

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

<p>AGENDA TITLE: Mediation of View Preservation Issues DEPARTMENT: Planning and Development Services PRESENTED BY: Matthew Torpey, Planner II</p>
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PROBLEM/ISSUE STATEMENT:

The cutting and trimming of trees to preserve or enhance views continues to be a contentious issue in certain neighborhoods within the City of Shoreline. In some neighborhoods such as Innis Arden there are plat covenants that require view preservation, which not infrequently leads to neighbor disputes and legal action. The City becomes involved where tree trimming or removal are proposed in critical area steep slopes or stream buffers. Another issue involves the cutting or trimming of trees in the critical areas of platted common reserves and the City's exemption for hazardous trees.

Under the current Shoreline Municipal Code, tree removal may be allowed in areas where slopes are less than 40% in conjunction with special studies and the application of the State Environmental Policy Act. The City also provides a very broad exemption for "hazardous" trees. However, there are some citizens who believe that tree removal should not occur under any circumstances. Planning and Development Services staff introduced proposed amendments to the critical areas ordinance (CAO) that went before the Planning Commission earlier this year. The proposed amendments included a provision to institute a view preservation and enhancement program through the introduction of a Critical Areas Stewardship Plan. This plan would allow for view preservation without reducing the functions and values that trees serve in critical areas: wildlife habitat, groundwater protection, storm water runoff prevention, and soil stability.

During review of the proposed update to the critical areas ordinance (CAO), interested parties both for and against the removal and cutting of trees for view enhancement made substantial written and oral public comment before the Planning Commission. The Commission, commenting that it would not be possible to reach a decision that would be acceptable to both sides of the view issue chose to remove all references to view preservation from the proposed CAO update and recommended that planning staff work with both sides to reach an agreement.

ALTERNATIVES ANALYZED:

Alternatives that are available are: leave the code as written, amend the code, or mediate a solution between the opposing sides.

Currently, neither side of the issue is particularly satisfied with the "status-quo" of the tree debate that exists in the City of Shoreline. Leaving the development code as written will leave the situation as it exists today, with neighbors taking legal action against one another and creating general animosity within the neighborhood. Additionally, the existing code language results in permit actions that are extremely costly to both parties once all legal avenues have been exhausted. Amending the development code without direct input from both parties may exacerbate the situation and cause further animosity.

DISCUSSION

In addition to the animosity and lawsuits this issue engenders between neighbors, the City is frequently involved due to our mandate to enforce the Critical Areas Ordinance. This occurs most frequently on the steep slopes either on private residential property or in a plat's common reserves. The City's decision to deny or uphold tree removal based on the CAO is frequently subject to appeal and on going dispute.

With the exception of the tree/view issue the rest of the revised CAO as recommended by the Planning Commission has received wide spread support and appears to be a consensus document. Staff is recommending that the tree/view preservation issue be separated from the rest of the CAO and submitting this issue to a formal mediation process chaired by an experienced environmental mediator. This would entail leaving the current code language that defines hazardous trees and provides for exemptions for hazardous tree removal in critical areas temporarily in place pending the outcome of mediation. (The Planning Commission has recommended language that would narrow the definition of hazardous trees and critical area exemptions.)

Professional mediation between the two parties will allow both groups, who usually do not communicate outside of legal avenues, to sit down and potentially reach an agreement that is amenable to all. The City would need to be an active participant in the mediation since any solution would be constrained by our legal requirement to protect the environmental functions and values in critical areas and our policy to maintain the quality of neighborhoods. This process would then allow the rest of the CAO to proceed to the City Council for hearing, review, and adoption. Last year the State extended the deadline for adoption of critical area ordinance updates to December 1, 2005. The proposed process should allow the City to adopt the CAO by this deadline without getting involved in the very time consuming and difficult issues of view enhancement and tree preservation. Any recommendations or agreements that may result from the mediation process could be added later by amendment.

Staff is seeking Council direction on this proposal so that we may structure and schedule the CAO for public hearing and your review. If Council agrees with this approach staff will invite the involved parties to participate and select a qualified mediator.

FINANCIAL IMPACT:

It is estimated that mediation may cost up to \$15,000. Funds are available from the Comprehensive Plan/ Master Plans project budget.

RECOMMENDATION

Staff recommends that Council provide direction to staff approving the approach and process outlined above.

Approved By:

City Manager



City Attorney