

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

May 7, 2009
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

Commissioners Present

Chair Hall
Vice Chair Wagner
Commissioner Behrens
Commissioner Broili
Commissioner Kaje (arrived at 7:15 p.m.)
Commissioner Kuboi
Commissioner Perkowski
Commissioner Piro
Commissioner Pyle

Staff Present

Steve Cohn, Senior Planner, Planning & Development Services
Paul Cohen, Senior Planner, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

CALL TO ORDER

Chair Hall called the regular meeting of the Shoreline Planning Commission to order at 7:05 p.m.

ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Hall, Vice Chair Wagner, and Commissioners Behrens, Broili, Kuboi, Perkowski, Piro and Pyle. Commissioner Kaje arrived at 7:15 p.m.

APPROVAL OF AGENDA

The agenda was accepted as presented.

DIRECTOR'S COMMENTS

Mr. Cohn announced that Mr. Tovar was not present at the Commission Meeting because he was attending the City Council's retreat.

APPROVAL OF MINUTES

The March 26, 2009 minutes were approved as presented. The April 16, 2009 minutes were approved as amended.

GENERAL PUBLIC COMMENT

No one in the audience expressed a desire to address the Commission during this portion of the meeting.

STAFF REPORTS

Tree Regulations Background Information

Mr. Cohen explained that the purpose of this discussion is to compare the City's existing tree code to a selection of tree codes from other jurisdictions, as well as proposals that have been submitted by a Shoreline Citizen Group and the Innis Arden Club. He further explained that most codes that focus on tree preservation include many of the same components such as the intent, what is permitted, what is accepted, hazardous trees, retention requirements, replacement requirements, site design incentive, and flexibility by the director. The core component in all the examples revolves around retention, preservation and replacement. He suggested that if the Commission focuses on this core component, the solutions to other issues would probably emerge. He summarized that Lake Forest Park's language is most similar to Shoreline's existing code. By contrast, the Bellevue tree code is the most different. He noted that staff did not spend a lot of time reviewing the Seattle code language. Although Seattle is Shoreline's neighbor, their existing tree code has a different focus than Shoreline's code. He also reviewed Edmonds' code since they are an adjacent neighbor and have similar land issues.

Mr. Cohen referred to the two-page summaries that were prepared to compare Shoreline's tree code language to the Shoreline Citizens Group's proposal, the Innis Arden Club's proposal, and the tree code language from Lake Forest Park, Bellevue, and Edmonds. If available, a public information handout from the various jurisdictions was also provided.

Commissioner Broili asked Mr. Cohen to elaborate on his previous comment that Seattle's code language had a different focus. Mr. Cohen answered that the key difference is that their emphasis on tree preservation in residential properties was non-existent up until a recent emergency amendment. Shoreline's current code revolves around the fact that residential property is the great majority of the land use. Commercial properties are exempt from the tree preservation requirements. Chair Hall asked if Seattle has requirements for tree retention and replacement as part of development. Mr. Cohen answered that they do have tree retention requirements for commercial development, but they are complex and tied in with pervious surfaces, vegetation, and credits. If the Commission is interested in looking at retention requirements for commercial properties, it may be worthwhile to review Seattle's existing code language.

Mr. Cohen explained that the current tree retention requirements are based on zoning. Commissioner Behrens observed that there would be no restrictions on any type of use that is developed in a Regional

Business zone because the City doesn't regulate trees on any properties outside of the residential zones. Mr. Cohen pointed out that Regional Business, Industrial, Community Business, Neighborhood Business, North City, and Office zones are exempted from the tree retention requirements. Multi-Family zones up to R-48 would not be exempt from the requirements.

Vice Chair Wagner recalled a previous Commission discussion that the current code requires that replacement trees be protected indefinitely. She requested clarification from staff about whether or not the existing language would actually require this protection and if the City has the needed tools to enforce the requirement. Commissioner Pyle noted a citation that said that if a property owner removes more than the allowed number of trees and replaces the trees per the requirement ratio, each tree that is planted would become a protected tree for the life of the tree.

Commissioner Kaje asked Mr. Cohen for clarification regarding the 20% tree retention requirement and how it might be applied over multiple years at the same site. Commissioner Kaje's understanding of Mr. Cohen's description is that a property owner could as part of one development proposal remove 20 of 25 trees on the property. Then, after the three-year waiting period, the baseline would be significantly lower and the same owner could potentially be allowed to cut 80% of the remaining 5 trees, leaving one standing. Mr. Cohen agreed that this hypothetical example could be allowed by the code as currently written. Mr. Cohen said it appears that the intent of the existing code language is to create a rate for cutting and replanting, and the Commission may want to consider whether that rate is appropriate or not in terms of maintaining the City's tree canopy. If a property owner is allowed to reapply for a tree cutting permit every three years, the baseline would continue to diminish.

Mr. Cohen advised that the proposal prepared by the Shoreline Citizens Group was modeled after Lake Forest Park's tree code, both of which try to establish a baseline. The citizen's proposal is based on tree units and the size of the trees. They recommend that 35 units per acre be maintained on a site at all times, which would be measured against a baseline number. Before Shoreline could apply this methodology, the City would need baseline information showing how many trees are located on every single residential property in the City, which Lake Forest Park has done. He summarized that this methodology would tend to encourage people to preserve the larger trees, which would allow much more flexibility on the site. However, there would be no guarantee.

