

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF SPECIAL MEETING

July 9, 2009  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Rooms

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### **Commissioners Present**

Chair Hall  
Vice Chair Wagner  
Commissioner Behrens  
Commissioner Broili  
Commissioner Kaje  
Commissioner Kuboi  
Commissioner Perkowski  
Commissioner Piro  
Commissioner Pyle

### **Staff Present**

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

### **CALL TO ORDER**

Chair Hall called the special meeting of the Shoreline Planning Commission to order at 7:00 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, Kaje, Kuboi, Perkowski, Piro and Pyle.

### **APPROVAL OF AGENDA**

Chair Hall explained that the Commission typically allows public comment at two points in their regular meetings on items that are not of a quasi-judicial nature or specifically scheduled for discussion later on the agenda. However, because the tree regulations are a legislative matter and the only item scheduled on the agenda, he suggested the public comment period be limited to just one opportunity at the beginning of the agenda. Members of the public would be given one opportunity to comment for up to three minutes.

## **DIRECTOR'S COMMENTS**

Mr. Cohn referred the Commission to the updated agenda planner that was prepared by staff. He emphasized that items scheduled for September, October, and November are tentative at this time. For example, staff is still trying to set a date for the CRISTA public hearing, and the joint Planning Commission/City Council Meeting must be rescheduled. Staff anticipates the Commission will get to each of the items on the agenda generally within the timeframe identified.

Mr. Cohn announced that staff met with the City Council to discuss the set of Development Code Amendments the Commission reviewed in late February. They agreed with all of the Commission's recommendations, with the exception of the North City Parking Code amendment. Some of the City Councilmembers were leaning towards increasing the parking requirements somewhat. The City Council will take action on the proposed amendments on July 13<sup>th</sup>. Staff intends to provide two alternatives, one with the changes to the North City Parking Code and one without. Interested Commissioners can either attend the meeting or watch it on streaming video the next day.

Mr. Cohn said the City received a master plan application for the Public Health Lab. At some point near the end of 2009 or early 2010, the Commission would be reviewing this master plan proposal.

Chair Hall inquired when the CRISTA Master Plan would be presented to the Commission for review. Mr. Cohn estimated the plan would likely be available for Commission review in October, after the Point Wells issue has been resolved.

## **APPROVAL OF MINUTES**

The minutes of June 18, 2009 were approved as amended.

## **GENERAL PUBLIC COMMENT**

Chair Hall reviewed the rules and procedures for the public comment period. Once again, he clarified that because the tree regulations are legislative in nature and not scheduled as a public hearing, the Commission decided to modify the agenda and only allow one general public comment period for the public to speak on any issue.

**Les Nelson, Shoreline**, expressed concern that the public needs an opportunity to hear the staff report prior to the public comment period, which is what the advertised agenda indicated. He referred to the Commission's dinner discussion about the Central Shoreline Subarea Plan and the fact that it was never adopted by the City. He emphasized that a representative from the Growth Management Act indicated the plan was adopted as an appendix to the Comprehensive Plan and was intended to provide additional information. He stated his belief that there was never a formal Comprehensive Plan amendment to remove it from the Comprehensive Plan, just a legislative decision to not use it. He noted that many of the elements in Dan Burden's presentation were included as part of the Central Shoreline Subarea Plan. He expressed his belief that the plan was one of the better planning efforts the City has done, and the

public was involved in the process. He suggested the Commission review this document and decide how much of it could still be used.

Mr. Nelson suggested the City invite a representative from Seattle City Light to a future meeting to address some of the difficult questions surrounding underground power lines. They should specifically ask about the cost of undergrounding the power lines in the Town Center Subarea Plan area. He concluded that while it might be more expensive to place the lines underground, it can be done. Since Seattle City Light is proposing to install even more lines, perhaps the City should build a utility corridor and then pay to put the lines underground in exchange for some property.

Commissioner Kaje asked Mr. Nelson to clarify his comment that the Central Shoreline Subarea Plan was adopted by the Growth Management Act (GMA). Mr. Nelson said that a representative from GMA indicated that the plan was adopted as an appendix to the Comprehensive Plan, so it is part of the Comprehensive Plan. Commissioner Piro asked Mr. Nelson to clarify his reference to a GMA representative. Mr. Nelson responded that he spoke with a Community Trade and Economic Development (CTED) Representative about the issue.

**Laethan Wene, Shoreline**, said he was present on behalf of people with disabilities. He suggested it would be a great idea for the City to sponsor a day camp for people with disabilities. He said he has talked to the Parks Department and attended a day camp in Seattle for people with disabilities.

**Nancy Rust, Shoreline**, said she read through the staff's current proposal and was happy to see that the exception for the removal of six significant trees was removed. She was also happy with the new proposed definition for "significant tree," and the use of the tree credit method that offers a way to encourage the retention of large trees. She said she was happy to see that replacement trees would be required and that there would be a five-year buy off requirement and a forestry account would be established. She was pleased to see that staff is proposing the City do a survey of the canopy every five years. She said she realizes this is just the beginning of the process, and she hopes to see further proposals that will include non-residential zones and strong enforcement measures. She observed that the current proposal deals primarily with making sure trees are retained when a property owner in a single-family residential zone wants to subdivide. She noted that Lake Forest Park has two levels of permits, one for developed lots only. She suggested the Commission consider this option so that owners of developed properties do not have to go through the same process as someone who is trying to clear a lot to accommodate new development. She encouraged the Commission to continue to work to develop a strong tree code.

