (no texts or messages)

 Gearhart trees.docx
15K

City of Gearhart Council meeting, 7 August 2024

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Krysti Ficker <krysti@cityofgearhart.com>

Fwd: Ordinance # 942 tree removal File # 23-05ZTA

1 message

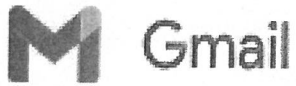
Angoleana Torres <planning@cityofgearhart.com>
To: Krysti Ficker <krysti@cityofgearhart.com>

Mon, Aug 5, 2024 at 8:13 AM

----- Forwarded message -----

From: <prator@opusnet.com>
Date: Fri, Aug 2, 2024 at 6:05 PM
Subject: Ordinance # 942 tree removal File # 23-05ZTA
To: <planning@cityofgearhart.com>

Keep to controls of tree removal as they are. It's functional and it works. From BRuce Prator 775 E St. Gearhart



Krysti Ficker <krysti@cityofgearhart.com>

Ord 942 Gearhart

Robert Stineman <yrrhost@gmail.com>
To: info@cityofgearhart.com

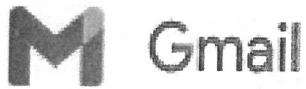
Wed, Jun 5, 2024 at 3:24 PM

After review of the proposed ordinance, my recommendation is that the city not proceed until we gather expert advice. I have personally reached out to four other contractors, two are tree specialists, certified arborist. I've been an arborists for over 22 years here in Clatsop county in business over 35 years. I do see some problems in this ordinance as it reads I'm going to recommend the city not pass, but allow us to input expert advice specifically in this field. I believe we could modify this ordinance to meet everyone's needs. Our goal is for contractors and tree arborists working together with city council members to formulate a simple plan for beautiful healthy Trees.

Sincerely, Robert & Rachel Stineman
Young's River Tree Service LLC



503-325-5564 Astoria Office
503-861-8618 Warrenton/Seaside Office
Yrrhost@gmail.com
Tree Service Website



Krysti Ficker <krysti@cityofgearhart.com>

Tree ordinance

jason bigby <bigbytree2@gmail.com>
To: info@cityofgearhart.com

Wed, Jun 5, 2024 at 10:01 AM

As a tree service owner I have been working in the city of gearhart for the past 20 years. Working for the city and for the home owners. I've been a part of construction clearing, view maintenance, planting new trees, mitigating fire fuel by removing and chipping trees to make for a safe environment. At no time have we ever been a part of over cutting. There is always a purpose in what we do. I believe that extremism in any form is a negative thing. There has to be balance. Having some control measures is fine. Drawing a hard and fast line is not. The reality is that no one has the time or resources to take something that is currently working and turn it into a very complicated and costly process. Home owners should be able to make there own decisions regarding their property including how and what they do with their trees. If you look at the greater gearhart area you will clearly see that people care about trees. We have been pruning hundreds of them over the years. The homes that all of you live in most likely were at one time a site that was changed from a natural area to a homesite. I would urge the community to keep the controls as they are. It's functional and it works.

Jason Bigby
Arborist and owner of Bigbys Tree Service
Sent from my iPhone

June 1, 2024

Robert E. Lee
627 8th. Street
Gearhart, Oregon 97138
robteleeeoregon@icloud.com

Councilor Dana Gould
Mayor and Council Members
City of Gearhart, Oregon

Subject: Opposition to Proposed Tree Ordinance

I am writing to express my strong opposition to the proposed tree ordinance that is under consideration by the City of Gearhart. As a concerned citizen, who has grown up here, and been a property owner in Gearhart for almost fifty years, I believe this ordinance would have unintended consequences that would negatively impact our community.

Specifically, I am concerned about the potential costs associated, for the homeowner in complying with the ordinance, as well as the impact it would have on my property rights. Also not to mention the cost the city would incur. I understand the importance of trees in our community, but I believe there are effective and less intrusive ways to achieve the city's goals.

