



Krysti Ficker <krysti@cityofgearhart.com>

Fwd: Lesley Miller Park

Paulina Cockrum <councilposition3@cityofgearhart.com>
To: Krysti Ficker <krysti@cityofgearhart.com>

Sun, Feb 27, 2022 at 2:09 PM

To be sent to council/packets, late correspondence.

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

From: Jill Garvey <garvey200@comcast.net>
Date: Sun, Feb 27, 2022 at 8:23 AM
Subject: Lesley Miller Park
To: <mayorcockrum@cityofgearhart.com>, <chadsweet@cityofgearhart.com>

I know the City has for a long time been reviewing the new Parks Plan and as a part-time resident and homeowner in Gearhart I wanted to share my support for the Plan -- and I wanted to share also that I hope the words "view" and "ocean" remain in the Plan and that the City be allowed to cut trees or vegetation as necessary to preserve the invaluable ocean scape. Thank you.

Jill Meier Garvey
22 Ocean Avenue

JD messengered | garvey200@comcast.net

--
Paulina Cockrum | Mayor of Gearhart
City of Gearhart
698 Pacific Way | Gearhart, Oregon 97138
Office: (503) 738-5501 | Fax: (505) 738-9385
mayorcockrum@cityofgearhart.com

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Krysti Ficker <krysti@cityofgearhart.com>

Re: Support for the Gearhart Parks and Open Space Master Plan

Paulina Cockrum <councilposition3@cityofgearhart.com>
To: Krysti Ficker <krysti@cityofgearhart.com>

Tue, Mar 1, 2022 at 9:05 AM

correspondence for public hearing.
Paulina

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

From: **Mark Gregoire** <mgregoire@mindstreamanalytics.com>
Date: Tue, Mar 1, 2022 at 6:55 AM
Subject: Support for the Gearhart Parks and Open Space Master Plan
To: chadsweet@cityofgearhart.com <chadsweet@cityofgearhart.com>, mayorcockrum@cityofgearhart.com <mayorcockrum@cityofgearhart.com>

Hello Chad & Mayor Cochran, I am writing to comment on the Draft Parks and Open Space Master Plan dated 2/22/22. I am a part owner in our 5th generation family beach house in Gearhart and have spent part of each year in Gearhart since 1961. I am so grateful that the two of you are the Stuarts for the preservation of the character of the town that my kids call their happiest place on earth. I support the current Parks and Open Space Master Plan. Particularly Section 2.A.2 Lesley Miller Dunes Meadow Park and Section 3.4 Policy No. 4 – Vegetation in the Dunes to be Managed as Allowed under Zoning Ordinance. I know there has been a lot of discussion and disagreement about managing the trees in the dunes. Even though the trees are relatively new to the dunes (family photos from the 1980's show the dunes completely void of trees), I respect the need to manage the trees to support differing viewpoints. I believe the zoning ordinance passed by the town of Gearhart reflects that objective. I am happy to see that it governs section 3.4 policy #4 in the Master Plan. Please share my thoughts in the city council meeting tomorrow. Best regards, Mark

Mark Gregoire

815 South Ocean Ave

Gearhart, OR

mgregoire@mindstreamanalytics.com

--
Paulina Cockrum | Mayor of Gearhart
City of Gearhart
698 Pacific Way | Gearhart, Oregon 97138
Office: (503) 738-5501 | Fax: (505) 738-9385
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Fwd: Schultz comments on Parks Master Plan

1 message

Paulina Cockrum <councilposition3@cityofgearhart.com>
To: Krysti Ficker <krysti@cityofgearhart.com>

Tue, Mar 1, 2022 at 3:55 P

Correspondence for the public hearing.

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

From: **Stewart Schultz** <ss@stewartsschultz.com>

Date: Tue, Mar 1, 2022 at 11:56 AM

Subject: Schultz comments on Parks Master Plan

To: <mayorcockrum@cityofgearhart.com>, <councilortomlinson@cityofgearhart.com>, <councilorwarren@cityofgearhart.com>, <councilorsmith@cityofgearhart.com>, **Reita Fackerell** <councilorfackerell@cityofgearhart.com>

Dear Mayor Cockrum and city council:

Please enter into the record my comments on the Gearhart Parks Master Plan, as attached text with supplements.