Commissioner Behrens asked Ms. Rust to elaborate on Lake Forest Park's program that includes separate requirements for owners of developed properties who want to remove a few trees for various reasons other than redevelopment. He asked her to forward her ideas for potential language so the Commission could consider implementing the concept. Ms. Rust agreed to provide this information.

**Boni Biery, Shoreline**, agreed with Ms. Rust's comments and said she appreciates the hard work that has already been done by staff and the Commission. She observed there has been a lot of tree cutting in Shoreline because people seem to incorrectly fear that the future tree code would prohibit them from

cutting trees. She asked that the Commission seriously consider establishing a moratorium on cutting until the new tree regulations have been adopted.

Ms. Biery referred to the memorandum that was provided in the Staff Report which talks about a 34% sample survey of tree canopy in single-family zones. She suggested the survey presents a much rosier picture than what actually exists because there are absolutely no constraints on tree removal on any commercial properties. She observed that the City of Seattle has a goal of 30% canopy by 2036. If Shoreline identifies itself as a City among the trees, they should be able to have a goal that's at least something higher than that of Seattle. She noted that the American Forests Association's website recommends that a suburban environment of the City's size should have a canopy of 40%. She provided each Commissioner with a copy of the resources she has collected. She asked that they review the information as they begin their discussions of the tree regulations.

**Peter Eglick, Seattle**, said he is an attorney representing the Innis Arden Club, which has over 500 homes and families in the City of Shoreline. He agreed with Mr. Nelson that it would have made more sense to accept public comments after the staff report had been presented. He observed that if one looks at the memorandum from Mr. Tovar, a lot is left to the imagination and would be filled in as part of the staff's presentation after the public comment period. This makes it difficult for the public to speak knowledgeably.

Mr. Eglick emphasized that the Innis Arden Club continues to be disappointed. The matter of view covenants and how they interact with the tree regulations must be dealt with. It is very disappointing to see that the proposed purpose statement does not talk about recognizing and accommodating covenant protected private views that existed prior to the proposed regulations. He referred to Page 44 of the Staff Report and said the idea that the single-family regulations would be a test case and perhaps someday implemented in other zones in the City that have no tree regulations at all is both wrong headed and legally infirm. It would be inappropriate for the City to place all of the burden in one place without a better rationale.

Mr. Eglick observed that Ms. Rust is delighted because the regulations, as outlined, would affect a municipalization of trees. He agreed that perhaps some people are cutting trees in anticipation of the municipalization. While you can assume that all of these people are ignorant and not good hearted, they could also think that perhaps a balance is not being struck in the regulations. They are looking towards a staff bureaucracy and system that will be daunting and inappropriate to deal with. Innis Arden is concerned about this issue, as well. He summarized that it is time for some of Innis Arden's issues to be fleshed out and discussed via an informed process.

Mr. Eglick provided the Commissioners with a letter that responds to some of the statements submitted by Ms. Rust. He urged the Commissioners to read the letter, which contains some basic facts that were drawn from the public disclosure document the Innis Arden Club obtained from the City regarding the origin of the proceedings. He said his conclusion thus far is that the proceedings originated in an inappropriate way in terms of open, public participation. He suggested the Commission change the whole direction the process is going.

**Michael Oxman, Seattle**, congratulated the Commission for taking the first steps towards making it illegal to cut down trees without a good reason. He expressed his belief that a permit process is entirely appropriate because the current system is not working, and the City is losing their canopy too quickly. He suggested it is important to consider tree values, what people like about trees, and how a tree that originates on private property impacts the community at large. First, there is the social beauty and peace of mind that trees provide. Second, trees provide an ecological function by holding soil, preventing erosion and recharging the atmosphere with oxygen. Third, there is a financial aspect that would come into play every five years when the inventory is conducted. He suggested the market place will determine the value of trees, and an appraisal system has been developed by the Council of Tree and Landscape Appraisers that takes into account the diameter of the trunk measured 4½ feet above the ground. Measuring the diameter of the trunk and then adjusting the value based on the type, location and condition of the tree, would give the City some idea about the tree's value. He suggested the fight to save trees must be done on a tree-by-tree basis, and tree appraisal must be part of the tree inventory program.

**Nancy Morris, Shoreline**, said that while she understands the importance of views in certain situations, it is necessary to also consider the degradation that is going in Puget Sound, where extremely high contamination levels exist. The City must establish a value system that also keeps in mind that trees can help filter toxic waste from water before it reaches the Sound. She suggested that rather than spending money on legal matters between neighbors, the citizens should focus on what type of heart they want the City to have and what they are leaving for their children in the future. In terms of the future tree ordinance, she asked that the Commission consider the spirit of the matter. She also suggested they consider the following two quotes:

- Martin Luther King, Jr. – “Even if I knew that tomorrow the world would go to pieces, I would still plant my apple tree.”
- W.S. Merwin (Winner of two Pulitzer Prizes for poetry) – “On the last day of the world, I would plant a tree.”

## **STAFF REPORTS**

### **Tree Regulations Discussion**

Mr. Cohen referred the Commission to the proposed language that was prepared by staff for the purpose and retention/replacement sections of the tree code. He recalled that on May 21<sup>st</sup> the Commission directed staff to return with some proposed language, and the purpose section was of particular importance to ensure the Commission's discussions were headed in the right direction. Mr. Cohen further recalled that staff presented the idea of talking about the core of the tree code (retention and replacement) first. Staff believes that if the Commission can resolve this issue, other issues such as hazardous trees, landmark trees, code enforcement, construction standards, etc. would make more sense.

Mr. Cohen observed that the proposed language would not conflict with the landscape, dimensional standards, and critical areas sections of the code. He further observed that, internally, the tree code purpose section is a mixture of clearing and grading language and tree and vegetative cover language,

and these different topics would be separated later in the process under a proposal for clearing and grading requirements. The remaining tree purposes could then be reduced into a few statements that list the attributes of tree and vegetative cover and the need for flexibility to accommodate site design constraints. He reviewed each of the statements in the proposed purpose statement as follows:

1. Preserve and restore trees and vegetative cover to:
  - Promote the City's treed identity and screening between development.
  - Improve rainwater absorption and erosion control.
  - Provide wind protection and mitigate air pollution.
  - Provide plant diversity and wildlife habitat.
  - Strive for a no-net-loss of tree canopy and vegetative cover citywide.
2. Provide flexibility to allow development, solar access and greater tree protection.

Mr. Cohen noted that "solar access" is a new concept identified in the Environmental Sustainability Strategy, and staff felt it was an important concept to include. He suggested that people may find solar access as important as having trees. He explained that solar access can be interpreted in several ways: passive solar access, active solar access, and view. He noted that staff left out the language related to the value of trees because value varies from one part of the City to the other. Some people feel very strongly that views provide a greater economic value, and others feel that trees have greater economic value. As the Commission gets into their discussion regarding the retention and replacement element of the ordinance, they will see that the proposed language would allow people to determine their own economic value and allow flexibility to accommodate views, solar access and trees.

Mr. Cohen said the goal of the code amendments is to close gaps in tree removal, better understand the status of trees, and build confidence that the City is providing the best protection and enhancement of trees through flexibility and clarity. He advised that, at this time, the proposal would only apply to single-family zoned areas because they represent the majority of city land area and can act as a test case in which to gauge other land uses. He reminded the Commission that there are currently no tree retention requirements for commercially zoned properties.

Mr. Cohen explained that as per the City Council's recommendation, the proposed language would repeal the exemption for removal of six significant trees every three years, provide accountability for tree removal, and include them in a site assessment for tree protection. If no permit is required for tree removal, the City would not necessarily be informed. The proposal for retaining and replacement would allow flexibility for property owners to remove trees, as well as a requirement to replace trees. The proposed language would also reduce the significant tree size from 8 and 12 inches to 4 inches. Four-inch trees are about 20 feet in height and are essential to the growth of a secondary canopy. He pointed out that staff sampled approximately 600 random single-family properties in the City and found that there is a tree canopy coverage of approximately 34% in single-family areas.

Mr. Cohen advised that staff is recommending the use of a tree credit method of retention and replacement. Currently, the City has a 20% retention requirement regardless of tree size. The proposed

tree credit method would base a tree's value on its diameter rather than whether or not it meets the definition of a "significant tree." He reviewed that the three main benefits of this method are:

1. A property's credit requirement could be assigned to a few larger trees, which would help the City promote the retention of larger trees. Citizens have indicated a strong desire to protect the larger trees.
2. It would provide greater equity between sites with a few trees and sites that are heavily forested. Some sites only have two or three significant trees while others are fully wooded. The current regulations are very inequitable as to the number of trees that must be preserved and replaced.
3. It would establish a baseline from which all subsequent site activity is measured. The baseline would always be the same using the system proposed by staff.

Mr. Cohen reported that staff analyzed various scenarios based on a proposal from a citizen's group and Kirkland's code, both of which require maintaining a minimum of 35 credits per acre. They also analyzed the scenarios that would occur based on a standard that would require a minimum of 90 credits per acre and found it would be too onerous on the property owners who want some view and solar access rather than being surrounded by trees. Staff is now recommending a minimum requirement of 60 credits per acre.

Mr. Cohen introduced Associate Planner Brian Lee, who deals mostly with short plat applications. He was invited to participate in the tree regulation project because he deals with tree issues on every single project that comes forward. In addition, a staff member who reviews the development code portions of single-family applications was invited to participate.

Mr. Cohen highlighted the significant features of staff's proposed credit system and the Commission commented as follows:

- ***Require 60 tree credits per acre or 10 credits for a typical 7,200 square foot lot. Ten credits could be met in several ways, ranging from saving 20, 10-inch trees to one, 47-inch tree. Saving larger trees would be to a property owner's benefit.***

Chair Hall questioned how there would be room for a single-family home on a lot that is required to provide 20, 10-inch trees.

- ***Significant trees trunks that are within 10 feet of the building footprint could be retained but not included in the credit requirement because of the likely root damage from construction activity.***

Chair Hall clarified that this section of the proposed language would only apply during the course of development review. Mr. Cohen added that the system would work for people who want to redevelop, develop or remove a tree just because they don't like it.

Commissioner Behrens shared an example in his neighborhood where a significant tree was removed from a development that took place about five years ago. Rather than allowing developers to cut down all trees within 10 feet of a structure without replacement requirements, the code should figure

out a way to save as many of the trees as possible, even if it requires moving the footprint of the building. Mr. Cohen explained that the current language includes provisions to flex setback requirements to a certain degree to allow for tree preservation. While they are not addressing this provision tonight, it would be part of the code language. A tree could be removed as long as a property owner could maintain the required credits, but the trees would have value in terms of replacement.

- **Replacement trees are proposed to have a minimum of 2-inch caliper and the maintenance bond would be increased to 5 years to improve survivability and the likelihood that the tree would become significant by the end of the maintenance period.**

Mr. Cohen said the idea is to close the gap by reducing the definition of a significant tree down to four inches, increase the size of the replanted tree, and increase the length of the maintenance period.

- **If a site has enough trees to meet the minimum 60 credits per acre then no replacement trees would be required. If a site doesn't have enough trees to meet the credits, the property owner must plant enough replacement trees to meet the credits on the site.**
- **Future tree removal is allowed by permit if the site retains 60 tree credits per acre. 60 credits per acre is the baseline at any time. Previous replacement trees would be protected under a 5-year maintenance bond. After 5 years the trees could be cut as a part of the site's tree credit requirement.**
- **Excess replacement trees could either be planted on site or their value placed in a forestry account. This account would be like a fee-in-lieu account where monies can be used for City tree planting programs or forest management programs. The fees are yet to be determined.**

Mr. Cohen explained that the forestry account could be used to fund neighborhood tree planting and forest management programs to improve the citywide tree canopy on a program basis. In some cases, quite a few replacement trees would be required, and there won't be room on the site for all of them. Property owners would always have the option of planting all of the replacement trees on their property rather than contributing to the forestry account.

- **All removed trees would have replacement trees associated with them. Two replacement trees would be required for every tree credit not met by the site.**
- **A City survey of the tree canopy would be conducted every five years to indicate whether no-net-loss is achievable. The City could adjust the code requirements based on the results of the survey.**

Mr. Lee explained that staff reviewed various numbers that other municipalities are currently using and applied them to real case scenarios and lot configurations to identify the proposed 60 credits per acre number. He reviewed three examples to illustrate how the proposed tree credit concept could be applied to single-family properties. He noted that based on the 60-credit per acre requirement, a 7,200 square



foot lot would have a requirement of approximately 10 credits. He referred to the Tree Density Table, which identifies the number of tree credits required to replace various sizes of trees. He noted that each replacement tree would be worth ½ credit. He reviewed the examples as follows:

- **Example 1** – In this example the 7,200 square foot lot would have four trees of various sizes. Removal of a 24-inch tree would require mitigation of 8 new trees (each worth ½ credit) for a total of 4 replacement credits. The property owner would retain the three remaining trees, which would equal a value of 8.5 credits. Because 10 credits is the minimum required for the site, the property owner would be short 1.5 credits, which translates into three additional new trees. Because the property owner already has a credit of 8.5, only three of the 8 required replacement trees would have to be located on site. The property owner would be given the option of either replanting the remaining 5 trees on site or paying into the forestry account.
- **Example 2** – In this example the 7,200 square foot lot would require 10 tree credits. There are numerous trees on the site, and the property owner desires to remove several of them to prepare a building envelope. If the property owner were to remove 8 of the trees for a total of 24.5 credits, 49 replacement trees would be required. The trees around the perimeter of the property would remain for a total credit of more than the minimum 10 required for the site. Because the site already exceeds the minimum 10 credits required, the property owner would have the option of either planting part or all of the 49 trees on site or paying towards the forestry account. In this particular scenario, even though the property may have started with a heavily forested situation, it is very likely that the abutting properties would not have as many trees. Even though they may have gotten used to the park like setting within their neighborhood, it would be overbearing for the City to require the property owner to maintain the situation. By giving them the option of paying into the forestry account, they would be able to maintain somewhat of a canopy yet mitigate for the trees that are removed. The intent of the forestry account would be to use the funds to replant trees somewhere else in the City to promote the overall sustainability of the tree canopy.
- **Example 3** – In this example a larger property (21,600 square feet) would be divided into three 7,200 square foot lots. The minimum tree credit requirement would be 10 for each of the three new lots. If the property owner wants to remove six trees to provide a building envelope for Lots 1 and 2, 43 replacement trees or 21.5 credits would be required. The credit value of the remaining trees on Lot 1 would be 9, which is one credit short of the minimum requirement. The property owner would be required to plant two trees on the site. The credit value of the remaining trees on Lot 2 would be 5, and the property owner would have to mitigate by planting 10 trees. Because the property owner would only retain the one large tree on Lot 3, which has a credit of 4.5, they would have to mitigate for the remaining 5.5 credits by planting 11 replacement trees. The six trees that were removed had a credit value of 21.5 credits or 43 replacement trees, and 23 trees would be required to be planted on site. The property owner would have the option of planting the remaining 20 replacement trees on site or paying into the tree forestry account.

Commissioner Pyle noted that all of the examples presented by Mr. Lee would be triggered by development activity. He asked if there are other provisions that would apply to situations where property owners want to cut down trees on developed lots. Mr. Cohen answered that, as proposed, a

permit would be required to remove a significant tree from any single-family property. If removal is not associated with redevelopment, trees could be cut down as long as the property maintains the minimum 10 tree credits, but they would have some replacement value. Chair Hall suggested staff provide some examples that might be typical of a single-family developed lot. Mr. Lee advised that Example 1 could be an illustration of a site that is fully developed. If the property owner wished to remove one tree for whatever reason, there would be a mitigation requirement of 4 credits or 8 replacement trees. The property owner would be required to plant three on site and the remaining five would be optional (replace on site or contribute to the forestry account). Some form of mitigation would be required for every tree removed.

