



## **ORDINANCE NO. 950**

### **AN ORDINANCE VACATING A PORTION OF HEMLOCK STREET RIGHT OF WAY**

**WHEREAS**, Beach Development LLC submitted an application to vacate a portion of Hemlock Street Right of Way located in contemporary lay terms as the right of way running north and south between US 101 and Glenn Avenue, from Pacific Way about four hundred feet to the south, and formally/legally described below; and

**WHEREAS**, City of Gearhart Planning Commission considered the application as new business on their publicly noticed agenda and recommended approval with conditions on August 14<sup>th</sup>, 2025; and

**WHEREAS**, the request with conditions approved by City Council following their September 3<sup>rd</sup>, 2025 hearing meets the requirements of City of Gearhart Zoning Ordinance Article 12 and ORS 271.005 – 271.540;

**NOW, THEREFORE**, the City of Gearhart ordains that a portion of Hemlock Street shall be vacated as defined herein and in accordance with the Gearhart Zoning Ordinance Article 12 Street and Alley Vacation.

#### **Section 1 Right of Way Area to be Vacated**

Hemlock Avenue as laid out on the Amended Plat of Woodland Park Addition to Gearhart Park, Blocks 1 to 10, inclusive. As Recorded in Book 7, Page 27, Clatsop County Plat Records from the South Line of 6th Street to the South line of Lot 5, Block 4 on the East and Lot 42, Block 4 on the West.

#### **Section 2 Street Vacation Stipulations**

The applicant and adjacent owners to whose property the vacated right of way will attach shall comply with the conditions established in the September 3<sup>rd</sup>, 2025 City Council Hearing. (The hearing was continued and conditions modified on October 1<sup>st</sup>)

#### **Section 3 Effective Date**

This ordinance will be read two times and will be effective 30 days after the second reading.

#### **Section 4 Compensation**

Adjacent owners shall compensate the City a total of at least \$5,000, in consideration of estimated required compensation to the City of \$29,140, and a discount of \$24,140 from the City in exchange for an ~~access~~ <sup>no build</sup> easement that prohibits development occupying the whole vacated right of way. (This section was modified by motion prior to 1<sup>st</sup> reading on October 1<sup>st</sup>)

Passed by the City Council of Gearhart this 5<sup>th</sup> day of November, 2025.

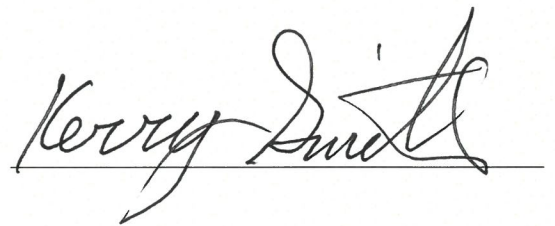
Yeas: 5

Nays: 0

Absent: 0

Abstain: 0

Approved and signed by the Mayor of Gearhart this 5<sup>th</sup> day of November, 2025.

A handwritten signature in cursive script, reading "Kerry Smith", written over a horizontal line.

Mayor Kerry Smith

ATTEST:

A handwritten signature in cursive script, reading "Chad Sweet", written over a horizontal line.

City Administrator, Chad Sweet

**Affidavit of Non-Interest in Vacated Right-of-Way**

**City of Gearhart – File No. 25-06 SV – Ordinance No. 950**

**STATE OF OREGON )**

**County of Clatsop ) ss.**

I **Gary Hanson**, being duly sworn, depose and say as follows:

1. **Property Ownership.** I am an owner of the real property identified as **Taxlot 61010BA03600**, with mailing address **P.O. Box 173, Astoria, OR 97103**.
2. **ROW Vacation.** The City of Gearhart, by **Ordinance No. 950** (File No. 25-06 SV), approved on **First Reading October 1, 2025, and scheduled Second Reading November 5, 2025**, is vacating a portion of **Hemlock Avenue as laid out on the Amended Plat of Woodland Park Addition to Gearhart Park, Blocks 1 to 10 inclusive, as recorded in Book 7, Page 27, Clatsop County Plat Records, from the South line of 6th Street to the South line of Lot 5, Block 4 on the East and Lot 42, Block 4 on the West.**
3. **Notice of Compensation.** Pursuant to state law, the City notified adjacent owners, including us, of the estimated compensation required to acquire our share of the vacated right-of-way. The original notice (mailed previously) indicated an estimated compensation of **\$23,040.00** for half Hemlock right of way areas adjacent to our parcel (Taxlot 61010BA03600).
4. **Council Decision on Final Compensation.** On final adoption, the City Council approved disposition of the entire right-of-way for \$5,000.00 total, with cost allocation proportionately assigned to adjacent owners based on the average assessed land value of the adjacent parcels. The required compensation to obtain the western half of the subject right of way is between \$0 and \$2,500, which would be determined based on the final square footages of right of way area and Locally Significant Wetland in the right of way area, based on a survey provided by me.
5. **Acknowledgment and Disclaimer.** We acknowledge that we have been offered the opportunity to acquire our proportionate share of the vacated right-of-way at this reduced cost, but we **elect not to acquire any portion of the vacated right-of-way.**

Accordingly, we hereby **disclaim, release, and waive any and all right, title, or interest we may have to acquire any portion of the vacated right-of-way described above**, thereby allowing the City of Gearhart to convey the entire vacated right-of-way to **Beach Development LLC**, the applicant.

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**Signature(s):**

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**Gary Hanson**

Date: \_\_\_\_\_

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**Notary Acknowledgment**

**State of Oregon )**

**County of Clatsop ) ss.**

On this \_\_\_\_ day of \_\_\_\_\_, 2025, before me, the undersigned Notary Public, personally appeared **Gary Hanson**, personally known to me (or proved on the basis of satisfactory evidence) to be the individuals who executed the foregoing instrument, and acknowledged that they signed it voluntarily for the purposes stated therein.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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Notary Public for Oregon

My Commission Expires: \_\_\_\_\_

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**City Contact for Questions:**

Chad Sweet, City Administrator

City of Gearhart