Thank you!

Stewart Schultz

--

Stewart Schultz

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Paulina Cockrum | Mayor of Gearhart

City of Gearhart

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3 attachments**botanical references on vertical topping trimming.pdf**

116K

**Dunes Advisory Committee Recommendations to City Council.pdf**

625K

**Schultz Comments.pdf**

89K

References on the subject of tree topping gathered by the Gearhart Dune Advisory Committee.

All references are from professional arborists or botanists within US Universities and/or US government Extension agencies.

All cited experts agree that tree topping is a detrimental and unjustified practice that increases tree mortality, disease, likelihood of windfall, and legal liability to the property owner or manager.

Submitted by
Stewart T. Schultz PhD Botany
Member, Gearhart Dune Advisory Committee
November 2017

"Plant scientists and arborists unanimously agree that tree topping is an unjustifiable tree management practice

"After topping, many epicormic shoots arise and develop into weakly attached branches. These branches, and the multiple leaders, continue to develop girth and weight and have an increasing potential to fall and cause damage to people or property. From a legal standpoint, the owner of such a tree is responsible for damages if it can be proved that the owner was negligent. If I were to tell my neighbor that her tree constituted a hazard, and later this same tree fell and damaged my property, in some states I would be entitled to both actual and punitive damages. There is no doubt within the scientific and arborist communities that incorrect pruning can cause trees to become hazardous. Only one expert witness is needed to demonstrate this – and the owner, or the landscape maintenance company, is found responsible. If every property owner was given this last paragraph of information, I would bet that tree topping would come to a screeching halt.

"The Bottom Line

- **Tree topping is never a justifiable pruning practice; it increases tree health problems and is aesthetically unappealing**
- A topped tree will require constant maintenance and has an increased potential to become hazardous
- Hazardous trees are a liability and ultimately the property owner is responsible for any damage hazardous trees cause
- **Certified arborists and other legitimate landscape professionals do not practice tree topping"**

Linda Chalker-Scott, Ph.D., Extension Horticulturist and Associate Professor, Puyallup Research and Extension Center, Washington State University

<https://s3.wp.wsu.edu/uploads/sites/403/2015/03/tree-topping.pdf>

“Topping of trees is one of the biggest mistake landscapers and homeowners make. This action is commonly taken to restrict growth because of fear of a tree falling on a house or desire to improve views. However, topping disfigures the tree and results in weak growth that is more likely to break out of the tree several years later. It also provides an opportunity for fungus organisms to invade and weaken the trunk.”

Care and Pruning of Shorepines. May, 2006. Sam Angima, Oregon State University Extension Service

What Happens if You Cut the Top Off a Pine Tree?

Never cut the top portion off a pine. A pine tree that has its top portion removed will grow in a very ragged manner and be extremely susceptible to disease and insect infestation. The tree will not produce a new top “cone.” Instead, branches may curve upwards and deform. More likely, a healthy tree that has been “topped” will struggle to heal the open wound at the top. It’s liable to attract burrowing insects, tree diseases, and be stricken by sun-scald.

- Do not remove the top portion of a pine tree.
- Removing the top of a pine tree significantly raises the chances of tree disease and death.
- Many pine trees that are topped sicken and die, necessitating tree removal.
- A pine that has had its top removed will not recover and produce a new top. The damage is permanent.
- A pine tree with its top removed will grow in an unsightly manner, if at all.
- The needle growth in the crown of the tree is essential to continued life. The top of a pine is the heart of the tree.

Peppers Home and Garden, August 2021

“‘Topping’ IS NOT a recommended practice for any tree, regardless of species or size. Most experts agree that ‘topping’ is not only detrimental to the tree, but also unnecessary. Moreover, the practice of ‘topping’ is not a condoned practice in the professional forestry and arboriculture community. If you need to prune your tree, hire a certified arborist who knows how to care for your tree in an appropriate and diligent manner.”

