



April 11, 2024

Mayor Kerry Smith and Councilors  
P.O.B. 2510  
Gearhart, Or  
97138

Re. Planning Commission. April 2024

The Gearhart Planning Commission met April 11, 2024 at 6:00 pm. Commissioners present were Dideum, Taggard, Frank, Halperin, Cockrum and Schector. Mesberg was excused. Chad Sweet, Garrett Phillips, Peter Watts and Angoleana Torres were present for staff.

The Consent Agenda was approved with corrections to the minutes of March 14, 2024

Staff Reports: Sweet reported that the staff is working on the city budget for next year and that the STR revenue is strong. The number of restricted STR licenses is down to 66. Phillips shared information about the housing planning grant that will pay for a consultant to assess buildable lands and housing supply needs. This will be finalized in Spring 2025. Watts continues to work on population growth issues.

Commissioner Reports: Dideum reported that the draft of the Planning Commission meetings will now be included in the City Councilor's monthly packets.

Visitors Comments: None.

Public Hearings: 24-02 Tree Removal Application from Jenny and Don Frank, 988 Summit Avenue. The Commission voted 6-0 to approve the application to remove five trees.

Unfinished Business: File #24-01 Road Name Process. The Commission approved the draft submitted by Phillips with the addition of "local flora or fauna" to suggestions for naming a road.

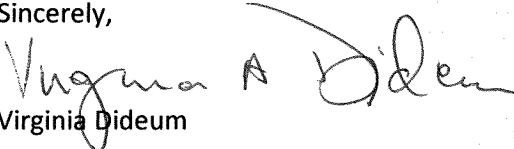
File #24-03 Naming Private Road (in front of tax lot 61003CD00701). The owners of property on the private road were asked to submit suggested names. Only one suggestion, McAdam Court in honor of John Loudon McAdam who invented the macadam road surface, was submitted. This name would honor the Palmberg paving company that originally owned the property. The name was approved unanimously.

New Business: None.

Concerns of the Commission: None

The meeting was adjourned at 7:52 pm.

Sincerely,

A handwritten signature in black ink, appearing to read "Virginia A. Dideum". The signature is fluid and cursive, with a prominent initial "V" and a long, sweeping underline.

Virginia Dideum

President, Gearhart Planning Commission

# DRAFT

## Gearhart Planning Commission Minutes for April 11, 2024

MEMBERS: Virginia Dideum, Russ Taggard, Don Frank, Eric Halperin, Paulina Cockrum, Judy Schector, and John Mesberg

STAFF: Chad Sweet, Peter Watts, Garrett Phillips, and Angoleana Torres

### Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, April 11, 2024, was called to order at 6:00 p.m. by President Virginia Dideum. All *Members and staff were present except Mesberg who was excused.*

On **MOTION** by Schector, 2nd by Paulina, to excuse Mesberg.

6 - in Favor – Frank, Dideum, Cockrum, Schector, Taggard, Halperin

0 - Opposed

### CONSENT AGENDA

On **MOTION** by Halperin, 2nd by Taggard, the consent agenda was approved with corrections in the minutes. Said agenda approved Minutes for March 14, 2024, financial report for March 24, 2024.

No Correspondence

6 - in Favor – Frank, Dideum, Cockrum, Schector, Taggard, Halperin

0 - Opposed

### STAFF REPORT

Sweet provided updates on various upcoming events and projects. He mentioned a special council meeting scheduled for April 16th to discuss hiring a representative for the public safety building process. Additionally, Sweet highlighted the Earth Day cleanup on the 20<sup>th</sup>. The city sponsors a free dump day with assistance from recology, excluding hazardous wastes and tires but including electronics disposal. Currently, the city staff is primarily focused on budgeting, with the first budget committee meeting approaching at 6:00 p.m. on Tuesday the 16<sup>th</sup>. He noted that expenses are increasing for the City, particularly regarding salaries, as they strive to keep up with environmental changes. Overall, despite tightening finances, the budget outlook appears positive. The number of short-term vacation rentals in the city are now down to 66 from the approximately 90 started with. Many of these were homes that weren't as popular or busy due to being "off the beaten path". However, the remaining rentals are staying strong and have been contributing well to the budget.

Phillips provided updates on the housing planning assistance grant project that the City of Gearhart and other Clatsop County communities are involved in. He mentioned that the state of Oregon, through DLCDC, has approved a contract with a consultant to assist in updating buildable lands inventories, assessing housing needs, and developing recommendations to improve housing supply. Phillips expressed

excitement about moving forward with the consultant and collaborating with other cities throughout the process, with data collection set to begin soon and the project continuing until spring 2025.

