

MEMORANDUM

DRAFT

DATE: November 23, 2015

TO: Commissioner Amanda Fritz
Commissioner Dan Saltzman

FROM: Tree Code Oversight Advisory Committee

RE: Stop-gap Title 11 code amendment proposal: Mitigating the removal of large trees in development situations

Background

Commissioner Amanda Fritz asked the Tree Code Oversight Advisory Committee on Nov. 4, 2015, to review and provide comment on a proposal for an immediate code amendment to address the loss of especially large trees in development situations.

To address this request, the Committee reviewed the proposal at its Nov. 9 meeting, reviewed permit data, and discussed potential options to improve the proposal.

This memorandum summarizes the recommendations of the Committee. Two points are inherent in this recommendation:

- The Committee recognizes the membership of the committee recently declined due to resignations of four members over their disagreement with both the process and the proposal itself. As a result, the perspective of the development community is absent from this recommendation.
- This recommendation is based on the premise that, should this proposal move ahead, another process to provide more long-term improvements to the tree code also will move forward. This Committee will provide separate comments related to longer-term code amendments.

Comments:

We are supportive of a “stop-gap” measure in concept to preserve large trees in development situations. However, we are not in favor of this proposal as it is currently drafted because it will not help preserve most large trees that are being removed for development. Only a small percentage of trees are larger than 48 inches DBH.

We have a concern that sufficient data does not exist from which to draw conclusions. However, based on a sampling of one month of permit data from August 2015 and information about the number trees 45 inches and greater permitted for removal in the first three quarters of 2015, we are able to make some recommendations at this time.

Recommendations:

1. **Decrease the threshold for inch-for-inch mitigation to 35 inches DBH.** The data from August 2015 shows that by decreasing the threshold, about 7 percent of trees removed in development

situations would be subject to inch for inch mitigation requirement. With a 48-inch threshold, less than 3 percent would be affected. In addition, many trees require several decades to reach 48-inches and some never grow to that size. This proposal does not take into account the sizes of mature native trees, which provide more value to native wildlife.

2. **Increase the notification timeframe to 21 – 30 days.** We support the addition of a neighborhood notification requirement in the code prior to large tree removal. We recommend the length of time be 21 – 30 days to allow local residents time to ask questions and potentially work with the permit applicant to identify alternatives to tree removal.
3. **Relook at the idea of prohibiting the removal of large trees.** We understand the disadvantages of outright tree cutting moratoriums and the potential for such an action to result in a taking. However, we recommend the City Attorney evaluate whether prohibitions of large tree removal can be considered when such action would not result in all economic viability of a property being removed.
4. **Add a sunset clause.** We recommend a sunset clause be added to the proposal so it is clear that the mitigation code amendment would only apply until larger Title 11 reforms are adopted. We understand that a larger package of amendments is likely and could take about a year to be drafted, reviewed and adopted. This stop gap measure would fill a need from early 2016 to early 2017.