



CITY OF PORTLAND, OREGON - PORTLAND TREES

Bureau of Development Services • Portland Parks & Recreation

1900 SW Fourth Avenue, Suite 5000 • Portland, Oregon 97201

Phone: 503-823-TREE • www.portlandoregon.gov/trees



Tree Project Oversight Advisory Committee

Meeting #10, **Draft** Meeting Summary

Monday, September 14, 2015

1900 Building, 1900 SW 4th Ave, Portland, OR 97201

Room 2500B

10:00 AM - 12:00 PM

MEMBERS PRESENT

Linda Bauer, Pleasant Valley Neighborhood Association

Kris Day, Urban Forestry Commission

Arlene Kimura, Hazelwood Neighborhood Association (Co-chair)

Jim Labbe, Audubon Society of Portland

Susan Steward, Building Owners and Managers Association (Co-chair)

Justin Wood, Home Builder's Association

Bob Kellett, SE Uplift

Nancy Seton, SW Hills Residential League

Mark Bello, Urban Forestry Commission

Phil Damiano, Development Review Advisory Committee

MEMBERS ABSENT

Jeff Fish, Fish Construction NW

Helen Ying, Old Town Chinatown Community Association

STAFF PRESENT

Mike Hayakawa, Tree Project Supervising Planner

Jenn Cairo, City Forester/ City Nature Zone Manager

Patti Howard, Policy Advisor to Commissioner Fritz

Stephanie Beckman, Portland BDS, Land Use Services

Kimberly Tallant, BDS Supervising Planner

Barry Manning, Bureau of Planning and Sustainability

John Cole, Bureau of Planning and Sustainability

Steve Kountz, Bureau of Planning and Sustainability

Anne Pressentin, EnviroIssues Consultant

Bridger Wineman, EnviroIssues Consultant

OTHERS PRESENT

Luke Miller, Urban Forestry

Margaret Vining

Agenda topics

Welcome and Introductions

Susan Steward opened the meeting and led introductions.

Approval of August Meeting Summary

Jenn Cairo reviewed recommended text changes to the Aug. 10 OAC meeting summary.

- Page 2: “Prior to the adoption of the interim administrative rule, on average there was an 84% reduction in required replanting in cases requiring up to inch per inch mitigation, which is the maximum allowed under City Forester discretion.”
- Page 3: “There are many more Type A permits issued than Type B. In the winter months, there are fewer permits issued than in warmer months.”
- Page 3: “A goal of Title 11 is to conserve tree canopy, so this is important to recognize.”
- Page: 4: “Not as many large trees are getting replaced. Pre-IAR, if a large tree came out, a goal was to get a large tree replanted. Post-IAR, less than half of large trees were replaced with large trees.”

***ACTION:** Aug. 10 meeting summary approved as amended and Aug. 17 meeting summary was approved as drafted.*

Public Comment

Maggie Vining, citizen

Ms. Vining said she BDS issues permits to remove trees on lot lines and for trees not on the property owner’s lot. Litigation is the only method of recourse for those sharing the lot line. Ms. Vining suggested the City consider requiring the submission of a survey showing trees are owned by the applicant or consent from owners of adjacent lots. Neighbors adjacent to development should be notified of pending applications and given a time period to appeal. Ms. Vining said she was told her concerns were a civil matter. The tree code and BDS should work to avoid these types of issues. The burden of having a survey completed should not fall to adjacent property owners.

OAC members made the following comments and questions on the issue of trees that cross property lines:

- Question: Must the applicant have the majority of the tree on property to receive a permit?
Answer: The City would require the application for a tree removal permit include both property owners if a tree straddles a property line.
- Question: Would the City reject a development permit if the tree is on a property line and the neighboring property owner was not notified?
Answer: The City would usually take the applicant’s word for the location of the tree. Staff will get back to you on current process for development permits.
- The City should better address the issue of cross-property trees and also look at tools to preserve large trees in development situations.
- A site map submitted with the permit application should clear up any uncertainty about tree location in regard to lot lines.
- Property owners may not be clear on the location of the property line.