Commissioner Pyle referred to Section 20.50.300.G, which states that replacement trees planted under the requirements of the subchapter on any parcel in the City shall be regulated as protected trees under Section 20.50.330.D. Section 20.50.330.D requires that the retention and planting plan and application and permit plan show all protected trees. The complication is there is no way to track what trees are protected unless the City has institutional knowledge of previous tree cutting permits. Subsection 2 allows the Director to put in place a protective mechanism such as notice on title. He summarized that the City already has sound regulations to protect retention and replacement trees, but does not have an effective mechanism for tracking.

Commissioner Behrens expressed concern that the regulations would be useless unless the City has the ability to enforce them. He questioned the cost associated with placing a notice on the title and asked if it would be possible to write some sort of tracking system into the ordinance. Mr. Cohen advised the

property owner would bear the cost of placing a notice on title, but he doesn't know what that cost would be. Commissioner Broili explained that a conservation easement would be attached to the legal title that goes with the property no matter who owns it, and placing a notice on title is an onerous task. Commissioner Behrens said he is a strong advocate for tracking and establishing a baseline forest or tree inventory. If having an accurate inventory and tracking tree removal and replacement is a positive economic opportunity for the City on a number of levels, they should move forward with the project. He suggested that an inventory and tracking system would be an important component of whatever tree code the City adopts.

Mr. Cohen explained that one option would be to establish a baseline and review it every five years to determine if there has been a net gain or loss of tree canopy. Alternatively, the citizen's proposal and Lake Forest Park's tree ordinance uses a methodology that establishes a baseline and then tracks every tree on each property. Rather than determining the net loss or gain for the City as a whole, this methodology would consider individual properties. Commissioner Broili suggested it might be appropriate to tie the two baseline methodologies together. They could start with a baseline and consider changes based on the City as a whole, but then move towards focusing on individual properties. Eventually, as permits come in, the City would be able to review the baseline inventory to determine the impact associated with a tree removal. He summarized that an urban forest management strategy would be meaningless unless the City has a baseline inventory. Mr. Cohen agreed.

Commissioner Pyle pointed out that a simple recording on title with King County currently costs \$65 per transaction. He suggested the City could create a simple form that would notice certain trees on the property. They could also provide the property owner with tree tags to identify the protected trees and indicate they are not to be removed. The City could inspect to make sure the tags are actually placed on the trees.

Commissioner Pyle said his understanding is that the City is considering the possibility of conducting an American Forest Study, which considers canopy coverage, impervious surface, etc. across the City. He suggested this type of study would be very valuable to have as baseline information to identify where the City is at this point in time. However, he expressed concern that applying tree regulations across the board could be seen as penalizing property owners who have been good stewards and not removed trees and vegetation in the past. These property owners would actually be held to a higher standard than those who have taken advantage of relatively flexible regulations. Mr. Cohen agreed that it might be seen as inequitable to establish a baseline and apply the tree code universally throughout the residential zones. However, if the City wants to use the baseline methodology, they must start somewhere.

Mr. Cohen pointed out that both the citizen group's proposal and the Lake Forest Park code allow the removal of two significant trees per year, which is parallel to the City's current limit of six significant trees every three years. The difference is that the citizen group's proposal and Lake Forest Park code requires a permit for any significant tree removal. This allows them to base the tree removal permit on the baseline inventory. One option would be for the City to tie in some flexibility to remove a certain number of trees over time, for whatever reason, as long as the baseline requirements are met.

Commissioner Behrens asked how the City knows when someone is removing more than six significant trees in a three-year time period if they do not require permits. Mr. Cohen said the City asks property owners to fill out a form about what they are removing on a property so the information can be put into the tracking system. Commissioner Behrens pointed out that unless the City requires a permit for tree removal, they would not be able to keep an accurate inventory.

Mr. Cohen pointed out that roughly 80% of the City is zoned single-family, and nearly all of these zones allow up to 50% lot coverage. Even if the remaining 50% of the lot was covered with significant trees, a 35% tree retention requirement would only involve 17% of the lot. If the City's goal is to have a 40% canopy, there would be a gap. Requiring the replacement of trees on the remaining area on a 3 to 1 ratio would bring up the canopy, but the City must have a method for preserving the replacement trees into the future.

Mr. Cohen pointed out that most of the positive environmental impacts coming from tree preservation occur when preserving other forms of vegetation, as well. All plants have erosion control water absorption, carbon sequestration, wildlife habitat, and oxygen producing attributes. In addition, different types of vegetation are good because they provide plant community diversity. The percentage of lot coverage by vegetation is correlated to a large degree with the City's environmental health and the preservation of significant trees is a subset of that. When considering the City's chances of getting the 40% canopy citywide based on the current code, they must pull these ideas together. The City is also working on a solar access project, which is part of their sustainability strategies. They must consider whether the goal of solar access would be in conflict with the 40% forested canopy goal.

