

MEMORANDUM

DRAFT

DATE: November 23, 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 four Committee meetings.

This memorandum summarizes the findings and recommendations of the Committee. Discussions on this topic began with a 12 member committee, however final discussion and adoption occurred with an 8 member committee after resignation of 4 members. 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.

Recommendations include:

A. Consider adding a new tree size threshold for very large trees with additional standards and discretionary land use review requirements. The Committee agreed that the current prescriptive tree preservation standard should be retained for smaller trees. However, additional requirements should apply for the removal of very large trees. **A threshold of 50 inches was suggested [one member requested change to 35 inches].**

It is recommended that Zoning Code tree removal requirements that apply in certain Plan District and Overlay zones (Johnson Creek Basin Plan District, Rocky Butte Plan District, Scenic Overlay zone) be used as a model. This would include standards that allow tree removal only when the tree conflicts with proposed development. If standards aren't met, a discretionary land use review (i.e. Tree Review) would be required to determine whether the tree can be retained while allowing for reasonable development of the site and, if allowed, the appropriate level of mitigation. The Committee members also suggested the addition of a process to modify development standards as part of this review.

Some members of the Committee also suggested that there be an optional discretionary review to seek an alternative to the prescriptive tree preservation standards and/or mitigation requirements.

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 parking and 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, 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). The Committee did not specifically review or recommend approval of specific cost estimates.

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.

It is recommended that there be a minimum of three mitigation tiers and a cap on the total number of replacement trees the fee would be based on. Some members of the Committee also suggested that the fee be based on a combination of the tree size and species to recognize the ecological value of smaller native trees.