- This issue is similar to the issue of property encroachments from garages, which the City clearly enforces. The Urban Forestry Commission will consider this issue.

ACTION: Request a City Attorney statement about how the city addresses trees on property lines

Application of tree code in BPS planning projects

Mixed Use Zones project: Barry Manning

- Purpose: The City is currently updating the comprehensive plan and growth management strategy to direct new housing demand to centers and along commercial corridors. Commercial zones have been in place for about 20 years but mixed use development has only recently taken off. The project will fine-tune the zoning code to better fit neighborhood context and complement comprehensive plan policies for housing supply and other issues.
- Schedule: A discussion draft will be released in September for public comment. Staff will release the proposed draft in late November. It will go to the Planning Commission in January and to City Council in spring 2016.
- Additional background: Commercial zones outside the central city are being recast into a revised set of four zones with new development standards. The new zones will use a floor area ratio standard for calculating the allowed size of mixed-use buildings to help them fit better with existing neighborhoods. Development bonuses will promote goals from the Comprehensive Plan.
- The new code changes how landscaping requirements are applied. Landscaping is required according to pattern areas. All the zones will have landscaping and lot coverage requirements based on their pattern area. Parking lot landscaping would not apply to the required onsite landscaping.

Discussion, Mixed Use Zones project

- Question: Will required landscaping reduce parking availability?
Answer: Little surface parking is expected in the areas covered.
- Question: There is no required landscaping in some locations. How are requirements for onsite stormwater facilities met?
Answer: BPS is working with BES on this. While BES prefers onsite management, there is a hierarchical list of solutions for on-site management. Bonuses include a category for energy efficiency and urban heat island effects which could include onsite trees and landscaping.
- Comment: Zones that do not allow for complete lot coverage should include some requirement for trees. Drawings including trees would be helpful for the zone descriptions. There does not seem to be language to specifically encourage private trees.
Response: The type of landscaping has not been prescribed but will be better clarified in the discussion draft.
- Comment: Concerned about over-articulating the relationship between lot coverage and trees as the code should allow flexibility for implementation as appropriate given the context. Urban areas have competing needs, like affordable housing. The biggest opportunities may be in forms of green infrastructure besides trees in some locations. Also concerned about using bonuses rather than applying as standard.
- Question: There was a working group in 2008 and 2009 where these issues came up. Was that discussion referenced for this project?
Answer: Staff will look into if previous working group discussions have been accessed.
- Comment: Susan Steward also will look for notes from that time.
- Question: There are auto lots that do not have any trees. They will be grandfathered under the updated code?

Answer: The standard would apply when there is new development. Auto lots would have different standards than the current code and subject to landscaping requirements.

- Question: Does this project have any application to trees in the City ROW?

Answer: The Mixed Use Zones project does not address the ROW.

- Question: In the zones addressed by the project, how will Title 11 and the buildable lands inventory relate?

Answer: Staff considered Title 11, but cannot answer if trees would limit development. The total number of properties where Title 11 would apply is probably about the same compared to the current zoning. However, a change is that development patterns in different parts of the city are being recognized. Inner neighborhoods, which are more built-up will have less landscaping required, and then more dispersed outer areas. Answer: John Cole said these projects did not focus on tree regulations in addressing Title 33 as Title 11 is the state-of-the-art for tree regulation and addresses issues of tree preservation in the city.

- Comment: There are vacuums where we do not have overlap among city policies.

- Question: How will the project involve PP&R, Urban Forestry and the Urban Forestry Commission as the process moves forward?

Answer: PP&R has commented on the internal draft and more comments are welcome.

- Comment: The Urban Forestry Commission should also hear a presentation.

