



Memorandum

DATE: September 3, 2009

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, FAICP, Director of Planning and Development Services
Paul Cohen, Senior Planner
Brian Lee, Associate Planner

RE: Tree Code Amendments – Proposed Purpose and Retention/Replacement Sections

At your July 9th meeting, staff presented a modified purpose section and a different approach to the core requirements of tree retention and replacement using the tree credit system. At that meeting, the Commission asked to include natural systems and “reduction of greenhouse gases” into the purpose section and to provide more scenarios to test the tree credit system.

Staff believes that the approach presented to you resolves a number of issues: it is simpler for everyone to understand, provides more effective protection for larger and more viable trees, assures that trees which must be removed are offset with replacement trees, and recognizes the reasonable property rights and expectations of owners.

- The issue of tree loss through the removal 6 trees per 3 years provision can be removed.
- The issue of diminishing tree percentages on a site over time is resolved by the on-going tree credit minimum.
- The issue of tree replacement is resolved by the combination of smaller significant tree size, larger replanting size, and longer tree replacement protection.
- The issue of more replanted trees than a site can accommodate is resolved by allowing their value to be used in a forestry account.

Staff Proposal based on Commission discussion

On July 9th the Commission suggested two changes to the purpose section of the Tree code. First, you asked us to add language that gives importance to reduce greenhouse gas emissions and references and promotes a forest management approach to trees. Please see the underline portions below for those additions. Staff proposes the following revised purpose section.

1. “Preserve and restore trees and vegetative cover to:
 - promote the city’s treed identity and screening between development,
 - improve rain water absorption and erosion control,
 - provide wind protection,
 - promote forest management practices,
 - provide plant diversity and wildlife habitat,
 - mitigate air pollution and greenhouse gas emissions, and
 - strive for a no-net-loss of tree canopy and 40% vegetative cover city-wide”.
2. “Provide flexibility to allow development, solar access, and greater tree protection.”

Tree Retention and Replacement Proposal

On July 9th the Commission concurred that the tree retention and replacement unit credit method was good approach. However, several refining questions were raised.

1. How would the credit method work on sites with below the minimum tree credits for a redeveloped site and a developed site? Staff recommends that trees outside the building envelope cannot be removed unless they prove to be hazardous. Trees inside the building envelope can be removed if they are associated with a construction permit. Tree replacement ratio would have to be met to bring the site up to the minimum credits.
2. Can existing trees that are the size of a replacement trees be used to meet the replacement requirement? Staff recommends that established trees that are not significant but meet the minimum replanting size be included with the replacement requirement. Including these trees means that they will have to a maintenance bond as well.
3. The City does review development proposals that have tree replacement requirements from 100 to 200 trees. At a replacement value of \$200 per tree that would mean a cost of \$20,000 to \$40,000. Does the Commission want to recommend a dollar cap per acre to be contributed to a forestry account? Does the Commission want to put a contribution cap for homeowners vs. developers?

Other Ideas Raised by the Commission

Natural Systems

Concern: Some commissioners emphasized the need for a wholistic, natural systems-based approach to development. A wholistic, natural systems approach would mean including all aspects of development and preservation and therefore may mean an overhaul of all city codes.

Staff comment: The Environmental Sustainability Strategy addresses a lot of the specific steps and projects that guide the City toward a wholistic, natural systems approach -including

potential amendments to codes. The Commission suggestion has been addressed by the strategy. If there is additional direction outside the direction of the City Council, staff recommends that the Commission make separate recommendations to the Council.

Transfer of Development Rights (TDR)

Concern: The Commission suggested TDR as a method to ensure that replanting requirements would not be reduced when sites could not contain them all.

Staff Comment: Transfer of development rights is the method of relieving a property from certain requirements as long as they supplanted those requirements on another site within the city. In the case of trees, the amount of required trees to be replanted sometimes cannot be fitted on a property and theoretically could be transferred to another site.

The key issue is that the receiving property owner must be responsible for the protection of those transferred trees. Staff believes that private property owners would not be a substantial resource for this method. Some commissioners suggested that the Parks Department would be a likely receiver. In discussion with the Parks Department, they are uncomfortable with being responsible and tracking transferred trees along with the entirety of their current tree resources.

As an alternative to TDR, staff recommends the creation of a “forestry account” so that the City can find other ways to optimally reintroduce trees and enhance the forests that we have rather than just relocating them elsewhere.

Canopy Coverage

Concern: Diminishing city-wide urban forest canopy over time

Staff Comment: The principle of “no-net-loss” is an overarching policy goal that the City Council can address in many ways, not just via regulations. The objective would be to establish the existing tree canopy in the City and prevent diminishing the city-wide canopy over time.

The Environmental Sustainability Strategy recommended setting a goal of 40% city-wide canopy coverage and establishing means to measure the coverage over time, for example, in five year increments. The 40% target was based on the American Forest organizations recommended average canopy goal for the Pacific Northwest metropolitan areas, and recognizes the policy objectives of “land cover, the environmental benefits of trees, and community goals of clean air and water”. We have inquired to the American Forests how they define land cover and are awaiting a response. We will provide an update to the Planning Commission with that information.

At this point, we have assumed it is based on the amount of pervious surfaces and the potential canopy if all these surfaces were treed. Based on the City’s drainage basin study, Shoreline has an estimated potential for 41% pervious land area. If the land area for golf courses, cemeteries, school and park playfields, and home-owner lawns and gardens are subtracted as land uses without tree cover then a 40% tree canopy is far less likely. However, a goal of 40% vegetative cover (including trees) and a no-net-loss tree canopy is attainable and more accurately quantified based on required pervious surfaces for different land uses.

Future Tree Regulation Topics

There are a number of ideas staff is continuing to discuss in-house. Staff will develop recommendations on these topics to be presented for your review in November.

Parks Land and Campuses

The City's park land and large campuses are large areas with substantial tree resources. Currently, the City regulates their tree removal and preservation based on their underlying single family zoning. The City's Park properties are large and varied – from almost treeless sites like Paramount Park to heavily treed sites - like Innis Arden Reserve. First, surveying all their trees and sizes is necessary to administer the code. Second, the replacement requirement could be formidable in cost and placement especially if a site is all ball fields.

Hazardous Trees

Currently, the removal of hazardous trees relies on a system where the applicant supplies an arborist report and staff discretion to require a third party arborist report in order to make a decision. The decision has no quantifiable threshold when a tree becomes hazardous. Staff will recommend that a certified tree-risk assessor be used without third party review and a quantifiable threshold be established to determine if the tree is hazardous. A tree replacement requirement will apply. In addition, the tree credit system will eliminate some of the requests to remove hazardous trees if a site exceeds the credit minimum.

Landmark Trees

The designation and protection of landmark trees relies on the Director to judge the trees significance base on its size, species, history, location, etc. on private property. To date, the City has not established criteria and procedures for designating landmark trees. Even if designated, a landmark tree can be removed through the exception process. Staff will recommend that this provision be removed because the tree credit system incentive encourages the preservation of large trees, the City has received two requests ever for landmark status (both denied), and without criteria or a process the designation of these trees is arbitrary.

Next Steps

If the Commission is comfortable with the recommended approach to the Purpose, Retention, and Replacement code sections then staff will return November 5th with a full draft tree code. This draft will include retention recommendations for other land uses beside single family, hazardous trees, landmark trees, tree protection during construction, and enforcement. We are hoping to have a second study session on the full draft November 19th and a public hearing on Dec 3rd.

If you have any questions, please call me at 206 801 2551 or e-mail pcohen@shorelinewa.gov.