

URBAN FORESTRY BOARD Agenda

520 E. Cascade Avenue - PO Box 39 - Sisters, Or 97759 | ph.: (541) 549-6022 | www.ci.sisters.or.us

Monday, June 10, 2024 – 3:00 P.M.

The Urban Forestry Board (UFB) is accessible to the public in person in the City Council Chambers at 520 E. Cascade Avenue, Sisters, OR 97759 and via the following Zoom link:

Passcode: 921290

- 1. CALL TO ORDER & ROLL CALL
- 2. APPROVAL OF MINUTES
 - A. May 13, 2024 Regular Meeting
- 3. VISITOR COMMUNICATION If speaking in-person, please use the Visitor Communication Sign-In form at the meeting. Written communication can be submitted for the record to jdumanch@ci.sisters.or.us. Written communication and requests to speak via Zoom must be received by 1:00 PM on the day of the meeting.
- 4. BOARD BUSINESS
 - **A.** Review of Tree Preservation Layout for the Sisters East Portal Mobility Hub Phase 1 design.
 - **B.** Review of draft Heritage Tree nomination form and draft recording document.
- **5. OTHER BUSINESS** Miscellaneous Issues or For the Board's Information (FYI only) and Specific to Trees in Public Rights-of-Way and Parks. City Forester's Use of Their Professional Authority/Discretion.
 - A. Leaning Ponderosa Pine near 320 N Songbird St.
- 6. BOARD MEMBER COMMENTS
- 7. ADJOURN

This agenda is also available via the Internet at www.ci.sisters.or.us. The meeting location is accessible to persons with disabilities. Requests for an interpreter for the hearing impaired or for other disability accommodations should be made at least 48 hours before the meeting by contacting Kerry Prosser, City Recorder at kprosser@ci.sisters.or.us. Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered at the above referenced meeting; however, the agenda does not limit the ability of the Council to consider or discuss additional subjects. This meeting is subject to cancellation without notice.

Urban Forestry Board (UFB)

Regular Meeting Minutes Monday, May 13, 2024 DRAFT

Board Members Present:

Therese Kollerer, Vice Chair Avery McChristian Cheryl Pellerin

City Council Representative Present:

Gary Ross, Councilor

Staff Present:

Dan Galecki, City Forester
Jackson Dumanch, Project Coordinator, Public Works
Scott Woodford, Director, Community Development
Jacob Smith, Code Compliance Officer, Community Development

Absent:

Patrick Burke, Chair Paul Bertagna, Director, Public Works

1. Call to Order & Roll Call

Vice Chair Kollerer called the Monday, March 11, 2024, regular meeting to order at approximately 3:00 PM. Staff confirmed a quorum was present.

2. Approval of Minutes

Vice Chair Kollerer directed the Board to the April 8, 2024, draft meeting minutes. Board Member McChristian made a motion to approve, Pellerin seconded. Motion passed unanimously.

3. Visitor Communications

Vice Chair Kollerer called for visitor communications. Project Coordinator Dumanch stated that there was no visitor communication.

4. Board Business

A. Discussion of proposed Sisters Development Code amendment regulating significant private tree removal on a developing lot.

Vice Chair Kollerer read the agenda into the agenda and called on staff to present. Code Compliance Office Smith introduced himself and offered a brief background on the agenda item including direction from City Council to update the code, on the existing code language, and on the reason for the update. Smith proceeded to describe the three options for penalties for violations and then asked if Director Woodford had anything to add. Woodford stated that this was being discussed due to the recent removal of a large tree in a development that was meant

to be preserved and the fine was viewed as insufficient to discourage violation. Kollerer thanked staff for the background and asked for discussion. Board Member Pellerin asked if the municipal code was the same penalty as option 1. Smith replied that option 1 matched the private tree removal penalty code language. Kollerer commented on prior changes to the code regarding private trees. Pellerin asked if diameter at breast height (DBH) could be determined after removal had occurred. Smith replied they could because trees are mapped prior to development. Kollerer asked if a homeowner could remove the tree in violation of the code prior to development to avoid higher fines. Smith replied they could. Kollerer and Councilor Ross commented on the tree that was removed in the Woodlands development. Board Member McChristian stated that attributes of the tree are important and suggested that Registered Consulting Arborists with a Tree Appraisal qualification could be consulted regarding determining the value of the tree and including the cost of appraisal in the fine. Woodford asked if only a stump remained could an appraisal still be made. McChristian stated that having a site plan would help and commented on damage to tree roots and if that should be considered. Project Coordinator Dumanch asked if City Forester Galecki had any comments. Staff noted that Galecki, who was attending virtually, was experiencing a poor connection. Galecki stated that they agreed with appraisal values and penalties based on tree size. Dumanch asked for clarification and Board Members provided the clarification. Galecki spoke again but could not be understood, Dumanch asked that Galecki's prior statement be sent to him in an email for communication to the Board. Pellerin asked if it was common for fines to differ between municipal and development code. Smith stated there is not typically much difference. Ross described a public tree removal that resulted in a fine that was reduced by a prior City Manager adding that the fine was not significant enough to discourage removal. Woodford added that there is not much overlap between the two codes regarding offences. Ross stated that developers compose tree preservation plans with the goal of using that plan to guide placement of structures, adding that the penalty is a deterrent. Kollerer asked if root damage was considered and if there were regulations about that. Woodford stated that there are requirements that developers remain outside of a tree's dripline, that special techniques can be used for tree preservation and read aloud the applicable code language. Ross asked if a remodel on an existing structure be revied by the City, Woodford confirmed that the City would review the permit in such a scenario. Kollerer asked which Director had jurisdiction, Woodford replied that he would. Dumanch informed the Board that he had received the email from Galecki and read the email aloud:

"For tree assessment a method of using diameter is a good method. Big trees with big stature should have large penalty. The appraisal method is good also, but could bring fines to tens of thousands of dollars. You be prepared for push back."

Pellerin suggested additional language to the proposed code regarding property owner at the tie of violation. Smith stated that may not be a helpful change. Ross stated that such a situation may not be addressed by this code. Smith stated they have never encountered such a situation but would consult legal. Woodford asked Smith if this was typical code language. Smith replied that it depends. Ross asked about enforcement in the municipal code. Smith stated that the proposed code would be development not municipal code. McChristian asked if there was policy to encourage preservation during development and preservation plan accuracy. Woodford stated there was policy for that and described it. Ross asked who made the decision to preserve or remove a tree. Woodford stated that staff did and described the review process. Ross asked who

prepared the preservation plan, Woodford replied that the developer does and sometimes the City Forester gets involved. Pellerin asked how big the tree removed in Woodlands was, Kollerer stated about 42 inches. Kollerer asked about tree conditions and if that was considered regarding preservation. Smith replied that in the case of Woodlands the tree was already marked for preservation. Ross commented on option 3, the significant penalty and how that may give a developer pause and encourage them to communicate with the City. Woodford agreed with Ross and expanded upon their statement. Ross stated they believed all tree removal should require a permit with or without a fee for the removal company. Woodford stated that the City has been trying to educate the public about the free private tree removal permit. McChristian stated that older and larger trees are often not the best candidates for preservation due to the safe working distance for a larger root system. Kollerer commented on previous discussions with McChristian about older trees and how they require more effort to preserve than younger trees. Kollerer recalled a tree on ODOT property near Creekside Park that appears to be declining, Ross mentioned that pavement was added closer to the tree and suggested that could be the cause. Ross asked that the Board recommend one or two options for staff or simply remove one option. Pellerin agreed that an option could be removed and suggested option one be removed. Pellerin made motion to remove option one. McChristian seconded. The motion passed unanimously.

Kollerer stated that option 2 was a significant deterrent and preferred option 3. Kollerer asked if heritage trees should be considered in this code language. Ross stated that Council will likely view them as separate issues for consideration and suggested the two not be considered together. Woodford read aloud the municipal code language regarding tree removal penalties. Ross stated that a penalty should give someone pause before they act as opposed to generating fees for the City, restating the fee is a deterrent. Pellerin asked if the Borad could recommend different penalties and how Smith arrived at the penalties being presented. Smith stated that option one matched the current private tree removal penalty, option 2 started at the maximum amount from option 1, and option 3 having a lower range within the range of existing penalties. McChristian asked if the DBH fee was only considered after a certain DBH adding that the penalty under option 3 for a 10-inch DBH tree was maybe too high. Ross recommended the Board choose whichever option they are comfortable with. Kollerer suggested the penalty be simple to understand and liked Ross' suggestion that a replacement tree be planted. Woodford stated that there may have been a valid reason for the tree being removed and recommended any requirement for replacement consider location. Pellerin asked about the development codes requirement of a 3-1 replacement ration would be considered. Woodford clarified before leaving for another meeting. Kollerer asked if Galecki had any comments. Galecki stated that they shared a document with Dumanch regarding assessing a tree's value and penalty. McChristian stated that tree appraisal is designed for this reason. Ross asked if the Board would wish to see the document that Galecki shared. Pellerin asked if McChristian was interested in a 4th option. McChristian suggested that the max fine could be the appraised value of the tree. Smith asked if the appraisal could be performed after the tree had been removed. McChristian replied it could to some extent. McChristian stated that the value considers more than just the size and health of the tree. Smith voiced concerns over effective enforcement of appraised values for a tree that had already been removed. McChristian recommended a registered Consulting Arborist be consulted with qualifications in tree appraisal. Ross suggested option 3 include language regarding the value of the tree. Kollerer asked if language could be added regarding a minimum

penalty. Ross asked if the Board preferred option 3 with changes then Smith could return at the next meeting with revisions for review. Dumanch asked if the Board preferred option 3 with revisions. Pellerin asked if there could be a range in which DBH was not considered to keep fines reasonable for smaller trees. Ross recommended simplicity. McChristian restated their preference for an appraised value before reminding himself this code was regarding trees a developer would have already designated for preservation. Ross restated that the penalty was a deterrent to encourage communication with the City before action is taken. McChristian stated that some cities have a tree bonded during development. Pellerin asked if the Board felt comfortable selecting an option. Kollerer stated that revisions should be made with language about appraisals and who pays for the appraisal. Smith stated that the City would pay for an appraisal and pass the cost along to the offender in the penalty. Ross stated that it was wise to consult the City's attorney regarding the suggested changes. Dumanch asked that the discussion not be drawn out because of another meeting scheduled in that room. Kollerer asked if a motion was required. Dumanch stated that a consensus from the Board is what would be needed. McChristian preferred option 3 with additions for appraisals, Kollerer and Pelerin also preferred that.

5. Other Business

Vice Chair Kollerer called on City Forester Galecki for updates. Galecki updated the Board on a leaning tree with some other issues but believes the tree to be sound. Galecki then described a declining tree at East Portal with a dead top but stated that their determination will depend on future plans for the area. Dan recommended the Board be well informed on the signs of insect infestation. Dumanch stated that the tree at East Portal was difficult to photograph well due to nearby trees but could send them more images. Dumanch added that Pellerin had brought this tree to Dumanch's attention after the agenda had been published. Kollerer and Pellerin asked about the first tree Galecki had mentioned. Dumanch stated that a report was not included in the packet for that tree. Ross asked if this tree was discussed in the last meeting. Kollerer asked about the location of the tree. Dumanch asked if Galecki was referring to a tree on Songbird St. Galecki confirmed, stating that he had sent the report in an email. Dumanch stated that he will look for the report and offered some background on the tree and would include the report for the next meeting. Galecki stated that the tree was healthy and had no immediate concerns. Kollerer asked if Galecki had further concerns about trees, he did not.

Kollerer asked about updates regarding a new City Forester. Dumanch stated that no decision had been made. Kollerer asked if interviews were taking place, Dumanch replied not at the moment. Kollerer asked if Galecki would remain with the City until a candidate was selected, Galecki confirmed he would. Dumanch restated Director Bertagna's comments in the previous meeting that the City would be looking for the best candidate.

Kollerer asked if Galecki needed to remain for the Arbor Day recap. Dumanch told Galecki that they are welcome to stick around but understood if they would rather leave the meeting at this point. Galecki stated that they would stick around. Kollerer gave a description of the event. Pellerin stated that it was nice to get children excited about trees. Dumanch stated that in prior years the trees had been more mature. Ross added that this event was more hands on for the

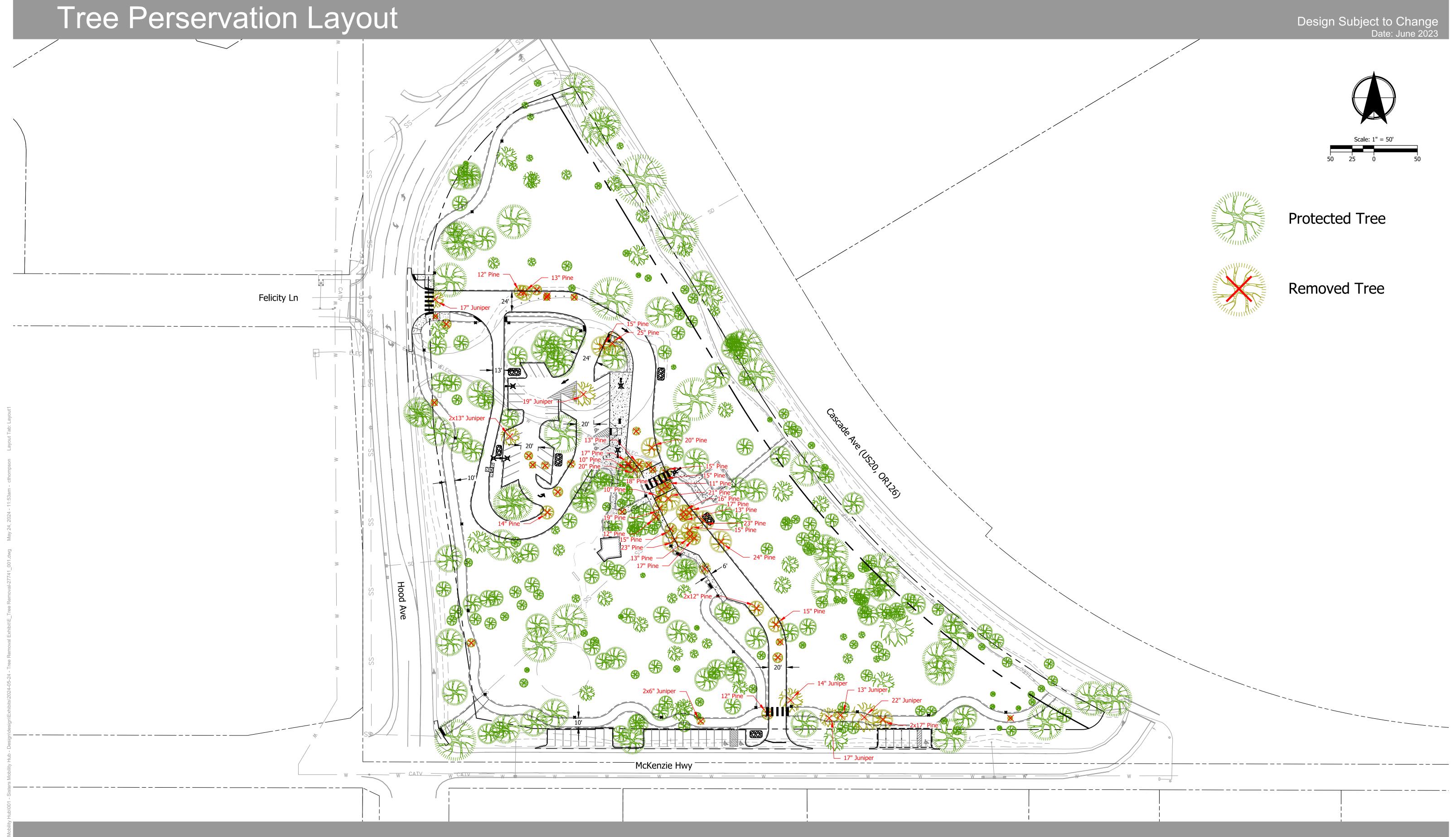
children. Pellerin liked that children could take a seedling home. Dumanch stated that around 100 seedlings were planted. Ross stated that someone with Upper Deschutes Watershed Council (UDWC) was unloading native shrubs for planting in the riparian zone as well with help from students in Bend. Kollerer stated that Kolleen Miller with UDWC led the event and directed the planting of seedlings. Kollerer mentioned that Project Ponderosa provided the ponderosa seedlings for the event with dogwood and aspens purchased by the City. Kollerer stated that they had been working with Associate Planner Shoup on the event on getting adults involved but that it didn't come to fruition this year recalling that there are funding opportunities for educational resources. McChristian recalled an educational event in Redmond using grant funding from Oregon Community Trees. Dumanch mentioned that he and Shoup had identified funding opportunities for community engagement. Ross stated that some may forget that there are not many City staff and that they do a lot. Ross reinforced Dumanch's and Bertagna's comment about finding the right candidate recalling the process for a new city manager requiring two rounds of candidates. Dumanch stated that it was an important decision granted how important the topic of urban forestry was to the community. McChristian asked what the timeline was for preparing for Arbor Day. Kollerer replied June. Ross suggested any work with staff be done in advance considering their busy schedules. Kollerer offered thanks to Shoup and Dumanch. Kollerer recalled Sue Stafford mentioning how the event had grown compared to prior years. Ross stated that planting trees could help children feel more engaged in the future.

6. Board Member Comments

Kollerer asked Dumanch if they knew when Heritage trees would be going to a Council workshop. Dumanch replied the last meeting of June. Ross reinforced their previous statements about the workshop format being well suited for discussion on the topic. Dumanch stated that a revised form and a draft recording document were ready. Kollerer asked if the Board should review the revised form. Dumanch stated that revisions were minor. Ross stated that further review by the Board may delay Council review.

7. Adjourn

Vice Chair Kollerer adjourned the meeting at approximately 4:43 PM.





Heritage Tree Nomination Form

520 E. Cascade Avenue | PO Box 39 - Sisters, Or 97759 | ph. (541) 549-6022 | <u>www.ci.sisters.or.us</u>



For Office Use Only		
Date Received	Form Number	
	y future regulations regarding Herita	te tree for Heritage status according to <u>Sisters Municipal</u> age trees. For more information call the Public Works
Applicant Information	ı	
Name		Phone Number
Mailing Address		Email Address
Site and Tree Informa	tion	
For trees other than p will consider, among s appropriate, the occur	imately 30 inches DBH or greater and onderosa pines, the Urban Forestry such other criteria and characteristics rrence (rarity) of the tree species in the the species has a low population	Board will consider each tree on a case-by-case basis and sthe Urban Forestry Board deems necessary and the city, its distribution throughout the city, its historical
Site Address	and/or Latitu	ude Longitude
Public tree Tree Species (common	Private tree n or scientific name) Tree Age	Diameter at Breast Height (DBH) Tree Height
Attachments:		
	ing tree location	Image(s) of tree (optional but recommended)
Written consent	of property owner (if located on pri	vate property and applicant is other than property owner)
		Updated//24

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Updated __/__/24

attach additional pages if needed)	
pplicant Signature	Date
egarding Heritage Trees on Private Property	
 Heritage trees on private property are the responsibility of Except as expressly provided otherwise in subsection (5) of for any person to remove, prune, injure, and/or otherwise written approval of the Urban Forestry Board. Prior to taking any proscribed action against any heritage Forestry Board from a certified arborist or other qualified hazardous. Such report must identify any possible treatm if it is dead or diseased, or poses a threat or hazard to safincluding, without limitation, by presenting a risk of wildfied. A tree on private property may only be designated as a head owner or by a third party with the prior written consent of the nomination or consent of a property owner will bind. When a tree located on private property is designated as acceptable to the City noting that such tree is subject to the Municipal Code. 	of 4.05.050 of the Sisters Municipal Code, it is unlawful to the tamper with any heritage tree without the prior of tree, the applicant will provide a report to the Urban diprofessional to determine whether the subject tree ment to avoid pruning or removal. A tree is "hazardous fety, property, and/or the health of other trees fire. The eritage tree if nominated by the applicable property of the applicable property owner. The all successors, heirs, and assigns. The above the owner will record an instrument

Heritage Tree Nomination Form

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After recording, return to:

City of Sisters PO Box 39 Sisters, OR 97759

RESTRICTIVE COVENANT AGREEMENT

	, 20 by
	("Owner") and City of Sisters, an Oregon municipal
corporation ("Ci	τγ").
	RECITALS
instrument recorreal property is a	Owner is the owner of certain real property more particularly described in the rded as Document No in the Deschutes County Official Records, which addressed as, Sisters, OR 97759 and also known as Deschutes Map and Tax Lot (the "Property").
	City adopted certain regulations within Chapter 4.05 of the Sisters Municipal Code de for the designation and protection of trees holding special significance within the eritage trees".
	Owner sought and obtained approval to designate certain tree(s) on the Property r depicted on the attached Exhibit A as a heritage tree (each a "Designated Tree").
	As a condition of approval to designate the Designated Tree as a heritage tree, Owner is ute this Agreement to acknowledge the designation and, therefore, the applicability of

AGREEMENT

heritage tree provisions within SMC Chapter 4.05 to the Designated Tree.

NOW, THEREFORE, is consideration of the heritage tree designation approval, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. Owner acknowledges and agrees that the Designated Tree is a heritage tree for purposes of SMC Chapter 4.05 and, therefore, subject to all provisions for heritage trees in SMC Chapter 4.05. Owner acknowledges and agrees that City may amend the provisions of SMC 4.05 from time to time and that any such amendments will be applicable to Owner, the Property, and/or the Designated Tree. References to SMC Chapter 4.05 herein shall refer to then current provisions of the SMC governing heritage trees.
- 2. Without limiting the provisions of Section 1, the Designated Tree may not be removed, pruned, or otherwise altered unless Owner obtains permission from City's Urban Forestry Board in accordance with the requirements of SMC Chapter 4.05.

- 3. Owner shall be solely responsible for the maintenance of the Designated Tree. The heritage tree designation does not obligate City to maintain the Designated Tree or provide technical support for its maintenance. This Agreement shall not be interpreted as in any way conveying or granting to the public any right to enter or use the Property. City and its employees and representatives may enter the Property during normal business hours to evaluate compliance with the Agreement.
- 4. Owner acknowledges and agrees that in addition to other fines and penalties, SMC Chapter 4.05 provides that if the injury, mutilation, or death of a heritage tree is caused by a violation of SMC Chapter 4.05, the cost of repair or replacement of such tree, of similar size, shall be borne by the party in violation. If repair or replacement is not feasible, the violator will pay a fine in the amount of the replacement value, which replacement value shall be determined by City in accordance with the latest edition of Guide for Plant Appraisal, authored by the Council of Tree and Landscape Appraisers. Owner acknowledges and agrees that the foregoing is fair and reasonable in light of the significance of the Designated Tree. The current valuation for the Designated Tree is set forth in Exhibit A, which is for reference purposes only and shall not limit a greater valuation in the event of a violation after the effective date of this Agreement.
- 5. In addition to any remedies provided to City under SMC Chapter 4.05, and without prejudice to such remedies, City may enforce this Agreement through any remedy available at law or equity including, without limitation, injunctive relief without any obligation to post bond or demonstrate damages. All remedies are non-exclusive and may be exercised concurrently or consecutively.
- 6. In the event of any suit, arbitration, or action arising from or related to this Agreement, the prevailing party in such suit, arbitration, or action shall be entitled to all costs and expenses incurred in connection with such suit, arbitration, or action, including title reports, expert witness fees, and such amount as the court may determine to be reasonable as attorney's fees therein, including attorney fees in connection with any appeal.
- 7. This Agreement runs with the land and will be binding upon all parties having or acquiring any right, title, or interest in the Property.
- 8. No waiver of any breach of any of the provisions of this Agreement or SMC Chapter 4.05 will be effective unless in writing and no such waiver shall be construed as, or constitute, a waiver of any other breach or a waiver, acquiescence in, or consent to any further or succeeding breach of the same. Nothing herein shall be construed as a waiver of City's right to enforce any provision of SMC Chapter 4.05.

[signatures on next page]

writte	n.		
		OWNER:	
		a(n)	
		By: Print Name:	
		Title:	
STATE	OF OREGON, County of) ss.	
20		wledged before me this day of	
	, a((n)	
		Notary Public for Oregon	
		CITY: City of Sisters, a municipal corporation	
		Ву:	
		Print Name:Title:	
STATE	OF OREGON, County of Deschutes) ss.	
	The foregoing instrument was ackno	wledged before me this day of	<i>,</i>
20	, by	, as	of the City of
Sisters	s, a municipal corporation.		
		Notary Public for Oregon	

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year above

EXHIBIT A Description and Depiction of Designated Tree

Species:		
Approx. Diameter at Breast Height:		
Approx. Tree Height:		
Current Replacement Value:		
Location on Property:	See general depiction below	
	[insert depiction]	

STAFF REPORT

TO: Urban Forestry Board

FROM: Dan Galecki, Spindrift Forestry Consulting, SAF CF, City of Sisters Urban

Forester

COPY: Paul Bertagna, Public Works Director

Jackson Dumanch, Public Works Project Coordinator

RE: 320 N Songbird Street, Ponderosa Pine Pitch, Lean, and Decline 4/19/2024

INTRODUCTION:

One large Ponderosa Pine was noticed to have defects or decline.

BACKGROUND & FINDINGS:

One large Ponderosa Pine has been noticed with lean, pitch flow, and perhaps signs of decline.





The location of the tree is in city ROW.

Both the lean and the presence of discolored foliage top appear to be at an acceptable level. The condition has been present for long period of time. Only extreme ice load and wind could topple this particular tree.



An additional concern is the amount of pitch flow. Most any residual pitch is the result of some old injury or infestation. In this situation, the pitch is old an any activity that may have been compromising the tree is a past event.

FISCAL IMPACT: Loss of urban ROW trees depletes the overall forested city-scape. Estimated cost of removal of this pine is between \$900 and \$1100

FINAL RECOMENDATIONS: All the described conditions and symptoms are a concern. However, the tree seems to be enduring these conditions. Since the tree is being influenced by so many factors, one more catastrophic impact could justify its removal. As it stands now, this tree should not be removed, and be considered for observation.