Mr. Cohen explained that counting trees, units or percentages is necessary but may not satisfy preservation of large, prominent trees. He suggested they also focus on identifying incentives and tradeoffs to encourage the retention of large trees. Most of the tree comments staff receives focus on the loss of large trees. He suggested that the presence of large trees is a part of Shoreline's identity and seen as a barometer of the City's environmental health.

Chair Hall asked how the 40% goal in the citizen's proposal would compare with the City's current requirement. He asked where the 40% number came from. Mr. Cohen said he does not know what the City's current canopy is, but the sustainability strategies talk about a goal of about 40%. Commissioner Pyle suggested that 40% comes from studies done by the American Forest Foundation. Their literature alludes to the fact that a canopy of 40% is really a stable point for sustaining commerce and the hydrologic function of the landscape. Chair Hall said he understands the scientific basis for the 40% number, but he question whether 40% is a realistic goal for the City. He said he would not want to adopt a policy statement that is impossible to obtain. Mr. Cohen agreed to find more information about the City's current tree canopy.

Commissioner Broili recalled that earlier he raised the concept of a vegetation management plan or vegetation inventory rather than a tree inventory. As Mr. Cohen pointed out, vegetation in general serves many of the functions the City is looking to achieve. He suggested the ultimate goal of the tree code is to maintain the functionality that a forest would offer for economic reasons. Therefore, the City should focus on the bigger picture and not just trees by themselves. Mr. Cohen said that although the

tree code focuses on trees, the Commission should keep in mind that a vegetation management plan concept could still accompany the tree code. Commissioner Broili observed that in urban forestry, it is not just the trees that provide functionality, but the layers of plants all working together in a guild sort of approach that gives a complete set of functions. Mr. Cohen.

Mr. Cohen referred to the 40% number identified in the citizen's proposal. He pointed out that if every single-family property had trees on 50% of the lot, they might be able to achieve 40% citywide if you take out all the commercial areas, rights-of-ways. He observed that a 40% goal would be a tall order.

Commissioner Pyle pointed out that the Lake Forest Park code and the citizen's proposal are punitive in nature, in that a fine is identified for non-compliance. He said he does not necessarily want the City's code to be so punitive by nature. He suggested that, as a government, the City should address the issue from a stewardship and educational perspective by trying to promote the right thing without being so punitive. Chair Hall agreed that this also speaks to the relationship the City wants to have with the community.

Commissioner Broili observed that the City's ultimate underlying goal is to recreate or create the function that would come with a forested situation. Trees are important, but the real benefits to the City, property owners, and taxpayers are the functional qualities that an urban forest situation would bring. The Commission should keep in mind potential future codes that require vegetated roofs, etc. so that impervious surfaces can become part of the vegetative cover and move the City towards the functional qualities they are looking to achieve. While the City may not have a 40% forest cover in terms of trees, they could end up with a vegetative cover that may far exceed the 40%.

Commissioner Behrens questioned if it would be possible to waive grading permit fees based on the type of tree removal. In other words, if a developer maintains a tree cover at a higher than required, would it not be in the City's interest to give a break in the grading permit. In the long run, the City would receive some benefit by not having to pay so much money to address drainage issues, etc. Instead of punishing people for doing what they don't want them to do, the City could offer financial incentives to do what is to everyone's benefit in the long run. Mr. Cohen agreed that incentives should be a part of the code to achieve important goals that are more difficult to obtain.

Chair Hall suggested it would be helpful to first understand intent and purpose of the tree ordinance before they move forward with their more detailed discussion. At the request of Chair Hall, Mr. Cohen summarized the intent and purpose of each of the codes and proposals as follows:

- **Shoreline** – Preserve and enhance trees and reduce the environmental impacts of site development while promoting the reasonable use of the land.
- **Shoreline Citizen's Proposal** – Enhance the existing tree canopy to a minimum of 40% citywide. Promote economic, environmental and aesthetic benefits of retention. Enhance, maintain and protect public health, safety and welfare and minimize adverse impacts to land and wildlife.
- **Lake Forest Park** – Maintain the existing canopy with no net loss. Mitigate the economic, environmental and aesthetic consequences of removal, allowing flexibility for site development.

- **Bellevue** – Maintain and protect property values, enhance the visual appearance, and preserve the wooded character. Promote use of the natural systems, reduce impacts on storm drains and water resources, and provide a transition between various land uses.
- **Edmonds** – Promote the public health, safety and welfare. Preserve the physical aesthetic character of the city, protect the environment, implement SEPA, implement and further the goals and policies of the city’s comprehensive plan, and promote improved development of land use.

Commissioner Broili observed that the Bellevue’s intent statement is the only one that speaks to function. Implementing a good vegetation management plan would automatically improve property values. Bellevue’s statement talks about promoting utilization of natural systems and reducing the impacts of development on stormwater drainage systems and water resources. Both of these speak to functional qualities. He expressed his opinion that functionality should be a major focus of the City’s code.

