

Council Meeting Date: May 10, 2010

Agenda Item: 8(a)

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Update of Clearing, Grading and Tree Code Amendments
DEPARTMENT: Planning and Development Services
PRESENTED BY: Joseph W. Tovar, FAICP, Director
Paul Cohen, Senior Planner, Project Manager

PROBLEM/ISSUE STATEMENT:

On February 9, 2009, staff presented 10 "decision modules" for Council to determine the scope and focus for amendments to the City's Clearing, Grading and Tree Code. The Council directed staff to pursue 9 of the 10 "decision modules". The purpose of this meeting is to inform the Council of the amendment progress.

FINANCIAL IMPACT:

None. This work is within the resources budgeted for Planning and Development Services Department in 2009 and 2010.

RECOMMENDATION:

This is an update for Council's information.

Approved By: City Manager  City Attorney _____

INTRODUCTION

The City Council has discussed the question of the City's existing tree regulations several times in recent years. Periodically, the Council hears from neighbors of short plat projects who comment that the City's tree preservation regulations for short plats are inadequate and, conversely, from permit applicants who find that the regulations are problematic for residential infill projects. In 2005, the Council adopted amendments to the provisions for hazardous tree removal, but chose not to take action on the concept of vegetation management plans for large private holdings. In 2009 the Council again decided not to do so, explicitly not including "decision module 10 - vegetation management plans for critical areas" as a part of the clearing, grading, and tree code amendments.

BACKGROUND

A. Policy Background

The City has substantial adopted policies directing the preservation of trees in Shoreline. The below cited goals, policies, and strategies that call for tree and natural environment protection while allowing development.

1. 2005 - Adopted Comprehensive Plan

- FG2: Promote development that is compatible with the surrounding environment.
- FG5: Protect the natural environment.
- Goal LU XV: Protect, enhance, restore habitat balanced with property owner rights to develop.
- LU10: Design and site development in accordance with the natural environment.
- Vegetation Protection LU107-113
- CD22: Encourage the Pacific Northwest environmental character
- CD23: Preserve significant trees and mature vegetation.
- CD53: Preserve the natural character by minimizing the removal of vegetation and mature trees.

2. 2008 - Adopted Environmental Sustainability Strategy

- Guiding Principles #7 – Address impacts on forest health and #8 – Proactive management of ecosystem
- Strategic Direction #10 - Forest canopy enhancement efforts
- Objective #21 – Prevent tree canopy loss & Increase forest health city-wide
- Recommendations #49 – Prioritize forest health data collection and improvement projects
- Appendix FI-34 - Measure and reduce the rate of tree canopy loss due to development

3. Council Goal for 2010 – 2011

Goal 1: Implement the adopted Community Vision by updating the Comprehensive Plan and key development regulations in partnership with residents, neighborhoods and businesses

- Adopt updated tree regulations, including citywide goals for urban forest canopy.

4. Planning Work Program for 2010 – 2011 – Tree Regulations

- Planning Commission – April to August 2010
- City Council Adoption - October 2010

5. Nine "Decision-Modules" were approved by City Council to address the scope of amendments.

DM-1 Establish a baseline urban forest canopy city wide. This baseline would provide the context for the Council to make a policy decision, most likely in 2010, about a long-range City target for desired tree canopy. The target could be no-net loss of a city-wide percentage of canopy, or an increase or decrease of some magnitude, keyed to specific schedules. With such a baseline and target in place, the City could then monitor the overall City canopy, say every 5 years, to assess its health and identify any further programs or code amendments as needed.

DM-2 Reorganize SMC 20.50.290 to separate clearing and grading provisions into a different subsection because the intent, purpose, and exemptions are blended. Though they affect each other, clearing and grading have different development standards than trees.