Jay Hayek Extension Specialist, Forestry, University of Illinois Extension Service

<https://web.extension.illinois.edu/askextension/thisQuestion.cfm?ThreadID=8651&catID=205&AskSiteID=87>

"A practice called topping is a severe threat to tree health and is a common problem in Tennessee (Figure 4). Topping is particularly visible where it has been used to reduce tree height around homes and utility lines. There is never a good reason to top a tree. Topping removes the tree's main leader and branches, resulting in stubs and large wounds that never heal properly and greatly shorten the life of trees. After topping, new growth is disfigured by water sprouts and weak limbs that produce a dense canopy with poor air circulation. Insects and disease organisms thrive in this environment. For these reasons, the International Society of Arboriculture's Arborist Certification Program does not endorse topping. "

Donna C. Fare, 2008. former Assistant Professor, Ornamental Horticulture and Landscape Design. Best Management Practices for Pruning Landscape Trees, Shrubs and Ground Covers. University of Tennessee Institute of Agriculture. PB1619

<https://extension.tennessee.edu/publications/documents/PB1619.pdf>

"Topping has been described as the "ultimate in destructive practices," and in almost all cases it permanently damages a tree's health, structure, and appearance."

William Elmendorf 2017, Associate Professor. Pruning Landscape Trees. Pennsylvania State University Extension Service.

https://extension.psu.edu/downloadable/download/sample/sample_id/352/

"Tree topping is a practice to avoid...

"Topping is so effective at killing trees that it is a common method for artificially creating [dead] snags and [dead] wildlife trees."

Kevin W. Zobrist, WSU Extension Forestry Educator. 2011. Tree Topping: A Practice to Avoid. Washington State University Extension Fact Sheet FS061E.

cru.cahe.wsu.edu/CEPublications/FS061E/FS061E.pdf

"Topping is not an acceptable pruning technique.

"A homeowner may feel that a tree has become too large for his or her property, or that tall trees may pose an unacceptable risk. **Topping, however, is not a viable method of height reduction and certainly does not reduce future risk. In fact, topping will increase risk in the long term.**

"Topping Is Expensive

"The cost of topping a tree is not limited to only the job cost. Some hidden costs of topping include:

- Increased maintenance costs. If the tree survives, it will likely require corrective pruning within a few years (e.g., crown reduction or storm damage repair). If the tree dies, it will have to be removed.
- Reduced property value. Healthy, well-maintained trees can add 10 to 20 percent to the value of a property. Disfigured, topped trees are considered an impending expense.
- **Increased liability potential. Topped trees may pose an unacceptable level of risk. Because topping is considered an unacceptable pruning practice, any damage caused by branch failure of a topped tree may lead to a finding of negligence in a court of law."**

Why Topping Hurts Trees 2011 (1998, 2004) International Society of Arboriculture.

https://www.esquimalt.ca/sites/default/files/.../pruning_why_topping_trees_hurts.pdf

"Stop topping trees!"

"How does topping damage trees?"

- 1) Topping reduces food-making capacity.
- 2) Topping stimulates undesirable "water sprout" growth. A topped tree will rapidly return to its original height, but will lack its original form.
- 4) Topping creates a hazard. Weakened stubs are more prone to wind and storm breakage because they generally begin to die back or decay.
- 5) Topping injures bark. Increased sun exposure on trunk and branches can lead to severe bark damage.
- 6) Topping disfigures trees. Topping reduces the real estate value of trees by 20 - 100 percent.

"Some homeowners and unprofessional tree pruners practice topping whenever trees reach an undesirable height. **They mistakenly believe that topping will reduce the storm hazard of falling branches, when in fact, topping has the opposite effect.**"

A Guide to Successful Pruning Stop Topping Trees Susan C. French, Extension Technician Bonnie Lee Appleton, Extension Horticulturist publication 430-458 Virginia Cooperative Extension, Virginia State University

pubs.ext.vt.edu/430/430-458/430-458.html

"Topping and tipping (Fig. 7A, 7B) are pruning practices that harm trees and should not be used. These practices invariably result in the development of epicormic sprouts, or in the death of the cut branch back to the next lateral branch below. These epicormic sprouts are weakly attached to the stem and eventually will be supported by a decaying branch. Improper pruning cuts cause unnecessary injury and bark ripping (Fig. 7C)."

