



Angoleana Torres <planning@cityofgearhart.com>

Fwd: Tree Cutting Ordinance Thoughts

Chad Sweet <chadsweet@cityofgearhart.com>
To: Angoleana Brien <planning@cityofgearhart.com>

Mon, Mar 4, 2024 at 9:12 AM

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From: **Dana Gould** <councilorgould@cityofgearhart.com>
Date: Fri, Mar 1, 2024 at 10:19 AM
Subject: Tree Cutting Ordinance Thoughts
To: Garrett Phillips <gphillips@columbiaestuary.org>
Cc: Chad Sweet <chadsweet@cityofgearhart.com>, Peter Watts <peter@peterowattspc.com>

Hello Garrett,

As you know, the city council declined to vote on the changes the commission recommended to the existing tree cutting ordinance. I cannot speak for the rest of the city council, but I want to make my reasons for hesitating clear, without misinterpretation. First let me say, I am extremely grateful for the service the commissioners provide to the city and council. I respect their decisions and advice. I was pleased to see the commission's discussions outlined in the packet provided to the council. I do have concerns that I did not see addressed in the discussions. Or if they were, maybe I overlooked them, because I am unaware of the outcome of the discussion(s). Having the commission's input on these concerns would help me determine how I will vote if the ordinance returns to the council in the future. I was advised by Peter Watts that I can submit my concerns directly to you to share with the commission for the sake of efficiency.

My first concern has to do with my understanding of the purpose and roles of the Comprehensive Plan and the Zoning Ordinance. According to section 1.020 of the Zoning Ordinance, the purpose of the Ordinance is to "serve as the primary implementation tool for the Gearhart Comprehensive Plan". I interpret this to mean the role of the Zoning Ordinance is to support, not alter or add to, the community's goals established in the Comprehensive Plan. I believe some council members will ask you to consider inserting additional verbiage into the tree cutting ordinance about the value of trees to the community and property values. This verbiage might be educational and appropriate if disseminated somewhere else, I don't think it's appropriate to include it in an ordinance. Although I generally agree with protecting trees, there is currently no such community goal identified in the Comprehensive Plan. Instead, the Comprehensive Plan states harvesting for commercial purposes shall be prohibited, but in other circumstances trees may be removed subject to the "appropriate" standards in the Zoning Ordinance. It seems to me, the place to put a community value statement about trees would be the Comprehensive Plan...and such a change could only occur after the required community involvement and state review. I am hoping you can guide me to the correct understanding if I am wrong. Further, the Comprehensive Plan's Implementation Policies state, changes must serve the "broad community interest," and "not just any private interest." The planning commission report indicated there was little to no community interest demonstrated in the public hearings on this subject. Two citizens spoke at the city council's subsequent hearing. In my preparation for the council's discussion on this subject, I polled a few of my constituents. No one I spoke with was aware of the proposed changes to this ordinance. No one agreed with the need to make them. Most were angered when they learned about it. As a result, I wonder if changes are needed to serve the "broad community interest."

Another stated purpose of the Zoning Ordinance is to "provide for the public health, safety and general welfare of the citizens of Gearhart through orderly community development," with listed considerations. Under the existing tree removal ordinance, homeowners use their own best judgement and may quietly take swift action to remove a dangerous tree. To my mind, the significant cost and effort involved in removing trees large enough to be regulated under this ordinance already provides reasonable protection against indiscriminate or unnecessary removal. And while trees are cut from time to time, overall our community does a good job of self regulating to maintain our charming atmosphere, and we have far more trees in our community than many urban areas. I suspect the proposed changes may increase conflicts between neighbors, and result in more public complaints...which the city will be obligated to investigate and provide responses for. Rather than reduce staff work, it will increase staff work without providing any compensation through fees. This could be a problem for our small staff. Fear of negative scrutiny and a lack of desire to participate in the permitting process may discourage homeowners from removing trees that pose a risk to the public and property. At the very least, the proposed changes fail to allow an exemption for emergencies on weekends and holidays, or other times when city staff are not available to issue permits.

In the list of considerations that may mitigate Zoning Ordinance decisions, "protection of property values" and "aesthetic" are given equal weight with "maintenance of adequate open space for light and air" and "provisions for access and privacy". I wonder if the proposed changes give inappropriate consideration to aesthetic while ignoring homeowners' rights to make their own decisions (within the existing reasonable guidelines) affecting their property value. This is an important right in a community like Gearhart, where so much of a property owner's available yard is unusable because it is occupied by septic fields.

I also have a concern about the proposed definition of trees. I appreciate the commission's attempt to add clarity. However, many bushes would meet the proposed definition because it doesn't restrict the measurement to only the trunk or largest branch at the 4' height. Making it clear the circumference measurement would not include all the branches present at the 4' height would prevent future disputes about bushes vs trees.

On one hand, I agree with the attempt to reduce costs for homeowners by altering the requirement for arborists' reports. However, I suspect creating more permits may bring more legal challenges (similar to the increase in challenges nearby cities experienced when they implemented similar regulations). As I said, I am not sure our limited staff resources wouldn't be overwhelmed by this change, and removing the reliance on an expert's opinion may hinder our ability to defend the city's actions. If staff work increases due to complaints and challenges, then all of the tax payers share the cost, rather than only the affected homeowner. I have very serious reservations about that proposed change.

I noted the revision does not allow special consideration for removing invasive species. There was some discussion in council about whether we have invasive species trees in Gearhart. I believe that an invasive species is something that is not native, and its sudden intrusion can be harmful to the surrounding environment. Whether we currently have invasive species or not, homeowners' requests to remove invasive species trees should be given special consideration to avoid future problems.

Last, I appreciate the inclusion of the word "shall," requiring the city to issue permits for 1-5 trees meeting the ordinance requirements without discretion. However, during the January city council meeting, when I asked if single use permits would be denied, the answer wasn't "no" (21:30 mark). Perhaps that was just a misunderstanding of my question by the discussion's participants, but it created concern in my mind that some will interpret this permitting process as creating an obligation for home owners to justify every tree removal. I don't think it's "appropriate" for the city to decide that a tree adds more value to private property than a green house, vegetable garden, or play set for an owner's children. My greatest fear is the city will have to process and respond to complaints or challenges every time a single tree cutting permit is issued.

Thank you for taking the time to read my concerns and share them with the commissioners,

Dana Gould

—
"Resilient Together!"

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