Commissioner Pyle explained that Bellevue is in the process of rewriting their tree regulations, as well. They are very wealthy in terms of publicly owned land, and they have a very robust urban forestry program that is well managed. Most of their major natural resources are located within tracts that are owned and managed by the public and tree removal rarely occurs. They actually have a full-time forester who works within their forest resources, and they manage their forest resources in a way that allows them to promote these exact functions. On a parcel-by-parcel basis, Bellevue’s Code is not quite so specific to that intent. It is more along the lines of how many square feet of impact are you causing. Their true tree regulations are not found in the development or land use codes. They are actually in the clearing and grading code. Their tree regulations require a clearing and grading permit to remove trees if the removal would exceed 1,000 square feet of drip line. This is related to the interaction that staff can have with the property owner with regards to how they are managing their construction and tree removal and how they are dealing with erosion at the ground level and the long-term impact of rain falling on the bare area where the tree has been removed. He summarized that Bellevue does not necessarily limit the number of trees that can be removed, but they limit tree removal in critical areas or critical area buffers, etc.

Mr. Cohen reviewed that Bellevue has no provisions for a baseline re-measurement for protection after development. However, they have very clear cut requirements for Bridal Trails and new and expanding single-family areas. These requirements are straight forward and easy to administer. Basically, all trees within the setback areas must be retained. Between 15% and 30% of the trees within the interior of a property must be retained, depending on the area. He noted that Bellevue allows a property owner to remove a tree without a permit as long as it doesn’t involve more than 1,000 square feet of drip line. Therefore, a property owner could be allowed to remove up to 20 trees without a permit.

Chair Hall said the Commission should keep in mind that they don’t want to create a situation where property owners are motivated to preemptively cut down six significant trees out of fear that some severe regulation is coming down the road.

Mr. Cohen said the Commission may want to consider Bellevue’s approach of requiring that everything on the perimeter has to be preserved. Rather than using a percentage or unit number, which can change

depending on what's on the lot, a perimeter method would be easier to apply and would result in a buildable footprint in the interior.

Mr. Cohen reviewed that Edmonds requires a permit to remove trees, except on undeveloped, single-family lots, and unimproved lots with no potential to subdivide, and in emergency situations. They do not allow tree removal on any portion of properties within critical areas. Commissioner Pyle pointed out that Edmonds does not allow tree removal on slopes that exceed 25%. Because a significant portion of Edmonds is located on a slope, their code is fairly restrictive.

Mr. Cohen said the focus of the Innis Arden Club's proposal is on hazardous trees, which is an important part of the code.

Mr. Cohen suggested the Commission identify examples or issues they want staff to focus on for their next discussion. He said he could provide a graphic comparison of how the different concepts would be applied now and over time.

PUBLIC COMMENT

Kyle Roquet, CRISTA Ministries, said he lives in Edmonds but works in Shoreline. He advised that CRISTA Ministries has an interest in tracking the City's tree code amendments because they are in the midst of their master plan program. He suggested there are cases where a tree replacement requirement of 3 to 1 would result in a situation where a tremendous number of trees would have to be replaced but the property would not accommodate them all. It would be useful for Shoreline to have a program where property owners could bank trees with the City, and the trees could be planted on public lands or other places where there is a space and/or need. He said he knows that City-owned lands are fairly saturated with trees already.

Peter Eglick, Attorney for the Innis Arden Club, pointed out that Innis Arden is a big part of the Shoreline community, with more than 500 lots. In addition, they own and administer over 50 acres of reserve tracts, and all but one of them are heavily forested with trees. These facts create a lot of issues that are not addressed or recognized in the Commission's materials or discussion. He pointed out that the Innis Arden Club did not prepare a proposal specifically for the tree code review process, but they did prepare a hazardous tree proposal that was presented to the Commission as the club's response to the City's tree ordinance. The Shoreline Citizen Group's proposal was prepared by a group of citizens, many of whom are very much in opposition of the Innis Arden covenants. The club was not invited to participate in the citizen group's proposal, which was carried out behind closed doors and presented to City Council as something that should be adopted in a hurry. This process has left the club at a disadvantage.

Mr. Eglick suggested proposals are needed that specifically address situations such as the large Innis Arden reserve tracts. Under the current code, they are only allowed to remove six trees from their nine-acre heavily forested reserve tract within a three-year period, which is the same as a small, single-family property owner would be allowed to remove. He suggested the Commission direct staff to work with the club to come forward with a proposal that addresses their unique situation, the following four principles in particular:

- Innis Arden has view covenants that have existed for more than ½ century and have been upheld repeatedly by the courts. Some of the people who worked on the citizen group's proposal were quite active in trying to get the view covenants overturned or declared unenforceable, but they did not prevail. The courts reaffirmed that the covenants are enforceable.
- The Innis Arden Club has a concern about hazardous trees. Their reserve tracts are owned by the Innis Arden Board of Directors and Innis Arden Corporation, but they are maintained for the use of their lot owners (members). They are to be used as recreational properties, and they have maintained hiking trails and improved recreational areas. Many of these areas have hazardous trees. They have had a difficult time getting the City to work with them in a fair and efficient way to address hazardous trees. They currently have a request into the City as a result of a letter they received from a well known land use firm stating that if the club doesn't get rid of five hazardous trees near their client's property, they will sue. They are having a hard time working this through the City. There needs to be a better, more efficient, and fair way of dealing with hazardous trees, particularly for property owners that are stewards of large forested tracts.
- They need regulations that are not only efficient, but reasonable and non-arbitrary. For example, he challenged the Commission to define the term "landmark tree" in such a way that the City could get a replicable decision time after time from a group of experts in a room. Courts have determined that standards that are vague and discretionary are not permissible. When reading the standards, the Commission should consider whether or not the City would be able to describe the circumstances in which an exception would have to be granted and in which this definition would have to apply in a way that was predictable. If they can't, their code will not pass muster.
- Proportionality is very important to Innis Arden. One significant concern is that Innis Arden feels they already have provided a significant number of trees. They have over 50 acres with thousands of trees. Application of the current and proposed regulations would be completely disproportionate. He referred to the Citizens Alliance Case, which had to do with how much of a property had to be set aside in rural King County. No one thought the case would go anywhere, but the Court of Appeals held that the Citizens Alliance was right and the impact of the flat 35% set aside was absolutely inappropriate because it was disproportionate and was not measured by each property owners' situation based on individualized data. That decision was upheld just a few months ago when the Washington Supreme Court refused to take review of the decision.