USDA Forest Service Northeastern Area State and Private Forestry HOW to Prune Trees Peter J. Bedker, Joseph G. O'Brien, and Manfred M. Mielke Illustrations by Julie Martinez, Afton, MN NA-FR-01-95

https://www.na.fs.fed.us/spfo/pubs/howtos/ht_prune/htprune-rev-2012-screen.pdf

"Topping trees vastly reduces the number of leaves they have, thereby limiting the trees' ability to produce food energy through photosynthesis. **It can result in their early death.** In addition, topping produces large pruning cuts that are slower to heal and more vulnerable to decay."

1998 University of Minnesota Extension Service

<https://www.extension.umn.edu/garden/yard-garden/trees-shrubs/pruning-large-trees-thinning-out-vs-topping/>

"Another pruning practice that leads to decay is topping. Topping was and, unfortunately, still is a common practice used to reduce the height of a tree. Good plant selection can help **eliminate this improper practice.** Additionally, knowledgeable homeowners can insist on the use of good pruning techniques by hiring certified professionals."

Barbara Fair Extension Horticulture Specialist and Assistant Professor Horticultural Science
Publication date: Oct. 1, 1997 Topping Trees and Flush Cuts Horticulture Information Leaflets. North Carolina State University Extension Service

<https://content.ces.ncsu.edu/topping-trees-and-flush-cuts>

"Don't top trees! in the past, utilities obtained line clearance by "topping" trees or "rounding" them over every few years. These techniques give little consideration to tree health or structural integrity. Current research shows that topping or heading cuts create entry points for wood decay. This slowly weakens the tree internally, shortening its life and in many cases causing future storm damage."

William Elmendorf 2017, Associate Professor. Pruning for Utility Line Clearance. Pennsylvania State University Extension Service.

<https://extension.psu.edu/pruning-for-utility-line-clearance>

"Topping is not advised A topped tree requires periodic maintenance to maintain its reduced size. That can become expensive in the long-term. Also, conifers will often form a weakened top as the side branches all try to grow up as shown in Illustration 10. In addition, the cut top often becomes an entry site for decay organisms, that weaken the tree and **increase the danger of a top breaking in high winds.**"

Managing Vegetation on Coastal Slopes. Washington State Department of Ecology, Seattle WA. 1993.

www.ecy.wa.gov/programs/sea/pubs/93-31/faq.html

"However, professional arborists and tree care practitioners now realize that topping can create a host of problems for trees and for people coexisting with them. Proper early training, selective branch thinning, or entire tree removal should be favored over the detrimental practice of topping. "

Sustainable Urban Landscapes **Topping—Tree Care or Tree Abuse?** SUL-7 _ January 1999 Tree Topping– Tree Care or Tree Abuse Iowa State University, University Extension

www.iowadnr.gov/portals/idnr/uploads/forestry/topping.pdf

ADOPTED 07-07-2017

Recommendations to the Gearhart City Council from the Dunes Vegetation Committee

Introductory Notes:

A. The Beaches and Active Dunes Overlay District (the "**B.A.D. Overlay District**") is defined in Section 3.12 of the City of Gearhart's Zoning Ordinance (the "**Ordinance**"). Sub-Section 3.1240.2.D regulates the pruning and trimming of vegetation within the B.A.D. Overlay District, and Sub-Section 3.1240.2.E regulates the use of motor vehicles within the B.A.D. Overlay District.

B. In April 2017, the City Council of the City of Gearhart (the "**City**") created the Dunes Vegetation Committee (the "**Committee**"), comprised of both permanent and part-time Gearhart residents as well as other interested parties. The City requested that the Committee study the issues concerning vegetation and vehicle access within the B.A.D. Overlay District and then make recommendations to the City Council regarding potential changes to the Ordinance which would be in the public interest.

C. The Committee has now completed its work and hereby submits four recommendations to the City Council. These recommendations reflect compromises which have been accepted and endorsed by a majority of the Committee's members. However, the Committee wishes to acknowledge that some members of the Committee do not agree with some portions of these recommendations.

Recommendation No. 1: The existing provisions of Ordinance Section 3.1240.2.E (concerning Vehicular Access to Dune Areas) should be repealed, and the following provisions should be adopted in their place:

E. **Motorized Vehicles**

*It is the City's policy to limit the use of motorized vehicles within the B.A.D. Overlay District to only such uses as are reasonably necessary, as further specified below. **Therefore, all motorized vehicles are prohibited within the B.A.D. Overlay District, except as specifically provided below.** (For the purposes of this section, the term "motorized vehicles" shall include automobiles, trucks, motorized mowers, brush hogs, and other similar motorized equipment.)*

(1) Emergency vehicles (police, fire and ambulance) are permitted to operate within the B.A.D. Overlay District as reasonably necessary for law enforcement purposes and in response to actual emergencies.

(2) Non-emergency vehicles operated by the City or its contractors are permitted to operate within the B.A.D. Overlay District as reasonably necessary for maintenance of equipment associated with the City's water system.

(3) Motorized mowers, brush hogs, and other similar motorized equipment are permitted within that portion of the B.A.D. Overlay District lying within 100 feet of the building edge of any residential structure.

(4) Other than as provided in paragraphs A, B, and C above, vehicles may operate within the B.A.D. Overlay District only with advance permission from the City as evidenced by a vehicle access permit issued by the City Administrator. The City Administrator may issue such a permit to any public or private owner of real property contained within or abutting the area within the B.A.D. Overlay District, or to such property owner's contractor or agent, upon receipt of an application from such property owner specifying: (a) the purpose of the requested access, (b) the type of vehicle for which access is requested; (c) the specific areas of the B.A.D. Overlay District for which access is requested, including the proposed location at which any permitted vehicle will enter and exit the B.A.D. Overlay District; and (d) the dates and hours of day on which access is requested.

Upon receipt of such an application, the City Administrator shall issue a permit to the applicant if the City Administrator determines that the access requested by the applicant is reasonably necessary in order for the applicant to conduct lawful activities on property owned by such party (and otherwise permitted under this Ordinance) and that the requested access will not cause unreasonable environmental damage to the B.A.D. Overlay District. Any such permit shall state the period of time during which the permittee shall be allowed to operate a vehicle within the B.A.D. Overlay District (including specific dates and hours of day), as well as the specific areas in which such operation is allowed, the type of vehicle for which access is allowed, and the activities which may be performed with the allowed vehicle.

Recommendation No. 2: In order to prevent the use of motorized vehicles which is prohibited under the Ordinance, the City should install locked gates (or other access control devices) at all points where motorized vehicles are able to enter the B.A.D. Overlay District.

Recommendation No. 3: The existing provisions of Ordinance Section 3.1240.2.D (concerning Pruning and Trimming of Vegetation) should be repealed, and the following provisions should be adopted in their place:

D. Pruning, Trimming and Removal of Vegetation

It is the City's policy to limit the removal, destruction or uprooting of vegetation within the B.A.D. Overlay District, except as reasonably necessary to accomplish the following objectives: (a) elimination of diseased or dead vegetation, (b) elimination of noxious weeds, (c) limited pruning, thinning, and removal of trees for the purposes of preventing the spread of forestation beyond areas which are already heavily treed, managing views, reducing the risk of fire, and otherwise enhancing public safety, and (d) within the area lying within 100 feet of the building edge of any residential structure, mowing of beach grass and small shrubs and removal of trees for ornamental and fire-prevention purposes, all as more particularly described below.

Therefore, all removal, destruction or uprooting of vegetation is prohibited within the B.A.D. Overlay District, except as specifically provided below:

(1) Diseased or Dead Vegetation Every public and private owner of real property within the B.A.D. Overlay District is permitted to remove any diseased or dead vegetation from the property owner's own property.

(2) Noxious Weeds Every public and private owner of real property within the B.A.D. Overlay District is permitted to remove noxious weeds from the property owner's own property. For the purposes of this section, "noxious weeds" shall include Scotch Broom and all other plant species which are listed as noxious weeds by the Oregon Department of Agriculture.