Employment Zoning Project, Steve Kountz

- Purpose: Provide for growth capacity in line with the Comprehensive Plan update. The project emphasizes brownfield redevelopment and zoning requirements to use land more efficiently, eliminate non-industrial land use requirements in employment zones and promote industrial retention.
- Schedule: The proposed draft is underway with a PSC hearing in October.
- Additional background: The project introduces a new prime industrial zone overlay. There are also new small employment areas with some change requirements intended to make them more neighborhood-friendly.
- Residential uses, which are currently conditional uses, will no longer be allowed. Allowance for retail uses is reduced.
- The project adds industrial map designations in two areas which were formally golf courses and will require additional landscaping when converted to industrial use.

Discussion, Employment Zoning Project

- Question: Will the current uses in the new EG2 zone near Foster Road be nonconforming?

Answer: The new zone will allow the current uses.

- Question: The project only addresses employment land outside the most employment-dense areas. Why take this approach?

Answer: The purpose is to protect industrial areas that are difficult to replace.

- Question: There is new open space in the Prime Industrial Overlay on Airport Way. Can more open space be added later?

Answer: Developed parks will not be allowed in the overlay, but stormwater infrastructure would be allowed. The environmental overlay zones continue to apply.

- Question: How will natural areas and parks around industrial job centers be addressed?

Answer: The project proposes allowing some small parks for worker use, along with trailheads and boat launches.

Campus Institutional Zoning Project, John Cole

- Purpose: The project will amend the way the City regulates college campuses and hospitals to make it easier for them to provide development capacity and jobs.
- Schedule: The proposed draft will be published on Oct. 5. The PSC is scheduled to hold a hearing in November.
- Additional background: College and hospital properties are dispersed throughout the community and often surrounded by residential neighborhoods. Two new zones are proposed. One zone will accommodate urban-style development and the other will provide for pastoral-style campuses. Institutions will be able to apply for one of the zoning designation through a Type 3 application process with community input. The project intends to free up development capacity on campuses. It will be easier to develop within their existing boundaries, but strict development standards at the perimeter will help match the adjoining neighborhoods. That, along with retaining robust transportation review will serve as a compromise to allow additional development.

Comments and discussion regarding additional mixed use, commercial, industrial and employment zoning projects

- Question: Should the committee ask these presenters back in the future for updates?
- Comment: Hearing more about these projects in the future may not be the best use of the OAC’s time.

ACTION: Share the OAC distribution list with BPS project managers

ACTION: Consider whether to add a new issue to the work plan: Review all city policies for their effects on one another

ACTION: Distribute speakers’ materials on website

Program updates

CenturyLink tree pruning

Jenn Cairo said there were complaints from SE Portland neighborhoods recently about CenturyLink trimming trees. Urban Forestry investigated the complaints, visited the locations and found some of the concerns were valid. This occurred at the time when the City was meeting with CenturyLink about their programmatic permits under Title 11. The City made CenturyLink leadership aware of the complaints against some of their contractors. CenturyLink followed up with those contractors. Some of the damaged trees have to be restructured and in a few cases replacement of trees was required.

Jenn said it can be difficult for the public to discern bad and acceptable pruning for ROW trees. Any pruning has to meet accepted industry standards.

The programmatic permit with CenturyLink reflects Urban Forestry responses and neighborhood concerns. The permit also requires notification of property owners.

- Question: Are there other utilities that need outreach regarding tree pruning?
Answer: Utilities need a permit to cut any city trees. Jenn expects most, if not all, are known to Urban Forestry.

Outreach and education plan update

Anne Pressentin said the updated outreach plan summary reflects comments from the OAC. Some outreach tools identified earlier were prioritized and others fell off the list. Comments from PP&R were also incorporated. Tools listed “public service” are mostly complete. Tools under “build awareness” are being drafted for distribution in October.

“Enhanced” tools apply to traditionally underrepresented communities. Educational information will be sent to groups who will be asked to distribute it further. Community newspaper advertisements and City social media will also be used.