DM-3 Delete the provision in SMC 20.50.310.B.1 that allows the removal of 6 significant trees every 36 months without permit. This is potentially a huge hole in our city-wide tree canopy because we don't regulate or monitor this provision. Theoretically, if we have 16,000 single family lots then as much as 32,000 significant trees can be removed per year without review or monitoring. People sometimes cut trees that they think are not in a critical area and therefore do not notify the City

DM-4 Amend SMC 20.50.310.A to establish clear criteria and thresholds when a tree is hazardous that is reviewed by a City third party arborist. Add requirements for replacement trees when hazardous trees are removed. Currently, property owners use their own arborists to determine a hazardous tree without thresholds to determine when it is hazardous. If the City doesn't agree with the assessment then we can require a third party assessment. This costs the property owner twice and prolongs a basic decision. Requiring the use of a City's arborist makes the assessment more objective and less costly for everyone.

DM-5 Amend SMC 20.50.360 to allow for reasonable tree replacement ratios and the possibility to replace trees on other land within the City. Most development sites do not have the room to plant all the replacement trees. These replacement trees are easily cut down after the 3 year protection period because they are not defined as significant trees.

DM-6 Amend SMC 20.50.350.B.2 to remove code provisions for 30% preservation of significant trees if a critical area is on site because trees in critical area trees are already protected under the Critical Area provisions of SMC 20.80. A relatively small critical area could trigger 30% preservation on the entire site when the intent is to preserve the critical area and its trees. The change would keep the base significant trees preserved as well as all trees in the critical areas.

DM-7 Amend SMC 20.50.350.B.1 to remove and replace the flat code provision for 20% preservation of significant trees. The existing rule is inequitable because, for example, a site that is covered with 100 trees would have to retain 20 trees, while a small site with only 5 trees would only have to save one. We could devise a more equitable system that requires tree preservation based at least partially on lot size.

DM-8 Reorganize and clarify code provisions SMC 20.50.350.B-D that gives the Director flexible criteria to require less or more trees to be preserved so that site design can be more compatible with the trees. The current code requires that all trees with the following qualities shall be preserved - in groves, above 50 feet in height, continuous canopy, skyline features, screen glare, habitat value, erosion control, adjacent to parks and open space, and cottonwoods. In general, these are good qualities but if all these requirements are applied inflexibly, the result would excessively preclude development on many lots.

DM-9 Amend SMC 20.30.770(D) to provide greater clarity and specificity for violations of the tree code. Currently, code enforcement has difficulty proving violation intent and therefore exacting penalties.

B. Public Comment

The City has received public comments at two community meetings with approximately 75 attendees, 5 Planning Commission study sessions, and 56 comment letters. All these comments are available on the City's website under the Planning Department's / Planning Projects / Tree Code Amendments links. Below is a summary of the comments at the community meetings.

- Trees make property more valuable.
- Views make property more valuable.
- Want the right to cut trees on my property if I want.
- Prefer more sunlight and don't want to live in a dark forest.
- Greater housing density with greater tree preservation is going to force buildings to be too tall.
- Trees are essential to the health of the environment.
- Hazardous trees will kill people and be a liability.

- Topping trees will force trees with multiple leaders and become dangerously top heavy.
- Trees have a positive effect on the entire community.
- Use scientific data of tree attributes to determine their value and regulation.
- Different tree standards are needed for different neighborhoods or zones.
- Deal with trees that affect property but are outside property line.
- Retain large trees.
- Consider tree functions.
- Exempt exotic trees.
- Recognize covenants.
- Don't recognize covenants.

C. Amendment Goal and Objectives

The City's overall goal is to amend the tree code to be more clear, equitable, and flexible. Under the current tree code, staff spends many hours a week that are not paid for through permit fees. A new tree code that is overly prescriptive or complicated will increase staff time more and subsequently require higher permits fees. At this point, staff is addressing all 9 Council decision-modules with three basic objectives.

1. Survey the city-wide tree canopy every 5 years for a big-picture assessment of changes and the effectiveness of the tree code.
2. Assign each parcel minimum tree credits that are proportional to the amount of pervious surface required by zone. Tree credits could be met in a variety of ways and would be remain consistent no matter a property's history or future development plans.
3. Require retained and replaced trees to be recorded as a notice on the property title for future property owners and until the growth of trees exceed the minimum tree credit.

Staff is currently drafting proposed code language to present to the Planning Commission on June 3rd. We expect to have recommendations and a public hearing by the end of this summer and then Council in fall 2010.

RECOMMENDATION

This is an update for Council's information.

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