(3) Trees Every public and private owner of real property within the B.A.D. Overlay District is permitted to prune, trim, or remove from such property any tree located on the property owner's own property which has a trunk diameter of six inches or less, with such diameter being measured at a height of four and one-half feet above ground level. Each such property owner is also permitted to prune and trim any tree located on the property owner's own property which has a diameter exceeding six inches, measured at a height of four and one-half feet above ground level, but any such pruning or trimming of such larger trees shall be limited to limbing-up to a height of six feet above ground level, or removal of not more than 20% of the tree's then-current growth above ground level, whichever is less, and with any such pruning or trimming being performed no more frequently than one time during any 12-month period ("topping" of trees is not permitted).

(4) Fire Buffer Safety Zone Every public and private owner of real property within the B.A.D. Overlay District is permitted to remove from such property owner's own property any tree which is located within 100 feet of the building edge of any residential structure, and each such property owner is permitted to mow to ground level any beach grass, small shrubs, and other vegetation which is on such property owner's own property and within 100 feet of the building edge of any residential structure.

(5) Any property owner which engages in any of the vegetation-management activities which are permitted under this section is required to properly remove from the B.A.D. Overlay District substantially all of any debris of organic material which results from such vegetation-management activities promptly after such activities have taken place.

(6) Any action which a property owner is permitted or required to take under this section may be taken by the property owner either directly or indirectly (through the use of a contractor, or agent, or by allowing a third party to take the permitted action with the property owner's consent).

(7) The City shall make available to the public a written set of guidelines which shall advise property owners regarding methods for permitted pruning, trimming, and removal of vegetation which are recommended in order to make such efforts effective, while mitigating potential negative impact to other surrounding vegetation or to nearby wildlife and wildlife habitat.

Recommendations from Dunes Vegetation Committee

July 7, 2017

Page Four

Recommendation No. 4: The Committee notes that, in addition to the provisions of Section 3.12 which regulate vegetation-management activities within the B.A.D. Overlay District generally, there is also a provision in Section 6.195 of the Ordinance (6.195.5.C) which allows the City Administrator to issue a permit for removal of trees which are larger than 12" diameter (measured at a height of four and one-half feet above ground). The provision in Section 6.195.5.C is not consistent with the Committee's Recommendation No. 3 and, therefore, the Committee recommends that Section 6.195.5.C be repealed.

Respectfully submitted by the Dunes Vegetation Committee

July 7, 2017

Comments on the draft
Gearhart Master Parks Plan
City of Gearhart, Oregon

Stewart T. Schultz, Ph.D.
140 NW 20th Avenue
Rockaway Beach, Oregon
97136

March 1, 2022

Following are my comments on the draft Gearhart Master Parks Plan. I am a professor of biology with a Ph.D. from University of British Columbia Department of Botany in 1993. My doctorate was a study of ecological genetics and mathematical models of statistics and reproductive evolution in a Hawaiian coastal plant species. I have published over 50 papers in the scientific literature in botany, evolution, genetics, marine biology, ecology, physical oceanography, conservation, and statistics, and have taught university graduate courses in all these areas and in geology, meteorology, and experimental design. I was a member of the Gearhart Dunes Advisory Committee (DAC) in 2017, where I assisted in developing new ordinance text for vegetation management in the Dunes Overlay Zone (DOZ) of Gearhart. The DAC members included professional biologists (botanist and ornithologists/Audubon society members). I am a long-term summer visitor to and occasional year-round resident of Gearhart for the last 65 years, and my family were summer visitors or residents since the 1920s, including brothers on the Planning Commission and serving in the GVFD, and father managing the Gearhart Golf Links pro shop and teaching golf during many summers when he was young. Five family members have owned Gearhart houses in the past beginning in 1948; two own houses in Gearhart currently.

To summarize, the Master Parks plan

1. allows unnecessary harm to trees in all Gearhart parklands;
2. allows unnecessary harm to native plants and wildlife of all kinds in the Dunes Overlay Zone; and
3. unnecessarily obligates the city in a way that exposes Gearhart to lawsuits on the above two points.

Following are my thoughts and recommendations on these issues.

1. The plan allows unnecessary harm to trees in all Gearhart parklands. The Plan applies the vegetation management ordinance in the DOZ to all of Gearhart. However, this vegetation management ordinance is fundamentally flawed and one of the reasons the Master Parks Plan was needed: to correct the flaws in this ordinance.