Data about tree removals under Title 33

Mike said the committee has had questions about tree preservation during land divisions and monitoring the performance of the regulations. Mike drafted a one-page memo on the subject, distributed with the meeting materials. It is important to reflect the OAC is interested in this issue, but the regulations are not much different than before implementation. Given available resources, staff is limited in what can be provided. Staff will reconsider the request for performance evaluation when more resources are available.

- Comment: The land division code requires a tree plan with the permit application. A sample of the tree plans could be used for analysis. Mark Bello offered to conduct analysis if provided the site plans.
- Comment: Reviewing land division code performance would be helpful to the development community. It represents an opportunity to enact good site design.
- Question: How is the Urban Forestry staff involved under Title 33?
Answer: Private trees in development projects fall under BDS. Urban Forestry may provide comments, but the BDS planner applies the standard. BDS planners request input from Urban Forestry in situations which are unclear.
- Comment: Kris Day heard from a tree inspector that there is a lot of misinformation from paid arborists. They have an interest in helping their clients. Perhaps a specialized planner or tree inspector is needed to conduct the site visit.
Response: Jenn said the City’s system cannot always determine if application information is accurate. Sometimes applicants do not report information accurately. Urban Forestry provides review whenever possible if requested.
- Kimberly Tallant said BDS coordinates with Urban Forestry for assistance reviewing private trees in land division and other land use review applications on a regular basis. Inspections are usually complete within three days. The planner looks at the tree plan and site plan for each site. There are a number of common triggers for Urban Forestry review.
- Comment: Arborist are licensed professionals.

ACTION: Confirm Committee’s recommendation, if any, at October meeting

OAC work plan

Susan said the OAC needs to move ahead so that it can make a difference. Anne suggested the OAC discuss how to use the remaining meetings most productively.

Patti Howard described what Commissioner Fritz would like the OAC to achieve. She said the OAC is expected to provide advice and comments on the interim administrative rule and the \$1,200 fee in lieu, and measures for the protection of exceptional trees. The advice from the OAC may be to collect more information. The report from the OAC can be a list of issues and topics to pursue further and recommendations for how to resolve remaining issues. An outline for moving forward would be helpful.

- Comment: Remaining meetings should be longer or additional meetings scheduled so the OAC can accomplish more. Another idea is to create a list of additional issues that the group has not been able to address but which are important.
- Comment: Addressing the interim administrative rule and fee in lieu are most important for the OAC.
- Question: Mark said the Urban Forestry Commission submitted comments on the interim administrative rule. How were those comments addressed?
Patti said the comments from the OAC were received, but not all feedback could be incorporated immediately. There were 28 potential rule changes. The OAC and UFC comments will be considered more thoroughly with the public review as the final administrative rule is structured.
- Comment: There were confusing messages from staff about when comments on the interim administrative rule would be accepted.
- Comment: A code amendment will likely be needed.
- Comment: The commissioners should hear the OAC's frustration on the process for the interim administrative rule, but there are other important topics on which to focus including the fee in lieu and preservation of large trees. Suggest the OAC does not add any more issues and move forward on developing recommendation memos.
- Mike noted the OAC has tried to address additional issues that were not part of the original work plan. There is a programmatic aspect of the code which makes understanding the context of how it is implemented important. For that reason, system knowledge from staff presentations is important. There are also community happenings that must be addressed. The OAC topics cannot be narrowed to exclude these items. Mike said he hopes the OAC will work on the report to City Council the last two months of the year.
- Jenn noted the Urban Forestry Commission is able to take up issues the OAC does not have time to address.

Interim Administrative Rule

The OAC discussed the draft memo on the interim administrative rule dated Aug. 12, 2015.

- Comment: The memo is a fair representation of the discussion and issues. Suggest the OAC submit it and move on to other issues.
- Comment: The memo should note the rule came from BDS and not Urban Forestry, in terms of content.
Response: The rule came from BDS because PP&R does not have an administrative rule process.

ACTION: Adopt the Aug. 12 memo commenting on the interim administrative rule

ACTION: Schedule an additional OAC meeting before Thanksgiving

Meeting close

ADJOURN: 12:10 PM