



Memorandum

To: City Council

Cc: Jeff Johnson, Mayor
Pete Rose, City Administrator
Steve Bennett, Planning and Building Director

From: Planning Commission

Date: October 19, 2016

Re: Recommended Tree Regulations Update

Since being officially asked by the Council on February 11, 2016 to proceed with the update of the City's tree regulations, the Commission has reviewed and considered changes to the regulations at 10 regular meetings that were open to the public. The Commission also benefited from the Council's guidance during the joint session on April 25, 2016 and from citizens' comments provided by the Tree Board's community outreach as well as the comments and ideas received at the July 26, 2016 public open house hosted by the Planning Commission. Discussion during the Commission's meetings generally led to resolutions that address the majority of concerns raised by the Council, Tree Board and the public, however, there are some issues that may need further attention and refinement by the Council.

In-lieu Fee

Frustration with developers using the in-lieu fee option instead of planting replacement trees was a prominent theme during open house. Existing regulations lead developers to opt for paying in-lieu fees, which are frequently less expensive than posting a bond and planting replacement trees.

The update addresses this issue with a graduated in-lieu fee structure making it progressively more expensive the more trees that are removed and not replaced on site. For up to four significant trees (less than 24" DBH) the base in-lieu fee is applied. For removal of five or more trees, replacement fees would be triple. This approach of triple replacement plantings has been used by other cities and was recommended by the City's Interim Arborist. This update also eliminates the tree maintenance bond and replaces it with a requirement for a three-year arborist inspection and reporting program to ensure proper maintenance after building occupancy sign-off.

There was consensus that there should not be an option to pay an in lieu fee instead of planting a tree tract (renamed tree conservation easement in the update) with the requisite trees to reach 100% canopy. The Commission was split, however, on removing the in lieu fee option for major development. Removing the option for only subdivision of land was also discussed but did not have majority support. The update's definition of "Major Development Activity" includes subdivision or short subdivision of lots; construction or demolition of single family, multi-family or commercial buildings; and alterations, repairs, enlargements or additions of non-conforming structures for more than 50% of fair market value as defined in LFPMC 18.66.050. If the in lieu fee option is removed, proposals involving the activities listed above would be required to replace canopy coverage according to the goals established by lot size. The three code sections addressing this issue are in 16.14.080.C(10), E, and J.

Half the Commission feels that having an in lieu option for all tree permits can be workable as long as the fee represents a significant cost that will make the applicant seriously consider replacement as a viable option. The other half believes replacement should be the only option for major development activity since it is the only path that will return newly developed areas to a state that is similar to surrounding areas.

Forest Areas

Remnant old growth forest areas have been identified as part the city's canopy by former City Arborist, Mike Woodbury, and protection of these areas as sensitive areas was suggested by citizens during the open house. While the Commission recognizes the value of protecting such areas, addressing this issue does not appear to be within the scope of the Commission's charge from the Council. There is not a clear model for how to pursue this goal as part of the tree regulations. Tree protection areas would need to be identified and mapped prior to establishing such regulations. Council may wish to consider this concept during the upcoming reviewing of updates to the Sensitive Area regulations (LFPMC 16.16).

Trees in the right-of-way

Commissioners deliberated over whether trees in the right-of-way (ROW) should count toward the total canopy for each lot. The recommended update reflects the majority opinion that, since property owners are responsible for managing the trees in the right-of-way, ROW canopy should count towards the total canopy for each lot and thereby incentivize better care of those trees. The current regulations only count trunks within the boundaries of the subject lot. Commissioners that did not support counting ROW trees toward a lot's canopy are concerned that this may negatively affect overall canopy for the city.

30-Year average for canopy at full-growth

There were also comments during the open house expressing frustration with the projected timeframe associated with tree replacement standards. A replacement tree planted today is not required to replace the lost canopy for 30 years. Commissioners consulted with Mr. Woodbury, who researched the issue on the USDA website and recommended retaining the 30-year timeframe. The Commission has followed Mr. Woodbury's guidance since it is based upon an average full-growth age for the diverse

range of regional tree species and to avoid incentivizing the planting of fast-growing, low quality trees.

Front yard tree protection and enhancement

Although a number of citizen comments addressed improving front yard canopy and tree protection, the Commission was not able to devise a tree protection or tree replacement provision that directly emphasizing front yards. Counting trees in the right-of-way towards the lot's canopy gives an indirect incentive to retain those trees. Other cities address this goal with road standards that require trees to be planted within the right-of-way. The City adopted the King County Road Standards which do not include such a requirement.

Aspiring to a forested ambience in the pedestrian environment is part of a “complete streets” concept that could be addressed with future regulatory updates including the subdivision code or road standards. The LFP 2015 Comprehensive Plan promotes the idea of complete streets in the following policies:

Policy LU-6.3 Recognize that the character of public rights-of-way play a role in determining community character. Wherever feasible, promote complete streets and incorporate streetscape improvements, such as wayfinding signs, lighting, public art, enhanced landscaping, and street furniture, to enhance community character.

Policy T-4.3 Fund “complete streets” and pathways, while also maintaining existing infrastructure.

Landmark tree replacement

In response to community desires to incentivize the retention of landmark trees wherever possible, the update includes a provision that requires replacement of every viable landmark tree with double the canopy lost, regardless of remaining canopy coverage on the lot. This means that, no matter how many trees exist on a lot, removing a viable tree larger than 24” DBH would always require replacement trees that would, at full growth, provide twice the canopy of the removed tree. Commissioners discussed whether the consequences of this provision would be fair to property owners who are already maintaining a canopy coverage in excess of the goal for their lot size.

Addressing community concerns about public information on tree permits

Commissioners and City staff have identified steps that are already being implemented to increase the public's access to information about tree permitting activity. For projects triggering the new community meeting requirement, developers will be required to share tree removal and replacement plans with meeting attendees. In addition, tree removal and replacement plans and arborist reports are being posted on the Planning Department's Notices page for development proposals that involve are tree removal.

In closing, Planning Commissioners would like to express their gratitude to the many who have contributed to the tree regulations update including the LFP residents, the Council, the Tree Board, and City staff.