Commissioner Broili expressed his belief that no-net-loss is a pathetic goal for the City to have. He asked staff to explain why tree codes are necessary. Until this question has been succinctly answered, it would be impossible for the Commission to know whether the proposed language would achieve the desired goal. He expressed his belief that vegetation and tree cover is part of an ecological system that needs to be thought of in a systemic way. The City's traditional way of managing vegetation is piecemeal and an incorrect approach. The issue must be addressed in terms of the whole City. If they are talking about a "City in the Forest" they need to identify a forest management plan or strategy that is more holistic than what is currently being proposed. There are numerous functions and economic values that a forest management plan brings to City residents. Vegetation has economic value in that it can be sold, and there is ecological value such as the reduction of rainwater, stormwater management, etc. Until they think about a holistic vegetation plan for the entire City, he suggested they would be wasting their time as far as creating any meaningful regulations. The City has a diverse landscape and diverse needs and goals as a functioning City, and they have the ability to achieve many of the functional qualities of an old growth forest by thoughtfully managing the issue as a whole unit. He encouraged the Commission to take a more systemic approach.

Commissioner Kaje asked if the owner of a developed single-family property with only one 24-inch tree would be required to meet the minimum 10 credit requirement if he/she were to remove the tree. He noted that all three examples provided by staff started with more than 10 credits. Mr. Lee said this would have to be discussed between staff, but his initial response would be that if the property started with just one 24-inch tree and no development was involved, the owner should only be required to mitigate for the tree that was removed. If some development was involved, his inclination would be to require the property owner to meet the minimum credit requirement for the lot, which would entail the replacement of more trees. Commissioner Kaje suggested this would be an important issue for staff to consider.

Mr. Cohen suggested that if there is only one tree on a property, perhaps a property owner should not be allowed to cut it down unless he/she can bring the total tree credits to 10. Chair Hall summarized that the policy question is whether or not the removal of trees in the course of development should be regulated the same as the removal of trees that are not associated with development. His sense from previous discussions would be to at least acknowledge there may be differences in the two situations.

Commissioner Behrens questioned how the City would enforce the tree regulations on single-family developed properties. Mr. Cohen agreed that enforcement must be addressed as part of the code.

Enforcement capability currently exist, but might not be adequate. Commissioner Behrens asked who would be responsible for measuring the diameter of each of the trees removed in order to determine the required replacement value. Would the City require that only licensed professionals be allowed to remove trees or would a City staff person be responsible for measuring trees that are to be removed?

Commissioner Kuboi said he understands that any cutting of a significant tree would require a permit. He asked if the proposed language would allow a property owner to remove as many trees from a site as desired to provide better solar access as long as the total tree credits on site remain above the minimum requirement and the owner pays into the forestry account to mitigate for the lost trees. Mr. Cohen agreed that would be possible. Commissioner Kuboi asked if there are other aspects of the code that would prevent this from occurring. Mr. Lee explained that one mechanism for deterring this particular scenario is the dollar value the City places on the replacement trees. An appropriate value would place a heavy financial burden on a property owner who wants to remove numerous significant trees. Commissioner Kuboi said that while he finds the tree credit concept interesting, whether the dollar value is effectively punitive as a discouraging factor would be a major factor in how he views the overall plan.

Commissioner Kuboi asked if the proposed language provides a definition for “replacement tree.” Mr. Cohen said staff is working on language to identify what types of trees would count, what their potential growth must be, and the required size at planting. Commissioner Kuboi said this is another element that would weigh significantly on how he views the proposal.

Commissioner Piro questioned what rules would be associated with the forestry account program and what types of guarantee would there be that the funding would actually be used for tree planting throughout the City. Mr. Cohen said the program would be modeled after the City’s existing fee-in-lieu-of program that is used for frontage requirements. The City Attorney is currently reviewing the concept and would provide feedback at a later date. He noted that Lake Forest Park currently has a similar program, which directs how and where the funds would be used. He noted the intent is to include a time component that would require the funds to be used by a certain date.

Commissioner Piro suggested the Commission consider creating a stand-alone purpose statement for mitigating air pollution and the adverse impacts of greenhouse gases. He agreed with Commissioner Broili that they must consider the issue in terms of a holistic system, and he suggested they consider ecological relationships, as well. For example, climate change is currently a core sustainability issue, and there is a state mandate that requires municipalities to take active steps to reduce greenhouse gases. Regional policies speak to the need to reduce greenhouse gas emissions, as well. Tree retention and restoration of vegetation are proven strategies to address the impacts of climate change. There is also a regional directive that requires the City to use a systems approach in all of their planning efforts related to environmental issues. He observed that while the tree regulations provide a meaningful piece to the effort, the issue needs to be addressed as part of a more holistic sustainability discussion about restoring the forest system.

Commissioner Perkowski observed that the only time the term “significant tree” would come into play with the proposed language is to determine whether or not a permit would be required. The term “species” has no bearing in the proposed language, either. He suggested the language be more specific

related to species. For example, three 15-inch cottonwood trees would not be equivalent to a 150-year-old Douglas Fir.

Commissioner Perkowski referred to Commissioner Kuboi's earlier comment about a property owner having the ability to remove numerous trees from a property as long as he/she can pay the required amount into the forestry account to mitigate for the loss. He suggested a different threshold could be used in these situations, and the different species involved should be a factor, as well. For example, the forestry account should not be an automatic option as long as a property owner retains the required 10 credits. Perhaps a good disincentive would be to raise the threshold to require that more trees be planted on site and that trees be replaced with the same species. While he sees some value to the tree credit concept, he also has some significant concerns.

