

CITY OF GEARHART STAFF REPORT

To: Gearhart Planning Commission

From: Garrett Phillips, City Planner

April 1, 2024 Tree Removal

Application Purpose: An application to remove five trees from the public right of way adjacent to the applicant’s property, in addition to five trees previously removed within the same calendar year.

Public Hearing Date: April 11, 2024

Property Owner: Jenny and Don Frank
PO Box 2641
988 Summit Ave.
Gearhart OR 97138
don@donfrankphotography.com

Applicant’s Arborist: Balden Arboriculture Services

Location: Public Right of Way adjacent to 988 Summit Ave, Gearhart, OR.

Completeness: 03-25-24

Notice Mailed: 03-23-24

Notice Published: 03-23-24

Hearing: 04-11-24

120-day deadline: 07-23-24

Exhibits: Applicant’s application, photos, letter
Arborist’s Tree Hazard Evaluation Form 09-25-2023
Arborist Letter dated 10-02-2023
Arborist Tree Location Site Diagram 10-02-2023

Review Criteria:
GZO Section 6.080 Tree Removal
GZO Article 9 Administrative Procedures

I. FINDINGS

A. Background: The applicant proposes removing five trees from public right of way

adjacent to their property. Removal of six or more trees in a calendar year requires a tree removal permit decided upon by the Planning Commission. The applicant previously removed five trees within the same calendar year.

B. Site information: The trees are located in the public right of way between the edge of Summit Avenue and the property boundary of 988 Summit Avenue. There is a public water line in the immediate vicinity of at least some of the trees.

C. Plan and Zone Standards:

GZO 6.070(8) Tree Preservation and Removal
GZO Article 13 Administrative Provisions

D. Agency Coordination: The proposal was referred to city departments. No staff comments were received prior to completing this report.

E. Public Comments: No public comments were received prior to completing this report.

F. GZO Section 6.070(8) Preservation and Removal of Trees Standards and Findings

Definition: For the purpose of this section, “tree” is defined as follows: Any tree greater than twelve (12) inches.

FINDINGS: The application materials indicate that at least five of the ten total trees proposed for removal or previously removed are between 8 and 14 inches DBH (diameter at breast height). Five of the trees shown in the applicant’s photographs appear to be larger than 12 inches DBH. While the City does not know the actual DBH measurements of the trees previously removed or those proposed for removal, it appears that at least six trees meeting the definition of tree are proposed for removal.

Any person proposing to remove, cut down, or otherwise destroy more than five trees within a twelve-month period shall first obtain a tree removal permit from the City. The Planning Commission may grant or deny a request for a tree removal permit on the basis of the criteria set forth below in Section 6.070(8)(E), except as provided in Section 6.070(8)(F) below.

FINDINGS: The City understands that the applicant removed five trees in January 2024, and is proposing to remove five more trees within a year, so a tree removal permit would be required to remove five more trees. The Planning Commission decides on the permit.

Criteria: The granting of a tree removal permit shall be based on a finding that at least one of the following criteria is met:

- (1) Necessity to remove trees which poses a safety hazard.
- (2) Necessity to remove trees which are diseased. Evidence of disease shall be provided by a qualified forester or arborist.
- (3) Necessity to remove trees in order to construct proposed improvements, including the placement of structures and on-site sewerage disposal facilities, access ways, utilities, need to make essential grade changes, and other authorized activities.
- (4) Solar access; and the need to remove trees which deposit needles or other debris on rooftops.

The burden of proof is on the applicant to show that other design alternatives which do not require the tree removal are not practical or will create a significant economic hardship.

FINDINGS: The arborist's tree hazard evaluation report form dated September 25th, 2023 states that five trees are hazardous and that immediate action is needed to respond to the hazard. The report further states that removal of the trees, rather than methods less than removal is needed to mitigate the hazard. These trees are the ones that were removed in January 2024.

The arborist's report indicates that additional trees should be evaluated further for hazard safety concerns. These are the trees that are proposed for removal after this permit is decided upon.

Any resident can have five trees removed from their property without obtaining a permit, and without having any reason to do so, regardless of the tree's size or condition.

Based on that information, it is reasonable to conclude that in proposing to remove more than five trees within a year, facts satisfying criteria number one are applicable to the removal of at least those trees for which a tree removal permit is required.

Such conditions as are deemed necessary and appropriate to ensure the proper enforcement of this section may be made part of the removal permit. Such conditions may involve, but are not limited to the following:

- a. The replacement of the trees proposed for removal with trees of a suitable type, size and location.
- b. A Plan for protecting trees on the project site during and after development.
- c. Restrictions on cuts, fills and grading within the vicinity of remaining trees.

FINDINGS: The applicant volunteered in their application materials to plant 5 to 10 trees

on their property as a condition of approval of the tree removal permit. There is public water infrastructure in the immediate vicinity of the trees. Staff recommend that the following conditions accompany permit approval, should it be granted:

- To avoid disturbing tree roots, soil, and water infrastructure, the trees shall not be pulled from the ground, but rather felled. The purpose of this condition is to avoid damage to public water infrastructure that could occur by disturbing nearby roots.
- The applicant shall plant at least five trees within one year of issuance of this permit.

II. SUMMARY CONCLUSION

In considering the tree removal permit application as pertaining to the total number of trees removed or proposed for removal within a calendar year, five trees are proposed for removal that do not appear to meet the criteria for a tree removal permit, however any applicant can remove five trees without meeting those criteria and without needing a permit. An additional five trees were removed that meet criteria number 1 for a tree removal permit.

III. Decision Options

- Move to approve the tree removal permit and based on staff report findings or alternate findings.
- Move to deny the tree removal permit based on findings that the tree removal does not meet any of the four criteria.
- Move to continue the hearing.