Mr. Eglick summarized that if the code remains as it is and further regulations are adopted that don't address the issue of proportionality, whatever is adopted will be open to serious question. He suggested there are ways to address these problems. For example, several years ago the Innis Arden Club presented a proposal to the City for a mechanism that would allow property owners such as Innis Arden the ability to propose and get approval of vegetation management plans that would allow some flexibility into the process and eliminate the problem of proportionality. However, this proposal was rejected. He suggested now would be a good time for the Commission to ask staff to work with the Innis Arden Club to look at what can be put together to meet the needs of both the City and Innis Arden.

Commissioner Broili asked how much of the 50 acres of open space at Innis Arden is located within critical areas. Mr. Eglick answered that approximately 80%, but it might be a little less. He added that as the Commission talks about inventorying the trees in the City, it is important to keep in mind that

this work has already been done for the Innis Arden reserves and a copy could be provided to the Commission. He expressed disappointment that every time they work with the City on a tree issue, they are asked to provide another copy of the maps.

Commissioner Pyle clarified that when the Innis Arden Club's proposal was considered by the Commission in 2006, the Commission did not actually vote it down. It was taken off the agenda, and they never continued with the work. They did not actually recommend City Council deny the proposal. Mr. Eglick again suggested that perhaps this is a good time to pick up the discussion. He understands that it is very much the current thing to work on urban forest issues and tree preservation. But it is also very much a current thing to deal with what some people are calling "municipalization" of private forests. There needs to be a balance, and a vegetation master plan provision would be a good way to strike that balance.

CONTINUED DISCUSSION REGARDING TREE REGULATION BACKGROUND INFORMATION

Commissioner Kaje said he would like to give more thought to Bellevue's approach of prohibiting tree removal within the setback areas. He recognized that the concept may not apply the same in all types of zoning. As an example, he shared that his neighbor recently cut down seven significant trees, all of them right on the property lines and only one had been declared hazardous. None of these trees were removed to provide space for additional development. This situation points to the question of function and the reasonable use of the property. While their goal was to bring more sunlight onto their property, the tree removal had a dramatic affect on the surrounding properties.

Commissioner Kaje suggested as they develop proposed new code language, the Commission should carefully consider potential loopholes and the serial loss of vegetation. Whatever approach they decide upon, they need to make sure it is tight and does not undermine the goals that have been set for the process.

Commissioner Perkowski said that while no one wants to have a punitive code, it is important to have a mechanism for enforcing the tree retention and replacement requirements. The fines should be high enough to reflect the value of the lost trees. He said he would be opposed to code language that sets \$3,000 as the maximum fine for removing a significant tree without a permit. He suggested they could present the concept in a positive manner by providing code language that describes the economic value of significant trees are for a lot of functions.

Commissioner Piro said he would support Commissioner Broili's recommendation that the Commission consider the issue within the context of vegetation management in general. He said he does not necessarily want to make the process larger than necessary, but he can see that the ideas and concepts the Commission is considering would be "well nested" in a more comprehensive approach to dealing with the overall issue of vegetation cover and where trees fit into that whole mix.

Commissioner Kuboi drew the Commission's attention back to the intent and purpose of the City's tree ordinance, which is interrelated with Commissioner Broili's comments related to vegetation management in general. The final code language should support this direction.

Commissioner Kaje said he finds it a challenge for the Commission to come up with language that works for the large majority that would also address the unique challenges in areas such as Innis Arden. Without making any value statement about what the language should contain or how it should be different, he is intrigued by some mechanism of separating these two different situations. The Commission would get tied up in knots if they try to write a code that is meant to capture most of the City, and also try to create exceptions and clauses to make it work in unique places.

Mr. Cohen explained that the amendment proposed by the Innis Arden Club a year ago was related to vegetation management in critical areas and the City Council decided they didn't want to deal with it at the same time as the tree code. Staff has presented the club's proposal related to hazardous trees as a separate component of the tree code. He also advised that citywide forest management is currently being discussed by the Park Board.

Commissioner Kaje said that, in principle, the Commission must figure out what makes sense and what would be effective tools for most of the City. However, they should recognize that some areas must be addressed differently because of unique circumstances. He pointed out that a lot of work has taken place over the last few years at the State, regional and local levels on trying to have more innovative ways of looking at mitigation. Wetland banking has been in play for a long time and is fairly well established; the challenge has been how to deal with impacts to other types of critical areas. King County has been putting together a new program that would enumerate the functions that a site currently provides and what types of functions need to be provided. Sometimes, because of circumstances, the functions might be replaced out of kind, but the functions would still be achieved. He suggested the Commission might want to explore this concept further.

Commissioner Broili said that if functionality is one of the core values of what they are trying to accomplish by the tree code, the playing field would be leveled by working with a vegetative plan as opposed to a tree plan. For example, Innis Arden would have more opportunities for managing and mitigating their unique situation. Rather than focusing on just trees, the City would focus more on vegetation and function. He agreed the City should maintain a certain amount of tree canopy because that is a part of the vegetation infrastructure, but this approach would allow different kinds of trees at different levels. For example, one area might allow shorter trees that are consistent with the view covenants. This type of approach would allow more flexibility in how the City implements an urban forest management strategy.

Commissioner Broili expressed concern about allowing six significant trees per site to be removed. He would rather see language that is related to square footage and requires so much vegetation for a certain amount of area. Removing six trees from a 1/8 or 1/4 acre lot is significant, but removing six trees from an Innis Arden tract would be insignificant in terms of the overall forest cover. He summarized that this major loophole needs to be adjusted for fairness and proportionality.

Commissioner Broili said he would like the tree code to include language that speaks to disturbance from development activity. The goal is to maintain the site's functionality during development. For example, the language should require that the area inside the drip line of protected trees be fenced off. He said he has seen too many projects where trees are disturbed so much that their root systems are severely damaged and they die within a few years.

Commissioner Pyle said the City of Bellevue has good language in the critical areas section of their code that allows for modification of standards through the documentation of their functions assessment and a proposal to lift the function. He recommended that staff review this language. He reported that the City of Bellevue also has a new set of tree protection standards that have been forwarded to staff. They are good standards that are easy to apply to any construction site. He said he would also like to promote the use of a tree valuation model versus a flat fee as a penalty for illegal tree removal. Applying a straight fee doesn't work for all scenarios. The International Society of Arboriculture has approved methodology for assessing tree valuation.

Commissioner Pyle agreed with previous comments that the City is losing vegetation to some degree, but there is new vegetation, as well. He reminded the Commission that the entire City was clear cut in the 1940's. Commissioner Broili said that while it may be true that the City was clear cut in the 1940's, they have a long way to go to get to where they were 300 years ago from a purely functional point of view.

Commissioner Behrens said that whatever code language is ultimately adopted it must be measurable and enforceable. He suggested they consider tree coverage and preservation requirements for non-residential zones. One thing that is very attractive about portions of Portland, Oregon, is that they have high-density development with trees throughout to humanize the area. He felt that allowing the Regional Business zones to develop without requiring trees would deprive the people (that will live in the zones) of a real asset. He asked staff to bring back information about tree regulations for non-residential zones.

Vice Chair Wagner said she would like the Commission to discuss the differences between public versus private lands and the unique characteristics of each. She agreed with Commissioner Behrens that the Commission should at least discuss whether or not the tree regulations should be applied to non-residential zones, as well. She also suggested the Commission explore the option of having multiple levels of tree removal permits. She said she is intrigued by the notion of different levels of classification for significant trees.

Vice Chair Wagner disagreed with Commissioner Broili's suggestion that functionality of forest land should be of highest importance. While she believes that functionality is critically important, she does not get the sense that is what the majority of citizens are most concerned about. While some citizens definitely understand the concepts of hydrology and functionality, most value trees because of their look and feel. Therefore, they may not be in support of allowing people to remove trees as long as they can replace the functionality.

Vice Chair Wagner said she likes the concept of requiring property owners to preserve trees that are located around the perimeter of a property. On the other hand, she said she has so many trees in her yard that she can't see her neighbor's house, and she does not get any sunshine after 2 p.m. She expressed concern about enforcing strict regulations that deprive people of the limited amount of available sunlight.

Chair Hall pointed out that the current tree code separates between tree retention and replacement during the course of development and tree retention on existing lots that aren't being developed. He suggested it would be important to maintain this distinction because the response might be different depending on the lot. For example, the perimeter concept would seem very easy to apply on a large lot that is being subdivided or developed to preserve a buffer between the new development and adjacent development. However, it might be more difficult to apply on small individual lots.

Chair Hall suggested it would be appropriate for the Commission to meet jointly with the Park Board to discuss the Commission's effort to amend the tree code and the Park Board's effort to create an urban forest management plan. The remainder of the Commission concurred and directed staff to schedule a joint meeting as soon as possible.

Chair Hall referred to the City Council's earlier decision to remove critical areas from the scope of the tree ordinance process. He suggested it would be appropriate to clearly identify those issues that were not included in the scope of the project and when would be an appropriate opportunity to revisit them. He recalled that when the Commission previously considered the Innis Arden Club's critical areas stewardship management plan proposal, the debate was controversial. However, it appears that Innis Arden has taken a significant step forward by talking very clearly about allowing the director and staff or qualified professionals to visit the site at an agreed time and date to evaluate specific circumstances. He recalled that was one of the sticking points in the past. He said he had some skepticism about whether just allowing a private community to develop their own stewardship plan could work if staff was not allowed on site.

Mr. Eglick clarified that the Innis Arden Club never prevented staff from visiting the site. The issue was whether staff would let them know when they were going out because of liability issues. Chair Hall suggested that if this is no longer an issue and the City and community of Innis Arden feel comfortable that monitoring and compliance can be resolved, then it might be worth reopening the issue. If the City Council is not willing to go that direction, the Commission should at least be willing to talk about the opportunity for this in the future.

Commissioner Broili clarified that when he speaks of functionality, he is referring to a plethora of functions, including aesthetics, hydrology, solar gain and access, social, etc. Functionality does not just relate to hydrological issues, but the whole scope of functions that vegetation brings to not only the built environment, but to the social environment.

Commissioner Broili suggested the Commission use the proposals prepared by the Shoreline Citizens Group and the Innis Arden Club as a starting point, recognizing that changes would be necessary. Chair Hall said he would feel comfortable with this approach, but he expressed concern about putting a

numerical target into a goal without some assessment. He referred to Lake Forest Park's code, which identifies the goal of no net loss. He said he would like to start with that as a policy statement.

Commissioner Behrens pointed out if the City only requires 30% tree retention on 80% of the property in the City (the residential zoned areas in Shoreline), they have a de facto number that would put the tree canopy at 25% (80% times 30%). Chair Hall said this would assume that every private property owner developed and cut down the maximum number of trees. Commissioner Behrens said the only additional tree coverage the City would get would be what is on public property. Chair Hall pointed out that the requirements would only apply to properties that are associated with development permits, and the vast majority of properties in the City would not be further subdivided. Commissioner Behrens summarized that if the code establishes the minimum number of trees that must remain, the City would actually be setting a number for tree retention in a backhanded way. He summarized that instead of setting a positive number and saying the City is going to require the retention of 40% of the trees, they currently allow the removal of 70% of the trees.

Commissioner Pyle disagreed with Commissioner Broili's recommended approach for moving forward. He expressed his belief that each of the codes and proposals that were brought forward have really valuable pieces to them, and he wouldn't want to start with just two of them. He would rather pull out all the pieces they like, put them together, and match them up by subject. Where they conflict, further evaluation and tweaking could be done. Commissioner Broili said his process is just a different way of getting to the same point. Whichever method is easiest for staff is the one he would endorse.

Commissioner Pyle proposed they do a large lot/small lot scenario. The definition of large lot would be a lot that earns more than one unit of density under a density calculation. A small lot would be an existing single-family lot that cannot be subdivided and is an entity that would continue into the future. A large lot could also be a tract or something that is larger than one acre. Chair Hall suggested that rather than assuming a binary choice between large and small lots, they could ask staff to look into options for creating some form of proportionality or sliding scale.

Mr. Cohen suggested that staff review the example codes and proposals that were provided and hybridize the good points of each. This process would result in a good starting point for the Commission's next discussion. The Commission concurred.

Vice Chair Wagner suggested the first step in the process should involve creating some policy statements to identify the outcome they are looking for. Once the Commission has identified the key things they want the code language to achieve, they can begin to identify the types of tools that will help them get there. Secondly, she observed that the discussion has blended the issue of trees, critical areas, and clearing and grading and there appears to be some confusion. She suggested it might help the Commission focus their future discussions if they first established a purpose statement for each of these code sections. Mr. Cohen pointed out that the critical areas ordinance is actually located in a different section of the Code. Chair Hall emphasized that while the Commission understands this difference, they need to make it clear to the public.

Vice Chair Wagner said it might be helpful to obtain additional direction from the City Council. She noted the City Council indicated they did not want the Commission to consider amendments to the

Critical Areas Ordinance at this time. Therefore, whatever changes are made to the tree code will not adequately address the concerns raised by the Innis Arden Club. Even if the Commission comes up with a perfect solution for the tree code, people are still going to feel frustrated that their important issues were not addressed. She summarized that, at this time, it appears they are trying to address different problems, and it isn't exactly clear what we were trying to fix.

Chair Hall observed that Mr. Cohen, as project manager, is responsible for working with the Commission, the City Council and the community to address concerns related to the tree code. Part of this effort must involve a process of helping everyone clearly understand the scope of the project. It is important to provide clarity up front that the City Council has made the decision not to revise the Critical Areas Ordinance at this time.

Mr. Cohen summarized that the Commission is suggesting that their next discussion focus on the intent and purpose of the clearing and grading, critical areas, and tree code sections. They have also asked staff to begin preparing draft code language to illustrate the Commission's discussion, using a hybrid of the sample language provided. Vice Chair Wagner encouraged staff to keep their ideas simple for the Commission's next discussion. They could provide a bulleted list of issues that need to be addressed, and then provide a summary of the existing code language, as well as their thoughts on potential amendments.

Chair Hall suggested the Commission would be able to quickly gain a clear understanding of the differences between the three sections of code if staff were to provide a memorandum that clearly explains the purpose and intent of each one. He suggested the Commission move as quickly as possible through this initial discussion so that the tree code amendment process can continue to move forward. Mr. Cohen agreed to provide a memorandum of explanation prior to the Commission's next discussion regarding the tree code. Commissioner Pyle noted that in addition to the critical areas and clearing and grading sections of the code, the tree code is also interrelated with the landscape standards.

Commissioner Pyle suggested the Commission approach their review of the tree code using a process similar to that used for the vision process. They could break into small groups to work on different elements, and then bring draft language back for the whole group's consideration. He summarized that this has been a productive approach for accomplishing significant tasks. Chair Hall agreed that would be an effective approach, but he suggested the Commission needs one more opportunity to work with staff before breaking into group.

Chair Hall reminded staff of the direction that was provided by the City Council regarding the core of the project. While the Commission has provided helpful feedback for staff to bring back additional information, it is up to staff to decide the best way to present the information and move the Commission quickly through the process.

Vice Chair Wagner suggested that at their next tree code discussion, the Commission could start putting together goals for each of the areas identified on the first page of the tree code binder that was provided earlier by staff. If the Commission is only going to consider changes to Subsection 5 (tree conservation, land clearing, site grading, etc.) they should make it clear that the other items won't be part of their

discussion. They could place the remaining interrelated items on their parking lot agenda for potential discussion in the future.

DIRECTOR'S REPORT

Mr. Cohn announced that the City Council's May 11th agenda includes a review of the Planning Commission's recommendation related to height limits for high schools. The Council conducted a study session on May 5th and expressed concern about what the actual maximum height should be. They directed staff to redraft the language to say that 50 feet would be the base height, with 55 feet for gymnasiums and 72 feet for theater fly spaces. Mechanical equipment would be allowed to extend an additional 15 feet in height above the base height of 50 feet for a total height of 65 feet. Mechanical equipment located on top of gymnasiums would be limited to a total height of 65 feet, and no mechanical equipment would be allowed on top of theater fly spaces.

Mr. Cohn advised that the City Council would also discuss the Vision Statement and Framework Goals again at their May 11th meeting. Councilmembers were invited to forward their ideas to staff by the end of today so that a matrix could be prepared. However, staff only received input from Councilmember Eggen having to do with economic development ideas.

Mr. Cohn recalled that at a previous meeting, some Councilmembers suggested they talk about allowing high-rise development along Aurora Avenue in addition to mid-rise development. The idea of considering this option resulted in a significant number of emails from Westminster Triangle property owners. The City Council will discuss this potential change on May 11th, as well. He noted that staff also received written comments from property owners in Richmond Beach regarding the Point Wells Property, and staff clarified that the Vision Statement is not currently applicable to Point Wells.

Mr. Cohn announced that the City Council would review the draft Midvale Demonstration Area (MDA) proposal, which now calls out a 45-foot height limit along the perimeter and 150-dwelling units per acre. The design standards that were adopted for the Ridgecrest Neighborhood have been incorporated, as well as additional language to address concerns about traffic heading from Midvale into the neighborhoods. Staff anticipates the City Council will either approve the proposal as an interim ordinance that will last until the Town Center work has been completed, or they will deny the proposal and the moratorium will continue to apply.

Mr. Cohn reported that the Southeast Neighborhood Citizen Advisory Committee started working on maps at their last two meetings. Their open house has been scheduled for June 16th at the Fircrest Community Center. Staff anticipates the committee will have two or three map options available for the public to respond to, as well as a preliminary set of goals and policies.

UNFINISHED BUSINESS

There was no unfinished business scheduled on the agenda.

NEW BUSINESS

No new business was scheduled on the agenda.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Chair Hall reported on his attendance at the City Council Meeting where he and Vice Chair Wagner presented the Commission's recommended language for the Vision Statement and Framework Goals. The City Council requested clarification about what mid-rise development would include, and then questioned if the proposed language would prohibit high-rise development. They explained to the City Council that the Commission received public comments both in favor and against high-rise development, and they decided to settle in the middle by recommending mid-rise development. They pointed out that the City Council could certainly exercise their prerogative and change the language to allow high-rise development. However, this discussion triggered a flurry of emails from the Westminister Triangle property owners. He recalled the value of the extraordinary process the Commission went through over the past six months to develop the Vision and Framework Goals. At the conclusion of their effort, they had created proposed language that received the consensus and support of the vast majority of the community. Significant concern was raised when changes were discussed. He suggested the City Council's discussion probably generated even stronger support for the Planning Commission's recommendation than what might have been in the past.

Chair Hall asked Commissioner Broili if he was planning to attend the Forestry Meeting on May 11th. Commissioner Broili said he was not planning to attend the meeting, since it would be available on television. Commissioner Pyle agreed to forward the Commissioners a link to the website where they can find information about where to view the meeting.

Commissioner Piro reported on his attendance at an International Urban Planning Symposium in Germany. He advised that he prepared a short Power Point presentation, which is available for interested Commissioners. The focus of the conference was urban sustainability in general with a focus on the "shrinking city." It was fascination to see the proposals that were presented for creating vibrant, robust communities with much less population that what existed historically.

AGENDA FOR NEXT MEETING

Chair Hall reviewed that the May 21st agenda would include a public hearing on the Garden Park rezone application, as well as a possible discussion of development code amendments for the Regional Business (RB) zone.

ADJOURNMENT

The meeting was adjourned at 9:43 P.M.

Will Hall
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission