

Gearhart Planning Commission Minutes for August 14, 2025

MEMBERS: Virginia Dideum, Russ Taggard, Don Frank, Eric Halperin, Emerson Fisher, John Mesberg, and Jennifer Grey

STAFF: Chad Sweet, Garrett Phillips, and Angoleana Torres

Minutes

The regular meeting of the Gearhart Planning Commission for Thursday, August 14, 2025, was called to order at 6:02 p.m. by President Virginia Dideum. *Staff members present were Chad Sweet, Garrett Phillips & Angoleana Torres.*

CONSENT AGENDA

On MOTION by Halperin, 2nd by Fisher, the consent agenda was approved as presented. Said agenda approved Minutes for July 10, 2025, financial report for July 30, 2025. Correspondence – Letter to city council.

7 - Approved (Dideum, Frank, Taggard, Grey, Halperin, Mesberg, Fisher)

0 – Opposed

STAFF REPORT

Sweet reported that the city has reissued the Request for Proposals for attorney services. During the previous short submission period, only one proposal was received. The process will now extend over three months to allow for broader participation. In the interim, the city will continue to be represented by Chad Jacobs of Beery, Elsner & Ammons, who also serves several other area cities.

Sweet also provided an update on the Public Safety Building. Following community conversations and council deliberation, council chose not to move forward with the November ballot measure. Instead, they will reassess the project scope to explore cost reduction options. Staff are in communication with the Oregon State Building Codes Division to determine whether critical infrastructure exemptions may apply. The estimated cost for soils amendment and related work remains approximately \$9 million. Staff will continue working with architects and plan to develop a new proposal and community outreach strategy targeting the May 2026 ballot.

Phillips reported on several ongoing items. He first updated the commission on the flood hazard overlay zone. In June, the planning commission recommended adoption of text amendments to bring the city's ordinance up to the minimum standards reflected in Oregon's 2020 model floodplain ordinance, ensuring protection of life and property from flood risks, but holding off on adopting FEMA's new Endangered Species Act (ESA) requirements. City council held a hearing, had the first and second reading, adopted the commission's recommendation, and passed the ordinance at its last meeting. However, council later expressed interest in reconsidering and potentially adopting FEMA's ESA standards. Attorney Chad Jacobs provided informal input on the legal risks of not adopting them, and given council's interest, staff will return with an ordinance at the next meeting for further consideration.

Phillips also discussed pickleball, noting that City Council has directed staff and the Planning Commission to work together on potential zoning regulations to limit pickleball courts in or near residential areas. At the next

commission meeting, as a new business item, staff will provide a report summarizing the issues, along with examples of approaches other cities have taken, and present alternatives for discussion toward a future ordinance.

Regarding potential tree ordinance changes, Phillips reminded the commission that the previous discussion included the idea of drafting a letter to city council requesting buy-in before developing detailed ordinance amendments. He encouraged the commission to focus on defining one or two clear problem or objective statements so council can clearly understand the intent before staff proceeds into specifics.

Lastly, Phillips reported the upcoming discussion on the street vacation item, clarifying that it is new business and not a formal hearing. He will present a staff report, including corrections of errors, and invited the commission to allow the applicant or their representative if present, an opportunity to share input or answer questions, following principles of open discussion.

Halperin asked whether the planning commission's role in the flood hazard overlay and FEMA Endangered Species Act (ESA) requirements had concluded, or if the matter would return to the commission in the future.

Phillips explained that the city council will consider at its next meeting whether to adopt the ESA PICCM-based standards in addition to the model ordinance already adopted on the commission's recommendation. He clarified that the commission's prior recommendation, based on advice from the former city attorney, was to hold off on adopting the new FEMA standards, and council initially followed that recommendation. However, the new city attorney has provided a different perspective, and some Oregon cities have begun adopting the ESA model ordinance. Phillips noted there will be lessons learned statewide over the coming year as jurisdictions process floodplain development applications under the new standards. FEMA is also finalizing its environmental impact statement and final guidance for local governments. The current PICCM standards (Pre-Implementation Compliance Measures) are expected to evolve into final implementation compliance measures that FEMA will require. Phillips stated that while council will decide whether to adopt the standards now, it is very likely the issue will return to the Planning Commission in the coming years for a new review process once FEMA finalizes its requirements.

COMMISSIONERS REPORT – None

VISITORS COMMENTS – None

PUBLIC HEARINGS - None

UNFINISHED BUSINESS – None

NEW BUSINESS

File 24-08SV, Street Vacation Request (Hemlock Avenue)

The planning commission reviewed File 24-08SV, a street vacation request submitted June 25, 2025, by applicant Terry Lowenberg of Beach Development LLC for Hemlock Avenue. The request concerns the platted but undeveloped 30-foot by 400-foot right-of-way extending south from Pacific Way, located near the elementary school, as recorded in Book 7, Page 27 of the Clatsop County plat records.

Dideum clarified that this is a legislative decision by the city council, with the planning commission's role limited to considering the request as business and making a recommendation. Staff presented a detailed report, noting

corrections to errors in the initial document, including misidentified location and applicant references on page 1, and a clarification that only Beach Development and Palmberg/Hansen properties directly abut the right-of-way.

Phillips confirmed the area is largely overgrown with brush and wetland vegetation, includes a shed and driveway at its north end, and is partially identified as a locally significant wetland. The area is not listed in the city's Transportation System Plan or Parks and Recreation Master Plan, and no city utilities or future plans for infrastructure were identified.