In addition, Phillips mentioned that although there have been many inquiries, there haven't been a lot of applications lately. However, he anticipates a new proposal for the elementary school in the coming months following a recent preapplication conference. Phillips concluded by noting that he'll provide occasional updates on the housing project as it progresses and when more significant developments occur.

Watts provided updates on his work with staff regarding population data and the buildable lands inventory, as well as conducting a housing needs analysis. He expressed confidence in collaborating with Three J and other jurisdictions to ensure accuracy in our data and provide the community with a clear understanding of our direction.

Watts mentioned being contacted by the attorney representing the exchange applicant for the school, indicating progress in that area and the likelihood of further communication with them.

Lastly, Watts noted that he and Sweet had spent the previous day in mediation, which, while not directly related to land use, holds relevance to their work, and expressed hope for making more progress in that regard moving forward.

#### COMMISSIONERS REPORT

Dideum mentioned concern regarding the transmission of meeting minutes to the city council. She expressed concern about the clarity and detail of her own notes and suggested providing the council with draft minutes to ensure they receive comprehensive information. Dideum emphasized the difference between her summarized notes and the level of detail contained in the draft minutes, stressing the importance of accurate reporting. She indicated that while the council had not yet received the minutes, there were discussions about starting to provide them for all future meetings. Ultimately, the goal is to improve transparency and ensure that all pertinent information is conveyed to the council members.

Frank raised the topic of the ODOT City Highway 101 Safety Improvement Plan, particularly in light of recent incidents on the highway. He inquired about the Planning Commission's role in expediting or participating in the process, considering the urgency highlighted by recent events. He sought clarification on whether this was an ongoing process or if there were specific actions we could take to accelerate progress.

Sweet provided insight into the funding aspect of the ODOT City Highway 101 Safety Improvement Plan. He explained that the availability of funding plays a crucial role in advancing such projects. Sweet mentioned that after completing the Transportation System Plan (TSP) with the highway, the City was included in the realm of funding opportunities.

Sweet elaborated on recent developments, stating that the city had been considered as a finalist for a grant to reconstruct the lights along the Pacific 101 corridor. However, due to changes in expenses and funding allocations, the city was ultimately excluded from the grant. Sweet, expressed uncertainty about the exact

process but assured the commission that they are reaching out to ODOT for further information on the project's status.

GOALS LIST – It was decided to remove the tree permitting process from the goals list.

VISITORS COMMENTS - None

## PUBLIC HEARINGS

Don Frank removed himself from the planning commission for the hearing.

Dideum opened the public hearing at 6:18 pm for city File #24-02 The proposed tree removal application to remove five trees in the city right-of-way, located in front of property at 988 Summit Ave. Relevant approval criteria are found in the Gearhart Zoning Ordinance Article 6 Section 6.070 Landscaping, Vegetation & Revegetation and Tree Preservation

Dideum read the hearing disclosure, and asked if any commissioners need to declare a conflict of interest in ex parte contact or personal bias. Cockrum did a site visit, Schector did a site visit and spoke with the owners, Taggard drove by the site, Dideum drove by the site.

Dideum asked the audience if anyone challenged the commission's ability to make an impartial decision. No Challenges.

Phillips provided a staff report regarding a request to remove trees from the public right of way in front of 988 Summit Avenue. He explained that the applicant had already removed five trees earlier in the year due to safety concerns and now sought to remove five more. Garrett outlined the criteria for granting a tree removal permit and noted that while there was uncertainty regarding the safety of the additional trees, they could potentially meet the hazard criteria.

Addressing a public comment, Phillips clarified that the removal of the previous trees had been paid for by the city and that the remaining removal would also be funded by the city. They highlighted concerns raised by Sharon Kloefer regarding potential precedents and appeals but emphasized that these considerations did not directly impact the permit decision criteria.

In conclusion, Phillips recommended approval of the permit, stating that the proposal met the zoning code criteria. The commission welcomed further discussion on the broader questions raised but stressed that should not influence the permit decision.

Cockrum raised a question regarding the Arborist report and expressed confusion about the necessity of removing additional trees beyond the initial five that posed a safety hazard. She noted that based on her interpretation of the report, she did not see a clear indication for the removal of more than those five trees. This led her to question the basis for considering the removal of the additional trees.

Phillips responded to Cockrum's question by acknowledging her interpretation regarding the need to consider only the immediate five trees proposed for removal. He clarified that while the previous five trees indeed posed a safety hazard and had been removed accordingly, there was not a clear indication that the next five trees posed a similar hazard.

Phillips expressed concern about potentially restricting property owners from proactively addressing safety hazards on their properties by requiring Planning Commission approval for each tree removal. He

suggested that the focus should be on addressing the immediate safety concerns rather than waiting for Planning Commission approval.

However, he recognized that Cockrum's interpretation was fair, indicating a difference in perspective on how to approach the issue.

There was also confusion regarding the responsibility for tree removal in the City's right of way. Some questioned why property owners were involved if the city had removed trees previously and was expected to do so again. This raised queries about the applicability of ordinances to the city itself.

The discussion further delved into the distinction between city property and the right of way, with emphasis on property owner responsibility for tree maintenance in the latter. Concerns were raised about liability in case of property damage due to fallen trees, highlighting the need for clarity on responsibility and liability.

Additionally, questions were raised about the legal parameters of the right of way compared to easements, indicating a need to understand the property owner's role and city liability. The discussion also touched upon the location of trees relative to the street and potential safety hazards they may pose.

Overall, the discussion emphasized the need for clarification on tree removal procedures, property ownership rights, and liability issues to guide future decisions and ensure public safety.

Sweet clarified that it was the city, not the property owner, who cut down the initial five trees. Mr. Frank, the property owner, had sought permission from the city, believing the trees were on his property. However, it was discovered that the trees were within the city's right of way. The city took responsibility for removing these trees upon confirming they posed a danger based on an arborist's report.

Sweet also highlighted that historically, the city had not claimed ownership of trees in the right of way, except for those in parks. Maintenance or removal typically occurred when trees posed a danger or caused damage to property, which was rare.

Regarding payment for tree removal, Sweet suggested that if a property owner requested removal for reasons other than danger or damage, they should bear the cost. However, if the city deemed a tree dangerous based on evidence, they would cover the expenses. He emphasized the need for clarity on responsibility and liability.

Additionally, the discussion touched on the placement of trees relative to the street and potential safety hazards for vehicles entering or exiting driveways. While there were no parking restrictions in the area, concerns were raised about traffic safety.

Sweet spoke of concerns about the condition of the trees, particularly their pruning and proximity to the water line. He noted that the trees were extensively limbed up, contributing to their hazardous nature, and suggested that it would be beneficial for the applicant to address any potential hazards associated with the trees. The main concern highlighted was the potential danger posed by the trees, as indicated by the arborist's recommendation for ongoing review. Additionally, their placement over the water line raised safety concerns, although such occurrences were not unique to this location.

#### APPLICANTS TESTIMONY

Don Frank, the applicant, shared detailed insights into the history and condition of the trees on his property located at 988 Summit Avenue, Gearhart, OR. 97138. He mentioned that the house was constructed in 1997, and the trees were originally planted by the previous homeowner, likely around 30

years ago. There was some ambiguity regarding the species of the trees, with some reports suggesting they were non-native pine trees nearing the end of their life expectancy.

He pointed out that the trees had been topped at 8 feet several years ago, resulting in branches growing out awkwardly from the trunks, which posed a potential hazard to passersby and vehicles. He mentioned consulting with arborists who confirmed the hazardous nature of the trees, especially after the removal of five trees, which weakened the stability of the remaining ones. Additionally, the trees' location directly above the water main raised concerns about potential damage to the infrastructure, which could lead to serious consequences for the property and the surrounding area.

Don emphasized the challenges posed by the trees' location in the city right-of-way, which meant they were not under the direct responsibility of the property owner but required proper authorization for removal. He expressed a willingness to collaborate with the city to address the issue, including sharing the costs of tree removal and adhering to proper procedures. Furthermore, he proposed a replanting initiative to mitigate the environmental impact of tree removal.

Jenny Frank echoed Don's concerns, emphasizing the risks associated with the compromised integrity of the remaining trees and the potential consequences of a water main break. She mentioned the recent water main break in Cannon Beach as an example of the widespread impact such incidents could have on the community.

In conclusion, Don and Jenny Frank highlighted the urgent need to address the hazardous trees on their property while expressing their commitment to cooperate with the city to ensure a safe and sustainable resolution to the issue.

Proponents: None

Opponents: None

Neutral: None

Dideum closed the public hearing at 7:24 pm.

Discussion between commissioners occurred.

The commissioners had a thorough discussion regarding the complexities surrounding the application for tree removal on Summit Avenue. One perspective expressed was the consideration of retroactive approval for the removal of the first five hazardous trees, which had already been taken down. This raised questions about whether the application should pertain to trees that had already been removed or if it should strictly apply to the remaining hazardous trees.

Concerns were voiced about the city's involvement in removing the initial trees and whether this action would set a precedent for future cases. There was debate about whether it was the property owner's responsibility to address hazardous trees on the right-of-way, especially considering the potential liability implications for the city.

Despite differing viewpoints, some commissioners felt that the order of tree removal wasn't necessarily a hindrance to the current decision-making process. However, there was a shared sentiment that the situation was complex and required careful consideration.

Some commissioners recalled previous instances where the city had taken action to remove hazardous trees from the right-of-way, indicating a precedent for such actions. However, others emphasized the need for clarity and consistency in addressing similar situations in the future.

There was discussion about the need to clarify the responsibility for trees in the right-of-way and whether a decision on this case could set a precedent for future scenarios. While some commissioners expressed hesitation about making broad decisions without legal expertise, others emphasized the importance of finding a resolution to the current problem.

In conclusion, the discussion highlighted the need for a thoughtful and nuanced approach to addressing the removal of hazardous trees in the right-of-way. While there were differing opinions on the matter, there was agreement on the importance of clarity and consistency in decision-making processes related to tree removal in similar situations.

On **MOTION** by Taggard, 2nd by Schector, to approve the tree removal permit based on staff findings.  
5 - in Favor – Dideum, Cockrum, Schector, Taggard, Halperin  
0 – Opposed

#### UNFINISHED BUSINESS

##### **Road Naming Process and Procedures Conversation:**

During the Planning Commission meeting, there was a detailed discussion about establishing road naming procedures within the city.

Phillips presented the staff report outlining potential road naming procedures. The commission debated whether to adopt Clatsop County's more comprehensive process or stick with the minimal state framework. Suggestions were made to ensure road names align with public safety needs and to address concerns about consistency and efficiency in the road naming process.

Watts emphasized the importance of considering public safety and proposed making road naming a condition of approval for new developments. The commission also discussed the need for clear procedures regarding road renaming and differentiating between administrative processes and ordinance requirements. He proposed making road naming a condition of approval for new developments, ensuring that road names align with public safety needs and avoid potential issues with serial partitions or unsuitable road conditions. The discussion also touched on the need for clear procedures regarding road renaming and differentiating between administrative processes and ordinance requirements.

Connell suggested amendments to ensure road names avoid personal or familial associations and reflect local flora or fauna when appropriate. The commission refined these suggestions to incorporate into the road naming procedures.

The commission deliberated on incorporating these considerations into the road naming procedures to ensure consistency and efficiency in future road naming endeavors.

Cockrum suggested change on number five, be a historical name, theme name, or local flora or fauna when appropriate.

On **MOTION** by Cockrum, 2<sup>nd</sup> by Frank, that we direct the city to complete an administrative procedure for the naming of new roads and the potential procedure for changing an existing road name to follow the county graph with changes commission discussed.

6 - in Favor – Frank, Dideum, Cockrum, Schector, Taggard, Halperin



0 - Opposed

Phillips was tasked with rewriting the county procedures to align with city regulations.

**Road Naming for the Contractor Conversation:**

Phillips presented the staff report outlining the naming of the street, with Aaron Strickland of Pink Windows Property suggesting "McAdam," and provided some historical context, which was appreciated by the commission. It was noted that this was the only suggestion received from property owners. Additionally, staff had proposed several other names. Watts had suggested using "court" as a suffix to indicate to emergency services that it's a dead-end street, deviating from the usual "Lane" suffix used for streets east of Highway 101.

The commission discussed the qualities of Mr. Strickland's suggestion and considered its historical significance. There was mention about the spelling of "McAdam" and its association with the inventor of macadamized roads.

Ultimately, the commission leaned towards accepting Mr. Strickland's suggestion to maintain consistency with the suffix "court" and ensure regional consistency. With no further suggestions' forthcoming, a motion was made to name the street "McAdam Court" as proposed.

On **MOTION** by Frank, 2<sup>nd</sup> by Schector, so accepting McAdam Court.

6 - in Favor – Frank, Dideum, Cockrum, Schector, Taggard, Halperin

0 - Opposed

NEW BUSINESS - None

CONCERNS OF THE COMMISSION - None

QUESTIONS FOR LAND USE ATTORNEY - None

The meeting was adjourned at 7:52 p.m.

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Angoleana R. Torres, Secretary,

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Approved