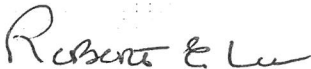
One only has to walk through this small community to see the pride and personalities of the homeowners, the care given to the houses, lawns, shrubs, flowers, and of course trees. Some trees need to come down, some age, some are rotten, are too close to the house, causing roof damage, or to get light in the house. Lots where new houses are to be built may need to cut a tree to place the building where the homeowner wants it.

Gearhart does not have a sewer system. Lots in Gearhart are small and the average cost of a septic system is \$20,000, trees will need to be cut back or taken down because roots invade the drain field.

I urge the city to consider keeping the tree ordinance as it is, and consider a solution that balances the needs of all property owners, not just a few, with the need to protect our urban forest. I would be happy to discuss this further with you and explore options that work for everyone in Gearhart.

Thank you for your time and consideration.

Respectfully,



Robert E. Lee



NEW Correspondence pertaining to the proposed tree ordinance is below this sheet.



Krysti Ficker <krysti@cityofgearhart.com>

Fwd: tree ordinance

2 messages

Dana Gould <councilorgould@cityofgearhart.com>

Mon, Sep 9, 2024 at 2:14 PM

To: Garrett Phillips <gphillips@columbiaestuary.org>, Chad Sweet <chadsweet@cityofgearhart.com>, Krysti Ficker <krysti@cityofgearhart.com>

Hello,

Deanna has asked to have this email included in the next packet for the tree issue.

Sincerely,

Dana Gould

Sent from my iPhone

Begin forwarded message:

From: Deanna Mancill <dmancill@msn.com>

Date: September 6, 2024 at 2:53:25 PM PDT

To: councilorgould@cityofgearhart.com

Subject: tree ordinance

Dear Dana,

I did not comment in public about certain things in the tree ordinance. I mentioned to friends about how I did not like having to hire a tree arborist. Councilor Sharon demanded to know why I did not fully support it.

This is my take on that issue. Recently Bayview Transit Mix cut four very old and ivy-damaged trees along the railroad-right-of-way. I had been bugging them for several years about it. After the black aphid infestation a few years ago, none of them recovered totally.

I measured one tree that had a 32" diameter (100" circumference)It was rotted in the center. The only way for a tree arborist to determine the rot would be to take a core sample. Then he could certify the work. From using information from a forestry website, I was able to calculate the tree's age-160 years.

The trees along Neacoxie Creek were measured by Shannon Smith and neighbors.One tree was 132" circumference. By my calculation, 210 years old or more.

I told Sharon my thoughts about the heritage trees 50 years old. At the Sons of Norway ballfield, along the highway, those trees were planted in 1981, x-mas tree size. I could not call those "heritage" trees.

The tree arborists really don't like the ordinance. These trees in Gearhart are really old. It is a crap shoot deciding whether a tree should remain.

These are my thoughts on this matter.

Deanna Mancill

Krysti Ficker <krysti@cityofgearhart.com>

Mon, Sep 9, 2024 at 3:41 PM

To: Dana Gould <councilorgould@cityofgearhart.com>

Cc: Garrett Phillips <gphillips@columbiaestuary.org>, Chad Sweet <chadsweet@cityofgearhart.com>

Received.

Thank you,

Krysti

[Quoted text hidden]

--

Krysti Ficker | Executive Administration

City of Gearhart

698 Pacific Way PMB 2510 | Gearhart, Oregon 97138

Office: (503) 738-5501 | Fax: (503) 738-9385

krysti@cityofgearhart.com

"Happy to help!"

CONFIDENTIALITY NOTICE:

Please do not read, copy, or disseminate this communication unless you are the intended addressee. This e-mail may contain confidential and/or privileged information intended only for the addressee. If you have received this in error, please notify me via return e-mail.