We in the DAC worked hard to develop a compromise between two factions: A wanted to remove all trees from the DOZ to maintain views, and B wanted to maintain a natural, diverse dune ecosystem in front of Gearhart, with a biologically rich community of plants and nesting animals, with habitats ranging from grassland to semi-open woodland as have existed naturally in prehistoric Clatsop Plains.

After much research and discussion, we arrived at a compromise: those wishing to preserve views agree that trees cannot be pruned more than 20% within any 12-month period, and no tree can be “topped”; and in return, we allowed removal of all trees under six inches DBH to preserve an open feel and a combination of views of both trees and ocean/headland. We painstakingly wrote draft ordinance in support of this compromise. Neither side was satisfied with this compromise; A believed that they had the right to remove any vegetation that blocked their view, and some in addition believed that Gearhart was obligated to protect this right; and B believed that 20% biomass removal annually was too high and would likely kill any tree that suffered this abuse in a few years, and also believed that removing all young trees would prevent a healthy woodland and guarantee that it had no future.

City Hall then rejected this compromise and decided instead to give group A almost everything they wanted: the ability to prune/trim 30% of any tree annually, the ability to “top” prune any pine tree, and the right to remove any tree under six inches DBH. The DAC would never have agreed to this tree removal right, if they had known that the compromise would have been rejected in this way. The rejection of this compromise by City Hall ignored over 15 references in the botanical literature that the DAC submitted that stated clearly that the aggressive trimming allowed by the city constitutes abuse and would likely kill any tree suffering it within a few years.

The Parks Master Plan would extend this ordinance to all of Gearhart, making this abuse legal throughout the city. In my opinion, **the Master Plan should honor the compromise developed by the DAC and prohibit any “topping” trimming on public land throughout the city, and prohibit any other trimming of more than 20% of any tree during any 12-month period, including in the DOZ.** Further, any decision regarding pruning of any tree on public land should be made by an independent expert who has no conflict of interest. There are many local arborists who are more than willing to damage/abuse a tree for a small fee, and there are no independent experts in City Hall that are qualified to make these decisions.

2. The Plan allows unnecessary harm to native plants and wildlife of all kinds in the Dunes Overlay Zone. The second flaw in the DOZ vegetation management ordinance is that it is interpreted to allow indiscriminate

mowing throughout the DOZ. The DAC never agreed to allow such mowing as a method of indiscriminate weed control, or as a method to maintain views. We voted to allow mowing only within 100 feet of a home, and only to eliminate potential fire fuel. The dunes are a natural ecosystem with functioning communities of diverse native plants and animals living alongside the exotic beachgrass. Those biodiverse communities, which include uncommon dune pioneer plants, potentially rare/endangered species such as *Abronia umbellata* var. *breviflora*, and dozens of species of native birds, mammals, and insects that nest in these habitats, are destroyed indiscriminately by mowing, no matter what time of year it is done.

The DAC concluded that such mowing causes indiscriminate mortality of native species, is ineffective as weed control, and probably benefits most weeds more than it harms them by promoting their spread by seed and fragments throughout the area mowed. To see that this is true, one need only observe the mowed dunescape in front of the Palisades. We explained this to City Hall and recommended alternative methods of weed control developed and recommended by the Oregon Extension Service that directly target individual weed plants and do not cause damage to native species, as appropriate for a public parkland such as is present in the DOZ. Anybody who has a lawn probably understands that regular mowing does not, in fact, control weeds. It rather maintains a perpetually disturbed environment that allows many species of weeds to thrive and spread. Scotch Broom in particular thrives in an open environment with perpetually disturbed soils, exactly the environment perpetuated by regular mowing; its seeds survive 50 years in the soil and are easily spread by any vehicles in the dunes, including power brush mowers. The reason that broom has spread into these dunes in the first place is almost certainly because of the regular use of municipal vehicles in this area. We in the DAC took care to explain this in detail to city hall during regular meetings and in letters at public hearings.

City Hall nevertheless has ignored the recommendations of DAC, and allowed, even paid for, indiscriminate mowing from Pacific Way to the estuary, ostensibly as a method to “control weeds.” This again ignores the work and research of the scientific literature provided to the city by the DAC, and ignores the fact that there are more effective methods that control weeds and do not simultaneously cause indiscriminate damage and mortality of native species in this natural ecosystem.

