

MEMORANDUM

DRAFT

DATE: November 2, 2015

TO: Commissioner Amanda Fritz
Commissioner Dan Saltzman

FROM: Tree Code Oversight Advisory Committee

RE: Recommendations on Preserving Large Trees and Fee in Lieu of Preservation (Development Situations)

Background

Commissioner Amanda Fritz asked the Tree Code Oversight Advisory Committee to consider means by which the rate of removal of very large, healthy trees in development situations could be reduced. A related question is whether the current fee in lieu of preservation is appropriate. The fee in lieu question was identified as an issue to be addressed by the Committee early in the process and is one of the potential tools available to address the preservation of large trees.

To address these issues, the Committee:

- Learned about the range of potential regulatory tools and the basis of the fee in lieu
- Participated in an online survey and responded to staff questions via email
- Heard from members of the public
- Discussed options and recommendations at more than three Committee meetings.

This memorandum summarizes the findings and recommendations of the Committee. The Committee recognizes that these recommendations may affect other parts of Title 11 and recommends a thorough review of the code to determine if other amendments are needed for consistency or to fully implement the intent of these recommendations.

1. Preservation of Large Trees

The current tree preservation requirement is to preserve at least one-third of the trees 12 inches and larger in diameter. For trees removed beyond the 2/3 allowance for tree removal, a fee in lieu of preservation is required (see discussion under #2 below). Concerns have been raised that all trees are treated the same, whether it is a 12 inch tree or an 80 inch tree, providing no incentive for large trees to be retained.

The Committee discussed a range of options to address large trees in development situations. This included establishing a new tree size threshold for “large” trees and applying different standards or discretionary criteria to those trees, changing the standard to encourage the preservation of large trees, and providing more flexibility in development regulations to make it easier to preserve trees. Most members of the Committee are supportive of making some level of changes to the current regulations, however, there are differences of opinion about how aggressive those changes should be. A majority of the Committee supports relatively modest changes.

Recommendations include:

A. Retain a prescriptive standard that applies to all trees over 12 inches. This approach avoids adding complexity to the code with additional tree size thresholds and regulations. In addition, by retaining a prescriptive standard, versus triggering a discretionary land use review process to remove certain trees, it retains certainty in the building permit process. Some members of the Committee preferred an option of requiring a discretionary land use review to remove trees over a certain size (i.e. 50 inches), however, this was not supported by the majority of the Committee.

[See option for standards/land use review for very large trees – pg. 4 below.]

B. Explore options to change the standard to encourage preservation of large trees. The current standard is to preserve 1/3 of the trees on the site. This applies to all trees that are 12 inches or larger, which means there is no incentive to preserve larger trees over smaller trees. Committee members suggested changing the standard to be based on total diameter inches of trees. This would encourage the preservation of larger trees because the required number of inches would be satisfied with fewer trees. The Committee did not agree on a specific percentage of tree diameter that should be applied. One option discussed was 35% because it is used in Title 33 regulations for land divisions, however, some members thought that percentage was too low.

C. Explore options to add flexibility in the zoning code to make it easier to preserve trees. The Citywide Tree Project included several “flexible development options” available to projects that preserve trees. Most of that flexibility is available in multi-dwelling and commercial zones. The majority of the Committee is supportive of providing additional flexibility, including in single dwelling zones. The Committee recognizes that there may be trade-offs, such as impacts on adjacent properties. For this reason, some members suggested that this added flexibility only be available for preservation of trees over a certain threshold (20 inches was suggested). Concerns were expressed about allowing increased height or transfer of development rights. Support was expressed for reduced setbacks, waiving parking requirements in single-dwelling zones, and allowing required outdoor area in the front setback.

2. Fee in Lieu of Preservation

The current fee in lieu of preservation is \$1,200 per tree removed beyond the allowable 2/3 of trees from a site. This is based on the City’s labor and supplies costs in 2009 to plant and maintain two trees for two years (11.50.040.C). The question as to whether the fee in lieu of preservation is set at an appropriate level has been raised by Committee members, as well as the public. Some members believe the current fee is appropriate and provides mitigation for tree removal, while not being an unreasonable burden to development. Others believe the fee should much higher and reflect the environmental value of the trees. A number of options were considered, ranging from updating the fee schedule to reflect the current cost of planting and maintaining trees to full inch-for-inch mitigation. A majority of Committee members favored a graduated fee in lieu of tree preservation schedule that would increase as the size of the removed tree increases.

Recommendations include:

A. Update fee schedule to reflect current cost of tree planting and maintenance. Recent estimates prepared by Urban Forestry suggest that the current fee is significantly lower than the cost to the City. Urban Forestry’s estimate indicates that it costs approximately \$1,200 to plant and maintain one tree for two years (see Attachment), making the cost for two trees double that, or \$2,400. The

majority of the Committee agreed that the fee should be updated to reflect the true cost to the City to plant and maintain trees. Some members indicated that the current fee is too high, particularly when compared with their experience of private costs to plant trees. It should also be noted that updating the cost estimates as suggested would likely affect fee in lieu payments for all situations (development and non-development).

B. Implement a graduated fee schedule based on the size of trees removed. The current fee in lieu of preservation requires the same fee be paid regardless of the size of the tree removed. The majority of committee members support a graduated fee schedule that would require a higher fee when larger trees are removed. This would allow for planting and establishment care of more replacement trees, providing a better correlation to the loss of canopy from removal of larger trees. Several specific suggestions were provided by committee members, but none were supported by the majority of the committee.