Comment on proposed tree ordinance

1 message

Tim Mancill <timmancill@hotmail.com>

Mon, Sep 23, 2024 at 10:01 PM

To: "mayorsmith@cityofgearhart.com" <mayorsmith@cityofgearhart.com>, "councilorgould@cityofgearhart.com" <councilorgould@cityofgearhart.com>, "councilorfackerell@cityofgearhart.com" <councilorfackerell@cityofgearhart.com>, "councilordevereaux@cityofgearhart.com" <councilordevereaux@cityofgearhart.com>, "councilorsharon@cityofgearhart.com" <councilorsharon@cityofgearhart.com>, "chadsweet@cityofgearhart.com" <chadsweet@cityofgearhart.com>

September 23, 2024

Dear Mayor Smith & Gearhart City Councilors,

I own Mancill Lawn & Yard Maintenance in Seaside & service many Gearhart properties. I have been following the proposed tree ordinance and feel I need to comment. I have some serious concerns with the proposed amendments that Council Kloefer has suggested.

My first concern is her proposed requirement that a replacement tree be 3" in diameter, measured 4 1/2' from the ground. That is ABSURD! Do any of you have any idea how big that tree would be to measure that diameter at that height? It's a massive tree to try to source, transport, & plant. No one local carries any tree that big including Dennis 7 Dees, Home Depot & Brims. It is such a big tree that no one would be able to load & unload into a vehicle, move by hand, then try to plant. In the Portland area there is a company in Hillsboro called Big Trees that sells them. They come out with a big Bobcat type machine with equipment called a tree spade to plant that tree. Those trees cost many thousands of dollars and then you have to pay for the equipment to plant it. An easy reference for tree comparison is the average 6-7' Christmas tree (Noble or Douglas Fir). A 6' Christmas tree is 7-8 years old. The very base of it might be 3-4" diameter but 4.5' up it's only 1.5-2". I've actually been looking at all my recently landscaped yards I maintain. Many people commonly plant cypress, cedar, spruce or deciduous trees like Maple, birch, flowering cherry, or even fruit producing trees. The largest trees I've seen installed in landscaping are cypress that are 6-8' tall. None are even close to 3" diameter chest level. Even ones that have been in a few years that are 12-15' high don't appear to be 3" in diameter 4.5' up. Another issue with large trees grown for transplant is that the root system will be rootbound in the pot so when the tree is planted the roots will not establish well and the tree will be weakened. Faster growing species of trees that attain this size in less time typically are brittle trees. With all the windstorms here those trees would be knocked down or broken off. This proposal would be an unreasonable, very expensive burden on Gearhart residents. For lack of a better word it is utterly STUPID!

The next concern is the requirement that a tree care professional diagnose the tree but CANNOT be involved in its removal. I'm not sure how you expect people to come look at a job they know they won't get. There are only a few tree services & all are booked up all the time. For someone to come just look at a tree they'll have to charge a big fee to make up for not getting the job. I speculate most won't bother to even waste their time. If someone called me & I knew I wasn't going to get the job I wouldn't waste my time or fuel driving around for it. This is another ABSURD & RIDICULOUS proposal.

What this tree ordinance SHOULD address in more detail is trees, and specifically invasive or water loving trees, planted on or near septic systems. Since Gearhart is entirely on septic tree root invasion into septic pipes is a huge concern. I see alot working all over Gearhart. I've seen people plant birch trees right on top of a drainfield. Huge no-no. My parents are dealing with a neighbor that planted a weeping willow near

their drainfield that sends roots & runners into the drain pipes. Eventually these septic systems will fail due to careless tree planting. This type of stuff is too important to not address.

My understanding is that some of this started with Council Kloepfer being upset about her neighbor removing some trees. She appears to be taking her anger out by imposing ridiculous requirements on every resident & property owner in Gearhart. It seems as if some people are trying turn Gearhart into a big HOA with a bunch of crazy rules. There is already one ridiculous HOA at the Reserve. We don't need the City of Gearhart to act like one as well.

Tim Mancill
755 N. Wahanna Rd.
Seaside, OR 97138
(503)440-2620