Commissioner Kaje said he understands and respects the concerns raised by Commissioner Broili about having a holistic approach to addressing environmental sustainability. He said he also agrees with his statement that the City needs to identify some holistic principles and goals. However, he said he would be in favor of moving forward with the tree regulations now to deal with the kinds of actions that are currently taking place (lot-by-lot random actions by property owners to remove trees for various reasons). He agreed with his fellow Commissioners that some significant issues must still be discussed and addressed, but they must remember that the current regulations only require a developer to retain 20% of the existing trees. The proposed language represents a significant improvement, and he would like the Commission to move forward.

Commissioner Kaje recalled that at a previous meeting the Commission discussed the concept of having different requirements, depending on the tree's location. For example, they discussed that different rules or incentives could be established for trees that are located on the perimeter of a lot because they clearly have a more significant impact on surrounding property owners. He asked staff to give further thought about how this concept could be implemented.

Commissioner Wagner suggested that the first bulleted item in the proposed Purpose Statement should be divided to address the City's tree identity and screening as two separate issues. She said that while she likes the ideas put forth by staff and the Commissioners, she expressed concern about making the process too complicated. She observed that many property owners do not even know what the current rules are, and now they are talking about imposing a much more complicated program. She also expressed concern about the costs associated with implementation and enforcement of the new requirements. Rather than a punitive approach, she suggested the City address the issue with a more positive approach.

Commissioner Wagner suggested it would be helpful for staff to provide more scenarios to illustrate how the proposed language would be applied to various situations. She expressed particular concern about properties that have significantly more tree credits than the minimum requirement of 10. For example, if you have a lot that has 15 credits and you take one tree out because it looks rickety and you don't like it, you would be required to replace it with two trees in kind or pay money into the forestry account. She suggested that perhaps it would be appropriate to establish different thresholds via a tiered approach depending on the number of trees that already exist on the site. She cautioned against

automatically requiring a property owner to add even more trees on a lot that already has a high credit count.

Lastly, Commissioner Wagner suggested the Commission consider the option of identifying certain trees that are of particular value to the community.

Chair Hall referred to Commissioner Broili's earlier comment about first identifying the fundamental goal and purpose of regulating trees. He observed that the Commission agrees that tree regulations provide a common good for the City, even if they do not yet know what the correct threshold should be. He further observed that the tree regulations must be enforceable, which generally means they should be simple. While diameter at breast height as the sole criterion might be simple enough to work, it may also be important to recognize that not all 4-inch diameter trees provide the same functions. For example, if the Commission also wants to consider greenhouse gases, they must keep in mind both the number of carbon atoms in a tree (biomass) and the rate of absorption. Fast growing trees absorb more carbon from the atmosphere per year. While fast growing trees that only grow to a height of 10 feet would be a good solution in areas where views are important, they would not help the City reach their goals of reducing greenhouse gases, etc. He suggested staff share some of the other concepts they considered and the advantages and disadvantages of each one. He summarized that while simple regulations are easier to enforce, more complex regulations can often get the City closer to their goal.

Chair Hall expressed concern about the potential of creating a regulation that is onerous for the City to enforce. He suggested the Commission give full consideration to balancing property rights and how onerous the regulations are. If they intrude too far into people's rights, they will find a way around the requirements. He said he is in full support of enforcing regulations that are willfully violated by property owners. However, he is very concerned about charging property owners thousands of dollars for removing a giant tree if they honestly didn't know it was illegal. In addition to considering the purpose and goals associated with the proposed changes, he stressed the importance of fully considering the down side, as well. The more they can help people understand why trees are good for the community, the more likely they will be to participate in tree preservation. Also, they should think about how the proposed regulation would play out over the next two decades.

Chair Hall recalled that the Commission discussed proportionality at their last meeting, and staff indicated that it is considered on a per acre and square foot basis. He questioned how this would address issues like the reserves in Innis Arden, CRISTA, Fircrest, etc. He said he is not sure the proposed language provides enough flexibility to deal with unique situations. He said he is more comfortable imposing a more onerous regulation on a developer who is in the process of making money by developing land. However, he expressed concern about regulating an individual property owner's ability to cut just one tree.

Commissioner Pyle suggested the following:

- Add a statement to read, "Establish prescribed standards that empower property owners to take action to protect imminent danger to life and property while protecting common resources." He expressed his belief that it is important to acknowledge hazardous tree situations.

