

CITY OF GEARHART CITY COUNCIL
SUPPLEMENTAL STAFF REPORT

May 3, 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

Provided herein is additional testimony and findings for City Council in consideration of the proposed amendments. This report supplements the City Staff Report dated April 27, 2017.

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. ADDITIONAL AGENCY & CITIZEN WRITTEN COMMENTS

The following correspondence on the matter is in addition to correspondence noted in the April 27, 2017 City Staff Report, and continues the numbering in that report:

- CC. Joe Gregoire 4-27-17
- DD. Michael Hoard 4-27-17
- EE. Adam Amato 4-27-17
- FF. Bonnie Delaney 4-27-17
- GG. Jach Delaney 4-27-17
- HH. Clark Cumpston & Karyl Fox 4-27-17
- II. "Chinook Observer" 4-26-16
- JJ. "Protect your Home from Wildfire"
- KK. "Safety Zones" Interagency Standards for Fire and Fire Aviation Operations
- LL. U.S. Dept. of the Interior Fish and Wildlife Service letter 10-4-16, and email from Daniel Elbert of said agency 12-18-16
- MM. Kathleen Sayce, Ecologist quoted by the "Daily Astorian" 1-6-17
- NN. Vanessa Blackstone, Wildlife Biologist quoted by the "Daily Astorian" 1-6-17
- OO. Margaret Marino 5-1-17
- PP. Sand Dune Vegetation Committee Meeting Minutes 4-24-17

QQ. Richard Schroeder letter and photographs 5-2-2017
RR. Lisa Cerveney 5-1-2017

III. SUPPLEMENTAL FINDINGS

The City finds there are two relevant statewide coastal goals applicable to the request, Coastal Shorelands and Beaches and Dunes. The following additional findings are provided to address compliance with the goals.

(1) 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 Coastal Shorelands goal promulgates both protection of human life and property, as well as the fish and wildlife habitat. The primary purpose of the amendments is to provide adequate area for firefighters to deploy and fight a wildland fire in the subject area. In addition the amendments allow for the eradication of noxious weeds in the dunes.

The City finds the growth of trees and shrubs south of South Ocean Avenue to the beach has grown dramatically and has become a fire hazard to human life and property. The Fire Chief provided testimony that a wildland fire in the subject area would be left to burn itself out because the amount of flammable fuel load would be too hazardous for firefighters to operate. Therefore a fire could endanger life and property.

According to a publication by the Interagency Standards for Fire and Fire Aviation Operation:

"For radiant heat only, the distance separation between the firefighter and the flames must be at least four times the maximum flame height. This distance must be maintained on all sides, if the fire has ability to burn completely around the safety zone. Convective heat from wind and/or terrain influences will increase the distance required."

If the trees are 20 feet tall, the flame length being 30 feet, 4 times is 160 feet for a safety zone. The City is not proposing a full sized safety zone but more of a deployment site for firefighters, an area that firefighters may escape through, or deploy shelters in the event of fire overrunning the firefighters. It would also serve as an escape route for people visiting the park.

The City finds the situation is a hazard to property and human life. The impacts on fish and wildlife habitat are addressed below.

(2) 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 followed by 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.

Impact on Fish and Wildlife habitat

The City finds there is evidence of bird and other wildlife habitat in the subject area. The proposed land use action to remove and destroy a limited amount of vegetation may negatively impact bird habitat in the area. Evidence of bird habitat in the area has been

identified by several professional experts including the U.S. Department of Interior Fish and Wildlife Service, Vanessa Blackstone, Wildlife Biologist for the Oregon Parks and Recreation, Kathleen Sayce, Ecologist, Margaret Marino and several resident bird watchers.

The City finds the proposal may affect the habitat of endangered and non-endangered bird species. Daniel Elbert of the U.S. Department of the Interior stated the Snowy Plover would not likely benefit from the proposal unless the European beach grass is also removed. He concluded that the (endangered) species list would not be impacted. Vanessa Blackstone said, though some species will lose while others will benefit, the species that use the area are common not endangered. Margaret Marino said there are species in the area that rely on the wild crab apple trees, and that timing of the control methods will address the possible impacts on nesting periods. Kathleen Sayce also said management would be seasonally specific and not during nesting season.

The U.S. Department of the Interior letter dated 10-4-16 provided background on the Endangered Species Act and references to the species list. The letter said the endangered species list identifies threatened endangered proposed candidate species and critical habitat that may occur within the proposed project. According to the agency major construction would require a Bio Assessment to determine whether the project may affect listed or proposed species and/or designated habitats. In the case of a project that is not considered major construction the Service suggests a biological evaluation, similar to a Bio Assessment, to determine whether the project may affect species habitat.

The City finds there are differing opinions from professionals and birders on the impacts the proposal may have on wildlife habitat in the subject area.

IV. STAFF RECOMMENDATION

The City finds the opportunity to address the fire hazard and noxious weed growth in the subject area has passed until later this year. The City finds that a citizen's Sand Dune Vegetation Committee and CREST have begun their study to develop a dune management plan for Gearhart. The City finds it may be advisable to complete a biological evaluation of the impacts the proposed amendments would have on the existing wildlife population in the area. City Staff recommends that action on the proposed amendments be postponed.