In my opinion, the Master Plan should honor the vote of the DAC, and the submitted science, and **prohibit any mowing in the DOZ that is more than 100 feet from any home, and done for any purpose other than to eliminate potential fire fuels.** Weed control should be discriminating control, that targets individual problem plants, and does not damage and kill native plants and animals indiscriminately on this public parkland in the DOZ. Elsewhere in residential Gearhart, mowing of lawns in public parks such as Lesley Miller Park is appropriate.

3. The Master Plan unnecessarily obligates the city in a way that exposes Gearhart to lawsuits on the above two points. Gearhart is

vulnerable to lawsuits in three ways.

1. **Lawsuits by homeowners who believe that Gearhart has an obligation to maintain property owners' viewlines and property values.**

The DAC explicitly disallowed "to maintain views" as a legitimate reason to remove vegetation, including to abuse trees. City Hall ignored this decision and inserted text allowing oceanfront homeowners to remove vegetation and abuse trees in order to preserve their own personal view preferences, regardless of the fact that those preferences may be a minority among those who have a right to use and enjoy the land and its biodiversity.

This text "to maintain views" is problematic because it does not state whose views are being promoted and respected, and residents of Gearhart disagree about their esthetic preferences in the dunes; some prefer as natural an ecosystem as is possible, while others want a manicured park lawn without trees. In the absence of any kind of resolution of this conflict, the term "to maintain views" will be interpreted to mean "to maintain property values of oceanfront homeowners by preserving views of ocean and headland" and trees will continue to be removed and abused in the service of a small minority of Gearhart residents, who will now believe that they have a fundamental right to these views, and that City Hall has a responsibility to ensure that these views are maintained in perpetuity. This situation is a legal quagmire, and including such text will expose the city to lawsuits due to the implication that the city is obligated to manage vegetation on public lands to maintain neighboring property values.

2. **Lawsuits by the public on the basis that Gearhart ordinance violates Oregon land use laws.**

Allowing any landowner adjacent to public land to remove trees on public park land in order to maintain their personal views is a violation of the spirit and philosophy of Oregon land use laws and Gearhart's Comprehensive Plan, which recognize that public land should be managed for all the public, not just adjacent landowners.

3. **Lawsuits based on liability for injuries from damaged trees and falling tree parts.**

Experts have informed Gearhart city hall that the improper trimming of trees allowed in the DOZ represents a physical danger because it causes the death of remaining upper branches and bole, which then rot and fall to the ground. City hall is well aware of this ongoing safety hazard in the dunes, yet they allow it to continue, making them liable for injuries or death as a result.

The Master Parks Plan at a minimum must physically protect trees on public land, and native plants and animals, including potential rare and endangered species that use the natural park ecosystems

as feeding and reproductive habitat. The ordinance governing DOZ vegetation fails to do either. The DAC worked hard to prevent this outcome, and forged a reasonable and judicious compromise that respected the goals of all parties in this debate. Its compromise enjoyed a majority vote of the DAC. The Parks Master Plan should incorporate this compromise as a fair and equitable, scientifically-informed means of properly preserving and protecting these values in Gearhart for everybody.

The Parks Master Plan must also be fiscally responsible and protect from lawsuits. In its present form it fails also here. Gearhart cannot create an implied promise to uphold private property values in its Park management ordinance text and expect to be protected from lawsuits. It cannot allow abuse of living trees and expect not to be sued when those trees or tree parts consequently die and fall on residents walking beneath.

I and I'm sure all of Gearhart are grateful for and respect the hard work the Parks committee has done to assemble this 61-page document, which is an excellent start to good management of Gearhart's park lands. I hope that city council also respects the hard work done by the DAC in developing a workable and scientifically informed compromise in the management of Gearhart's largest public parkland, and takes seriously its responsibility to protect the natural values of Gearhart.

Sincerely,

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Attachments: 1. Dunes Advisory Committee Recommendations to City Council. 2. Botanical references on vertical trimming or "topping" trees to maintain views.