Example of Graduated Fee in Lieu of Preservation

An example of a graduated fee schedule is provided below that reflects aspects of the various committee suggestions. This is provided to illustrate how such a fee schedule could be structured only and is not endorsed by a majority of the committee at this time. This example includes:

- Current ratio of 2 replacement trees for smaller trees (12 to <20 inches)
- An increase in the ratio to 3 trees at 20 inches, then 2 trees per 10 inches for trees 30 inches and larger
- A cap of 9 replacement trees

Private Trees in Development Situations Replacement for Trees Removed (Beyond Tree Preservation Standard)		
Size of tree to be removed (inches in diameter)	No. of replacement trees	Fee in Lieu (based on current fee: \$600/tree planted)*
≥12 and <20	2	\$1,200
≥20 and <30	3	\$1,800
≥30 and <40	5	\$3,000
≥40 and <50	7	\$4,200
≥50	9	\$5,400

*This fee would change based on any updates to the fee schedule to reflect current costs as recommended under 2.A above.

Attachment: PP&R Urban Forestry Estimate of Tree Planting Costs, 2015

Option for Recommendation 1.A. - Add Standards/Land Use Review for Removal of Large Trees

At the October OAC meeting, there was a request for more information about adding a discretionary land use review requirement for trees over a certain size threshold. A threshold of 50 inches was suggested. Below is a description of options for consideration by the Committee. If the Committee is supportive of these options, they would change the recommendations in Section 1.A of the memo.

Example from Zoning Code

There are currently standards for tree removal in the Zoning Code that apply in certain Plan District and Overlay zones where trees were determined to be important for environmental and/or aesthetic reasons (Johnson Creek Basin Plan District, Rocky Butte Plan District, Scenic Overlay zone). If the tree removal standards aren't met, a discretionary review called Tree Review is required to determine whether the tree can be removed and appropriate mitigation. A similar set of standards and discretionary review process could be used for trees over a certain size citywide.

Currently, all Tree Reviews are processed with the Type II procedure, however, another procedure could be determined to be more appropriate. Information about the timeline for the Type I, Type Ix and Type II procedures are provided below. Fees are based on the amount of staff time estimated for the nature of the review. The current Type II Tree Review fee is \$1,756. This could be reduced a small amount if there is no local appeal (Type I or Ix), but otherwise staff time is not expected to be significantly different based on the procedure type.

This option could include the following components (based on examples in Zoning Code):

A. Standards

- Trees over a certain threshold (i.e. 50 inches) may only be removed in development situation if standards are met.
- Possible removal allowances: trees within 10 feet of proposed buildings, driveways, or required street improvements, and trees within a single 10 foot wide utility corridor.

B. Land Use Review

- If standards are not met, Tree Review is required.
- Possible approval criteria: The removal is necessary to allow for reasonable development of the site, including an evaluation of alternatives.
- The review could also determine the appropriate level of mitigation based on the size and condition of the tree.

A comparison of procedure types is provided in the table below:

Land Use Review Procedure Types			
	Type I	Type Ix	Type II
Public Comment Period	14 days	30	21
Timeframe for Decision	35 days	72 days	56 days
Option for Local Appeal	No	No	Yes



PP&R Urban Forestry Tree Planting Costs, 2015

Installation and establishment costs per tree planted without root barrier		
Item	Details	Amount
Procurement and processing of replacement tree	Hort. Services	\$300.00
Delivery of tree to planting site and planting, staking and initial mulch.	Labor: 1.5 hours of planting crew time x \$263.40 (hourly salary of a three-person FTE planting crew)	\$395.10 Labor
	Equipment: Dump Truck (2), tractor \$37.95/hr. x 1.5 hrs.	\$56.92 Equipment
Establishment care for 2 years (weekly spring and summer watering, periodic mulching, and spot weeding.)	Labor: .25 hours x 20 weeks x 2 years x \$30.27 (SMW hourly pay)	\$302.70 Labor
	Equipment: .25 hours x 20 weeks x 2 years x \$13.40 (Establishment Vehicle)	\$134.00 Equipment
<i>Total</i>		<i>\$1,188.72 (~\$1,200)</i>

Installation and establishment costs per tree planted with root barrier		
Item	Details	Amount
Procurement and processing of replacement tree	Hort. Services	\$300.00
Delivery of tree to planting site and planting, staking and initial mulch.	Labor: 2.0 hours of planting crew time x \$263.40 (hourly salary of a three-person FTE planting crew)	\$526.80 Labor
	Equipment: Dump Truck (2), tractor \$37.95/hr x 2 hrs.	\$75.90 Equipment
Establishment care for 2 years (weekly spring and summer watering, periodic mulching, and spot weeding.)	Labor: .25 hours x 20 weeks x 2 years x \$30.27 (SMW hourly pay)	\$302.70 Labor
	Equipment: .25 hours x 20 weeks x 2 years x \$13.40 (Establishment Vehicle)	\$134.00 Equipment
Root Barrier	3 sections of barrier per tree at \$3.25/section	\$9.75
<i>Total</i>		<i>\$1,349.15 (~\$1,350)</i>