- At some point, the Commission must consider a tree appraisal technique for the purpose of code compliance. If a dispute comes before the Hearing Examiner, it will be important for the City to know the actual monetary value of the tree.
- The Commission should have a discussion on the value of trees in terms of City operations, such as a line item in the City's Operations and Maintenance Budget for the Public Works Department. Trees play a major role in how the City's stormwater resources are managed on a landscape scale.
- The fish and wildlife habitat conservation section of the Critical Areas Ordinance should be amended to identify habitat blocks (large areas of significant trees) as critical areas.
- The use of pictometry is a great tool, and new software would allow the City to actually look at the different aspects of a site to understand the size of trees, etc. He suggested staff talk to Jay Clark about obtaining a license to use the software.
- One of the ways to obtain credit under the Low-Impact Development Manual that was recently adopted by the City is to use a pin pile foundation. In the case of a subdivision, a developer could actually get a stormwater credit by using a pin pile foundation instead of traditional foundation system.
- They need to incorporate some methodology as to how to establish a drip line. A 10-foot measurement would not necessarily work for all trees. However, the forestry industry offers some methodologies that describe how the root zone establishes for various species based on the size and diameter of the trunk of the tree.
- It is important to know the value of trees in the forestry account.
- The concept of no-net-loss is a good start; but it is important to recognize that even with maintaining status quo, function is declining. Maintaining status quo through preservation, while not considering the cumulative or residual effect on the landscape, will not meet the benchmark of no-net-loss. They must include enhancement or some sort of mitigation to bump it up. The benchmark needs to be further refined.
- They must consider whether it is appropriate to allow property owners to constantly and in perpetuity replace, preserve, cut, replace, and preserve trees. Perhaps this concept could be utilized in view corridors to constantly manage the canopy at a lower height.
- Property owners should be able to obtain the necessary permits online so they are available on weekends, as well. Obtaining a permit should not be a significant burden.
- They must consider who would manage the bonds that have been suggested in the proposed language. Further details about the bond requirement must be considered.
- It is important for the City's Public Works and Parks Department staff to acknowledge that the tree regulations would apply to City-owned properties, as well. The City is one of the largest land owners, and the right-of-way is one of the primary locations where they should first look at managing trees.

Commissioner Behrens pointed out that a 30-foot tall tree with a diameter of 12 inches is a very large tree. The chances of someone cutting down a tree of this size without damaging neighboring properties are pretty slim. It is more likely that a tree removal company would be called in to remove the tree, and the City could make tree removal companies responsible for obtaining the necessary permits. Notices could be sent out to the various companies to clearly explain the new requirements.

Commissioner Piro suggested the Commission consider the notion of pre-replacement. Perhaps replacement trees could be planted in anticipation of the removal of an existing tree.

Commissioner Broili agreed with Commissioner Pyle's observations and suggestions. He said he is encouraged by the depth of the Commission's thinking regarding the issue. He referred to Commissioner Kaje's point about "putting a tourniquet on to stop the flow." From that perspective, he felt amending the tree regulations would be a first step in the right direction. He suggested the Commission discuss Ms. Biery's recommendation that perhaps a moratorium on tree cutting would be appropriate.

Commissioner Kaje suggested that in addition to considering different species and situations, it would also be helpful to consider what types of incentives could be used to compliment the tree regulations. For example, it may be appropriate to offer incentives for certain species or for properties that maintain more tree credits than the minimum required. Another option would be to offer an incentive to encourage property owners to accept replacement trees from other locations. He referred to a question in his email to staff about whether or not the City could require that replacement trees be planted in the same neighborhood, if possible. This could be accomplished by encouraging or providing incentives to property owners who want more trees on their property. Perhaps the trees could be offered at half the cost, with the remaining cost being funded by the forestry account. He suggested the staff and Commission consider creative opportunities to implement this concept. He summarized that there are definitely places in the City where net gain could occur, and the Commission needs to consider options for this type of activity to offset situations where property owners clear as many trees as possible.

Commissioner Kaje referred to the examples provided by staff and noted that the tree diameters were not drawn to scale, thus making it appear impossible to fit houses on the lots. He suggested it would be useful to illustrate the actual tree diameter to scale for future presentations. Chair Hall agreed and said it would also be helpful to show the canopy of the trees, as well as the footprint of a typical house.

Chair Hall referred to Commissioner Broili's earlier remark that even a natural forest is not uniform, and the same would apply to the question of solar access. If 10-credits per lot were uniformly distributed throughout the City, there would not be any sunlight during the winter months. On the other hand, if the trees are clustered they would be less susceptible to blow down and would allow for sunlight in the winter months. He suggested they keep in mind that both natural and managed forests need to have diversity, and the regulations should allow that to be the case. A monoculture would not be the desired outcome. Clustering trees would allow the ability to have more areas with sunlight, to accommodate gardening, etc.

Chair Hall questioned where the City would plant all the replacement trees that are funded via the forestry account, and said he supports Commissioner Kaje's suggestion to establish incentives to encourage people to accept more trees on their property. He reminded the Commission that the public also values open space and active recreation opportunities, and they would probably not be in favor of filling the parks with trees.

Chair Hall pointed out that even if the regulations are perfect, and no further degradation is allowed, the cumulative impact would continue to degrade. While an enhancement component will be necessary, it would generally be better to avoid a regulatory approach. He suggested the City create an urban forest management plan so that enhancement could occur in the right locations.

Commissioner Broili recalled that he recommended a strategy to the Parks Department four years ago, and one of his suggestions was that they need to start with City-owned properties as a model. This would make it easier to ask other property owners to become a part of the much larger system. He said he still believes they need to start by addressing the way the City manages its own lands. Commissioner Pyle pointed out that the City of Portland has been successful in this regard, and numerous studies have been conducted to identify how they achieved their goals. He agreed to locate this study and forward it to each of the Commissioners.

Commissioner Behrens commented that one of the reasons developers are interested in removing as many trees as possible from a site is that they benefit monetarily. The more trees that can be removed, the more profit for the developer when the trees are sold. If the City establishes a value number that does not provide an economic incentive for the developer to remove trees from the site, they would be less likely to take down the maximum number. He suggested that staff seek additional information from tree removal companies.

Chair Hall suggested the Commission start their next discussion by focusing on the goals and purposes of the tree regulations. While Commissioner Kaje agreed it is important to create a clear purpose and goal for the tree regulations, he said he does not want the staff and Commission to stop their work on the method until they have completed their discussions related to the purpose and goals. He said he is not sure the proposed method for measuring trees and the tree credit concept would be the ultimate approaches, but they have enough promise as potential tools that he would like staff to proceed with addressing the Commission's comments and suggestions.