Phillips explained state and local standards for right-of-way vacations under Article 12 of the zoning ordinance, which mirrors state law. The applicant provided required consents from adjacent owners (Palmberg/Hansen to the west and Beach Development properties to the east), as well as two-thirds of owners within 400 feet. Clarifications are needed regarding compensation: either each adjoining owner must compensate the city for their share of the vacated right-of-way, or the applicant must pay the total amount and arrange private transfers. Based on 2024 Clatsop County assessed land values, staff calculated a compensation rate of \$9.88 per square foot, resulting in \$118,560 in total, though interpretation of Section 12.030 may reduce this by half. Compensation is based on assessed land value only and does not account for wetlands.

Staff confirmed the vacation would not remove access to surrounding parcels, utilities, or infrastructure, though agas and power lines run through part of the right-of-way and may require future easements. Staff also suggested a possible condition to retain a limited city access easement to reach the southern remnant of right-of-way. The vacation would not create new lots but instead attach the vacated right-of-way to the adjacent parcels.

Phillips confirmed the wetlands involved are Goal 5 Locally Significant Wetlands, not Goal 17 Coastal Shorelands, so no public access mitigation is required under state law. Conditions of approval include ensuring compensation is paid, clarifying utility easements, and potentially retaining city access to the southern remnant.

Phillips emphasized that by statute, the matter must proceed to city council regardless of the commission's recommendation. He noted staff will finalize corrections, issue compensation statements to the applicant and adjacent owners, and consult with the city attorney regarding the interpretation of compensation calculations. The commission discussed errors in ownership references, the role of Palmberg and Hansen as co-owners of the western abutting parcel and clarified that Kumar's property is not adjacent. Staff concluded with options for the commission's recommendation, approval, denial, or no objection, acknowledging that this type of application is infrequent and warranted detailed review.

During discussion, the commission confirmed that the three abutting property owners involved in the Hemlock Avenue vacation request are Palmberg, Hansen, and Lowenberg. Commissioners asked about the historical purpose of the right-of-way, and it was explained that the original Gearhart plat laid out 5,000-square-foot lots and rights-of-way to provide rear access before wetlands laws were adopted, though in practice the wetlands made such access impossible. There was concern that the adjoining owners may not realize compensation is required, since the application materials did not indicate that, and stressed that the city council should not proceed without the owners' full awareness of potential costs, which could be \$59,000 or \$118,000 depending on interpretation.

Phillips acknowledged this was possible, noting consents were submitted but no compensation letters had yet been issued; staff committed to sending letters the following week and resolving the "half-cost" issue before

doing so. Commissioners discussed that the applicant, Beach Development LLC, submitted the application and paid fees to begin the process, and likely understood some charge would be required. It was also noted that both owners involved are developers and therefore should understand land acquisition costs.

Further discussion focused on possible motivations for the vacation, including resolving a northern building that appears to cross the property line, extending parcels by 15 feet, and potentially impacting property taxes. It was observed that wetlands make most of the right-of-way unusable, and the primary purpose may be to bring a building into compliance. There was also reference of a similar vacation on Lincoln Avenue through the elementary school property and questioned whether that had proven beneficial. Staff confirmed that city departments, including fire, found no public need for retaining the right-of-way.

Commissioners noted benefits to the applicant could include increased square footage for future sale, altered setbacks, and more flexibility with the existing building near Pacific Way and Hemlock. Concerns were raised about leaving a “dead end” of city-owned right-of-way at the south end, and Phillips recommended the city retain an easement for municipal access to avoid future liability or negotiations. Several commissioners supported that condition.

Overall, Commissioners agreed the vacation appeared to cause no harm to the city and may meet the needs of the adjoining property owners, provided the city retains an easement for access to its remaining parcel and the compensation issue is clearly resolved before city council consideration. Commissioners Fisher, Taggard, Grey, and others expressed no objection to the request under these conditions, while Mesberg remained cautious about compensation awareness but acknowledged that if the city can secure \$59,000–\$118,000 for otherwise unusable land, it would be beneficial to the city budget.

On MOTION by Halperin, 2nd by Grey to recommend to the city council that this application be approved, with these, conditions 1 and 2, that have been laid out in the staff report.

7 - Approved (Dideum, Frank, Taggard, Grey, Halperin, Mesberg, Fisher)

0 – Opposed

INFORMATION / DISCUSSION

CONCERNS OF THE COMMISSION

Trees

Commissioner Taggard revisited concerns about the tree permit process, asking whether the current permit was unclear and needed to be revised for clarity. He offered to draft a letter for commission review outlining possible changes but questioned whether the starting point should be the application or the ordinance itself. Grey noted the ordinance establishes two separate categories, 55-inch trees and heritage trees, that were treated differently by city council, whereas Taggard had blended them into one category. It was clarified that a heritage tree designation is a property-owner-initiated process requiring city council approval and that removal of a designated tree would require a public hearing. Taggard emphasized that his intent was to simplify the application form, clarify tree measurement standards (such as measurement at 4.5 feet and treatment of double-trunk trees), and make the permit easier for applicants and the commission to use. Commissioners agreed that staff and Taggard could work together to revise the form for clarity while respecting council’s direction to maintain both tree categories. They also discussed whether certain criteria in the permit overlapped with building permit review and could be

streamlined. Separately, they asked about the status of the 1st/2nd Street property near 10th Street, where community members, the North Coast Land Conservancy, and the developer were in discussions to preserve trees through a potential acquisition. Staff noted the city had submitted a letter signed by the mayor, expressing interest in receiving the property if purchased and donated for preservation.

Pickleball

The Commission asked about the status of pickleball regulation. Staff reported that city council had directed staff to return to the planning commission with examples of ordinances from other cities addressing pickleball noise and land use issues. The commission was informed that this information would be presented at the next meeting, followed by a future public hearing on possible amendments.

QUESTIONS FOR LAND USE ATTORNEY – None

The meeting was adjourned at 7:30 p.m.

Angoleana R. Torres, Planning Assistant

Virginia Dideum, Commission President

