

Last revised Sept. 8, 2015

TO: Commissioner Amanda Fritz
Commissioner Dan Saltzman
FROM: Tree Code Oversight Advisory Committee
RE: Recommendation on improving preservation of exceptional trees during development

Commissioner Amanda Fritz recently asked the Tree Code Oversight Advisory Committee (“the Committee”) to consider means by which the removal of very large, healthy trees in development situations could be reduced. This request came after a building permit application was submitted to the Bureau of Development Services (BDS) for a new single dwelling property in the Eastmoreland Neighborhood. The applicant proposed to remove three large sequoias on the site, which averaged nearly 90 inches DBH and pay a fee in lieu of preservation.

To address the request, the Committee:

- Learned about the range of potential regulatory tools available from staff in July and asked that two additional tools be included for consideration
- Had the opportunity to participate in an online survey in early August to narrow the number of tools under consideration
- Discussed draft recommendations at an August meeting

This memorandum summarizes the findings and recommendations of the Committee.

The Oversight Advisory Committee was originally formed by Commissioner Fritz to evaluate whether existing tree regulations and programs were achieving their policy objective. Commissioner Fritz identified the potential loss of the sequoias in question as an issue where the City appeared to fall short of the goals of Title 11. In taking on this specific request related to exceptional trees, the Committee recognized the importance of staying within existing policy whenever possible. The Committee practiced caution when addressing a real-world situation, keeping in mind the policy parameters already established for development, climate action and stormwater as well as the importance of staying true to the larger picture of canopy protection and not prohibiting development. One Committee member said the Tree Project advisory committee that worked on development of Title 11 spent a great deal of time with it, including the creation of thresholds. The member also said changing policy may be premature because there have only a few cases in the first months since implementation where large tree removal has been an issue.

Comment #1: More data is needed on the inventory of Portland’s trees.

While the unnecessary removal of large trees should always be avoided, the Committee believes that their removal must be viewed within a larger context. The Committee recognized that if any new policies or regulations were to be considered, actual impact on canopy retention must be found. The Committee asked staff to provide information on how the removal of trees affect the overall canopy retention. Staff will be conducting a preliminary investigation into the data that is necessary to make such a determination and the availability of such information.

Comment #2: Several potential tools exist to preserve exceptional trees and it is likely that more than one should be deployed after additional research is conducted.

The Committee identified several tools that can be utilized to reduce the frequency of the removal of exceptional trees in development situations. Attached is a memorandum that was developed with staff. See Comment #4, below.

Comment #3. An additional tree size threshold should be established as a way of preserving large, healthy trees during development.

Title 11 currently includes several thresholds including tree size. Many Committee members found that a new threshold should be adopted in order to address this situation. A number of thresholds were considered by the Committee, but there was no consensus.

Three Committee members identified 20 inches as that threshold. Other ideas included 30, 35 and 40 inches. A graduated list of thresholds, set every 6 inches, was also identified as an option. Additional comments:

- Greater incentives necessary to save larger trees.
- Fees in lieu should follow a graduated schedule, tied to the size of the tree. Need local data to determine what the threshold should be. Staff mentioned that 35-40 inches would be a good threshold.
- Consider developing a definition for “exceptional trees,” such as used in Seattle (<http://www.seattle.gov/dpd/codes/dr/DR2008-16x.pdf>)
- Threshold can be established by species.
- Tree size is one of many factors in determining value of significant trees. Threshold should not be an arbitrary number.

Additionally, as discussed above, the Committee sought more information so that there is greater clarity on the problem and the desired outcome of the discussion.

Comment #4: In addition to a new threshold, the Committee found the most promising tools to be:

- **Flexible development options/incentives for tree preservation**
- **A change to preservation standard of one-third trees on site**
- **Additional criteria in tree removal decisions**
- **Tree (conservation) easements**

Use of flexible development options or incentives could be used in exchange for tree preservation and implemented via a change to the zoning code. Committee members favored this potential tool due to the ease of implementation and use of forester discretion depending on site needs.

The Committee also said changing the development standard of preserving one-third of trees on site to something more nuanced and changing the approval criteria for tree removals should be considered because they allow individual site characteristics to be a factor in decision-making. However, a change to the development standard or approval criteria would require significantly more research and discussion because of the potential to trigger land use decisions and amendments to Title 11.

Several members also said tree (or conservation) easements should be considered. This tool already exists, but not as a regulatory tool. Use of an easement to preserve a tree would require property owner consent.

Comment #5: The fees in lieu of tree preservation needs to be reconsidered

Several members of the Committee are strongly in favor of updating the fee the lieu of preservation to better reflect the loss of environmental benefits and the actual cost in 2015 dollars to acquire, plant and maintain a new tree. The current fee of \$1,200 is seen as too low by these members. Some members believe that the fee in lieu of preservation should not be used as a tool to preserve large, healthy trees. Additional discussion is needed on this issue.

Based on our discussion and comments, we have the following recommendations at this time:

- 1) Direct staff to collect additional information to inform the Council, PPR and BDS on the extent of the problem and the real impacts of the removal of large trees during development. This data could include, but would not be limited to:
 - o Frequency of when applicants pay fee in lieu of tree preservation; and
 - o The number and sizes of trees removed.

- 2) Direct staff to consider the following tools and provide evaluations on their potential effectiveness.
 - o A new threshold for tree protection/preservation
 - o Flexible development options/incentives for tree preservation
 - o A change to preservation standard of one-third trees on site
 - o Additional criteria in tree removal decisions
 - o Use of tree tracts and conservation easements
 - o Higher fees in lieu of preservation

The Committee recognizes that these recommendations will be time-consuming and that it is possible that staff will not be able to follow up with the Committee on these matters. The Committee will continue discussions on the fees in lieu of preservation and will present additional comments under a separate cover.