Commissioner Broili agreed that it would be appropriate for the Commission and staff to continue their work on the method. However, he suggested they also expand their research to include more information from the progressive cities that are beginning to look at urban forest management strategies. He said he does not have any innate problems with the approach that has been proposed by staff, but he has concerns about how it would be applied to the bigger picture. Any information that would lead the Commission's thinking in the direction of a vegetative forest management plan would be very valuable.

Mr. Cohen summarized that at the Commission's next discussion regarding the tree regulations, he would be prepared to talk more about the purpose of the proposed approach. He suggested that perhaps the discussion could be tied into the bigger questions of how much they should regulate, what would be considered too punitive, at what point would the regulation become unmanageable, and what requirements would be necessary to reach a no-net-loss goal or better. He said staff has thought a lot about all of these issues and could provide some helpful insight. He expressed his belief that the tree regulations are just one piece of the sustainability strategies.



Vice Chair Wagner observed that the Commission already has enough questions that she would hesitate to encourage staff to provide more detailed information. She agreed with Chair Hall that the Commission should focus their next discussion on the purpose statement and some of the bigger questions. Commissioner Pyle agreed they should not go too much into the details and broader concepts until their current questions and concerns have been addressed. He also agreed with the earlier suggestion that it would be helpful to learn more about the other strategies and techniques staff considered when developing the proposed language. Mr. Cohen agreed to provide more background information about how the staff came up with their current proposal.

Commissioner Behrens said he is glad to know that at some point the staff and Commission would consider the option of applying the tree regulations to other zones in the City other than residential. However, he expressed concern that a lot of trees could be lost while the City is waiting to move the concept forward. He suggested they identify sites that have significant trees in commercial zones and attempt to develop a system that would at least maintain those trees that currently exist.

Chair Hall summarized that the Commission is interested in the staff continuing their work, but they would like to discuss the goals and purpose of the regulations first. He observed that there are several members of the Commission who are very knowledgeable about trees and vegetation. However, it is important to keep in mind that the Commission's role is as policy advisor, and staff's role is to get the language technically correct. When the Commissioners raise policy issues, they should be deferential to staff because they are the ones who will have to implement the policies and regulations on a day-to-day basis.

Chair Hall suggested the Commission must still discuss whether or not they want the City to regulate clearing that is done for the purpose of profit in the course of developing property in the same way they would regulate the removal of a single significant tree that is done for no profit. He said he is concerned that using the same regulatory approach in both situations may not be appropriate. They must also address the question of proportionality.

## **DIRECTOR'S REPORT**

Mr. Cohn announced that the Snohomish County Council held two public hearings regarding their Comprehensive Plan Amendment related to Point Wells on July 8<sup>th</sup>. He noted that the letter staff forwarded to the City Council regarding the issue is available via the City's website. In addition, the entire discussion from the public hearings would be available on the Snohomish County Council's website.

Mr. Cohn reminded the Commission that their next meeting is scheduled for July 23<sup>rd</sup>. Mr. Cohen advised that staff has scheduled a walkabout in the Town Center Subarea Plan Area. The purpose is to identify potential limitations and opportunities. They have reserved a bus with 12 seats, with the idea they would stick together as a group as they visited the various point. Another option would be to walk from point to point. He reviewed the pros and cons of each of the options. The Commissioners agreed they would prefer to walk from point to point, unless the weather is too inclement. Mr. Cohn said Commissioners would meet at the City Hall and then begin the tour.

Commissioner Kaje recalled that transition is one of the key issues that comes up when talking about the Aurora Corridor and the RB zones. He suggested it would be important for the tour to include the back side of the corridor where it transitions into adjacent properties, as well. Mr. Cohen agreed that is staff's intent.

### **UNFINISHED BUSINESS**

There were no unfinished business items to discuss.

### **NEW BUSINESS**

Chair Hall expressed appreciation for the public's patience as they tried a different approach for the public comment period. At their next regular meeting, he asked that staff bring forward a draft motion to amend the Commission's order of business in the bylaws to clarify the intent that the general public comment period is for anything that is not of a quasi-judicial nature or specifically scheduled for a hearing later on the agenda. When they conduct study sessions, it is important for the public to understand they are not taking formal testimony on a legislative proposal. He referred to an email exchange between the Commission and the Planning Director regarding their last discussion on the tree regulations. Because he tried to be flexible with the public comment period, they ended up with a bit of debate between citizens and the Commission. He cautioned everyone that they all must work together. While they may have different views and opinions, he does not want to foster an environment where members of the public or Commissioners engage in debates and cross examination. He would rather foster an environment where everyone has an opportunity to provide input throughout the process.

### **REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS**

Chair Hall announced that he attended the open house for the Transportation Master Plan Update where the Bicycle/Pedestrian Plan was the focus of discussion. This work would eventually come to the Commission for a review and recommendation, and it would also intersect with the Town Center Subarea Planning effort. He noted that it would be helpful if the Economic Development Advisory Committee and other groups would also take part in the Town Center Subarea Plan process.

### **AGENDA FOR NEXT MEETING**

No additional announcements were made about the July 23<sup>rd</sup> Special Meeting agenda.

### **ADJOURNMENT**

The meeting was adjourned at 9:52 P.M.

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Will Hall  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission