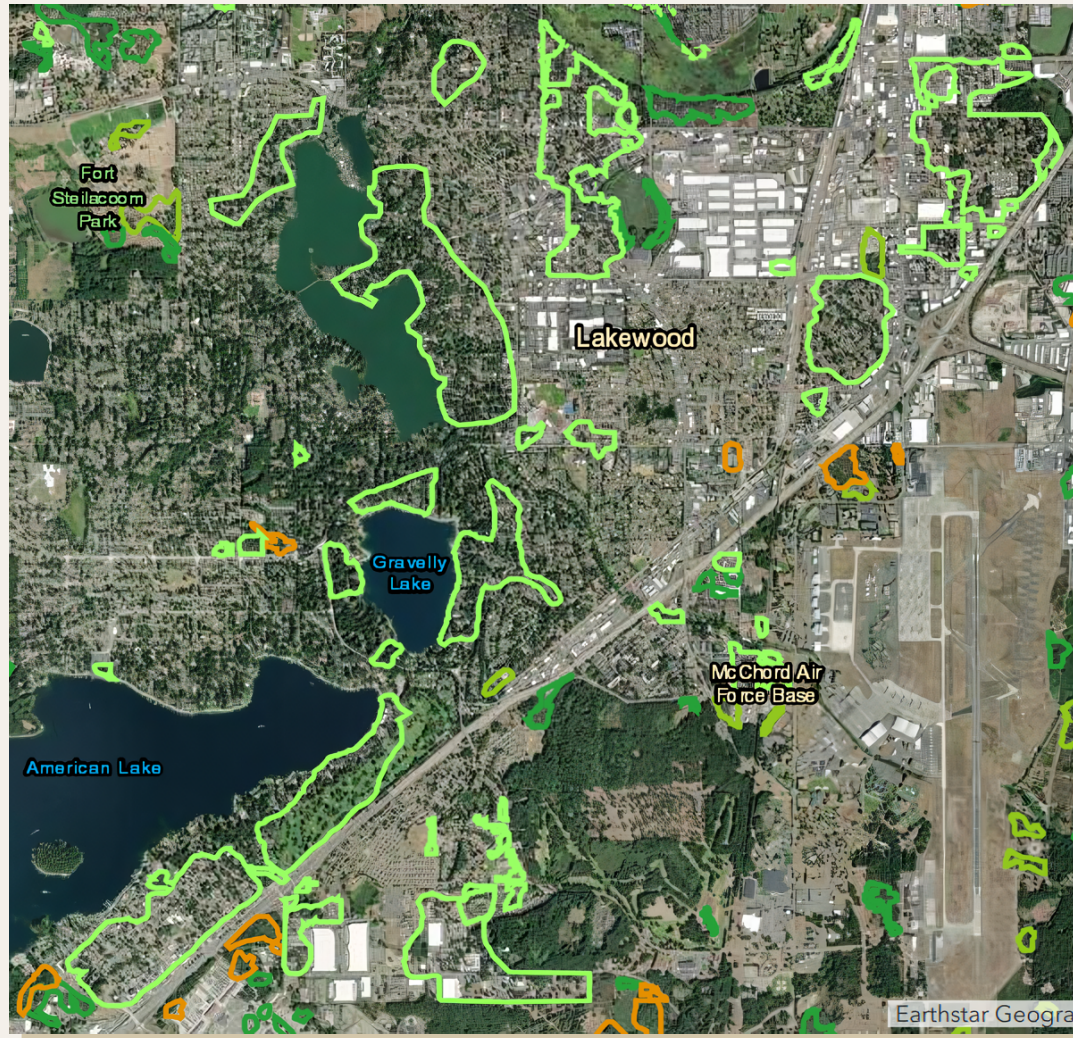




LAKEWOOD'S GARRY OAKS: VICTIMS OF FAILED LOCAL POLICY AND PLANNING

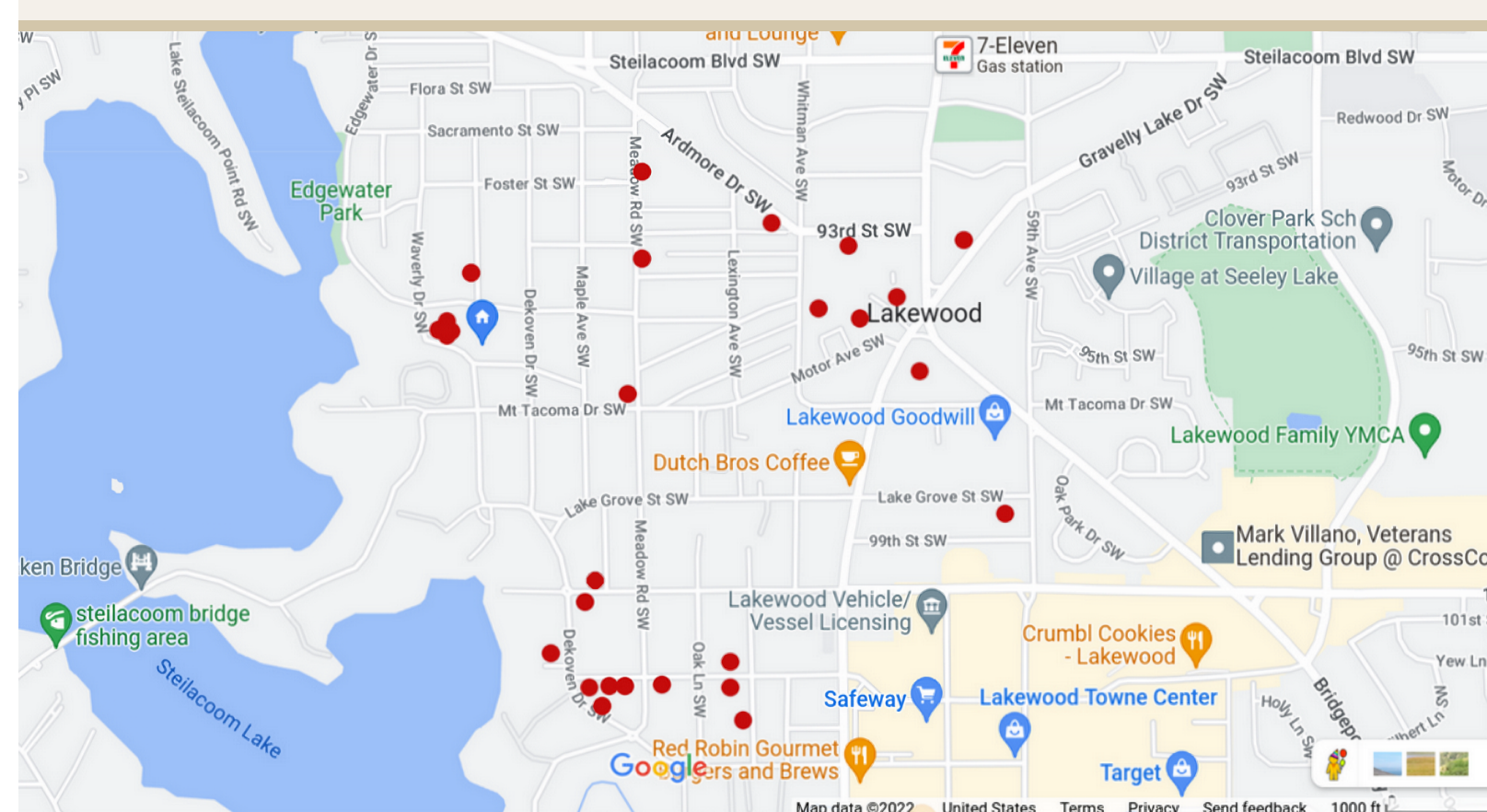
Christina Manetti, Ph.D., Garry Oak Coalition



Garry oaks in Lakewood, Sound Oaks Initiative map

ABSTRACT

This presentation summarizes what has been learned during four years of engagement with the City of Lakewood in the area of Garry oak policy. The City of Lakewood has one of the most extensive urban Garry oak canopies in the region. However, the City's inadequate policies have meant that **Lakewood has lost more than five hundred oaks in recent years** — a number that continues to increase. Despite public pressure and resultant amendments to the municipal code, Garry oaks of all ages continue to be removed on both public and private property. The author has participated in appeals before three different hearing examiners in Lakewood and Pierce County and will outline legal obstacles that have stood in the way of effective protection. The presentation will provide an overview of the main problems facing Garry oak conservation in the City of Lakewood and suggest what kinds of policy changes are necessary to better protect this keystone species.



Map of recent oak losses in a single neighborhood

Thanks to **Tichomir Dunlop** for poster design.

PROTECTION: THEORY VS PRACTICE IN LAKEWOOD

2021, Summer: Public outcry over the proposed cutting of 114 oaks for a warehouse leads to limited tree code amendments.
2022–2023: Three oak appeals were denied and one was dismissed.
2022: Lakewood decided to change its hearing examiner.
2024: Spanaway tiny home village appeal involving Garry oak habitat

Before:
Garry
oaks
2018



After:
Amazon
warehouse
2021

HEARING EXAMINERS

The hearing examiner is hired by the municipality or county. Filing a notice of appeal costs \$459 in Lakewood, and \$1,555 in Pierce County. If an appeal is denied, appealing to a higher court would cost at least \$30,000–60,000.

CONSULTANTS

Consultants are hired by the developer to carry out assessments of Garry oak habitat, and some have been arborists clearly unfamiliar with this subject. (See Interlaaken appeal testimony at oak.eco/cpop.) Arborists often mention ivy as if it were something lessening the oaks' value and have at times incorrectly rated oaks as being only in "dead" to "fair" condition.

APPELLANT

The person advocating for better oak protections has the "burden of proof". The appellant in these cases has been told she has to prove that she witnessed listed species using the specific Garry oaks. Her standing has also been questioned, and in general her testimony has been discounted because she lacks scientific credentials.

MITIGATION

"Mitigation" in these oak protection discussions has been problematic. Though true mitigation for oaks that grow only 1" per 15–20 years is impossible (temporal gap), Lakewood has thus far collected "mitigation fees" without later using them for true mitigation. "Mitigation fees" are mingled with money collected from fines, which have even been used for cutting down trees.

ABSENT EXPERTS

Unless someone is a scientific expert, his/her testimony is likely to be discounted. Scientists employed at agencies have not been willing or free to testify. A retired expert has said that they are "scientists and not advocates". A lawyer offered experts from his list for \$10,000 each — a prohibitive cost for most appellants.

PRIVATE PROPERTY

Private property owners' rights (the "takings clause" of the 5th Amendment) are cited as the reason why oaks cannot be better protected. The City cited this as a reason why oaks on private property could not be inventoried.

AFFORDABLE HOUSING

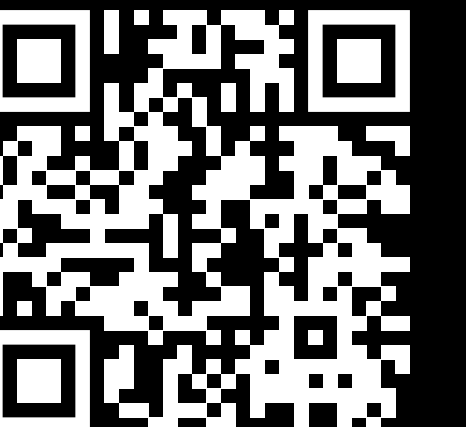
It has been suggested that advocates for the environment are inhumane in the face of the homelessness crisis. However, while the developer and City once argued that a project would result in much-needed "missing middle" housing, what eventually was built there sold for \$965,000 and a number of mature oaks were lost.

WDFW RECOMMENDATIONS

WDFW's recommendations have been dismissed during appeals by the City attorney as being "only recommendations and not a mandate". The appellant has been told by a hearing examiner that she is not competent to interpret them. The city code's phrase "substantial weight" is vague at best.

✉ action@oak.eco
☎ (253) 341-3331

Hearing examiner decisions and documentation @ oak.eco/cpop



CONCLUSIONS

- WDFW recommendations are not enough — oaks need state-level legal protection.
- Experts need to advocate for better protections and testify in support of them.
- Mitigation is not a solution: fees allow a net loss in practice.
- The hearing examiner system and consultants hired by developers pose a danger of conflict of interest.
- Incentives to redevelop are needed rather than allowing use of priority habitat, including single oaks.
- Lakewood and other jurisdictions need to change regulations that **a)** do not define oak habitat by natural features, but rather by manmade ones such as roads and property lines; **b)** allow oak habitat to be eliminated by subdivision into parcels less than 1 acre; **c)** allow ivy to cover and kill oaks and other trees — a major problem here.

EXAMPLE: 114 OAKS AT 123rd STREET

114 Garry oaks were cut down in 2023 for a warehouse in lieu of \$417,000 in mitigation fees for WDFW recognized priority habitat, which have not yet been used for any meaningful mitigation.

