

## Carla Hoekzema

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**From:** Kathleen Russell <krussell@russell-gordon.com>  
**Sent:** Thursday, November 18, 2021 8:20 PM  
**To:** Plancom  
**Subject:** [EXTERNAL] Discussion regarding Tree Code Discussion on 11-18  
**Attachments:** TPCT Responses 11-18-21 \_PDF.docx

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**During Planning Commission discussion of tree code amendments 11/18/21.**

**Please see our cover sheet with summary of all code amendments emailed 11-17-21. We also responded to every amendment where we have questions in this document.**

Per our response to Staff recommendations dated 11-17 and submitted to Plancom:

**Amendment 2-1.** Tree Canopy – TPCT (applicant) – **agrees with Staff edits**

**Amendment 2-4.** Tree Landmark is in our recommendations dated 11-17.

Emailed prior to Mr. Szafran:

After discussion with Planning Commissioners and City Staff, the Tree Preservation Code Team submits the following revised definition for Landmark Tree:

*Any healthy tree that is or over 24 inches in diameter at breast height (dbh) that is worthy of long-term protection due to a unique combination of size, age, location, shape, aesthetic quality for its species or any other trait that epitomizes the character of the species, and/or has cultural, historic or ecological importance or is a regional erratic. Long term protection and recognition of any landmark tree may be obtained through the Landmark Tree Designation program as detailed in SMC 20.50.350(F).*

**Amendment 2-6.** Tree Significant is in our recommendations dated 11-17: **6" dbh**

**Amendment 5.** TPCT. We emailed to Mr. Szafran that **we agree with staff edits**. Also, stated on our cover sheet of 11/17/21.

Thank you,

Kathleen Russell  
Tree Preservation Code Team/Communications

To: City of Shoreline Planning Commission  
 From: Tree Preservation Code Team (TPCT)

Date: 11/17/21  
 Re: 2021 Development Code Amendment Batch

**Responses to Staff Updates of 10/7/21 and 11/18/21**

<u>AMENDMENT</u>	<u>SECTION</u>	<u>TOPIC</u>	<u>STATUS</u>
<b>20.20 Definitions</b>			
1	20.20.014	1. Critical Root Zone	Staff recommends as is
1	20.20.014	2. Critical Root Zone, Inner	Staff recommends as is
2	20.20.048	1. Tree Canopy	Staff recommends w/edits; TPCT agrees
2	20.20.048	2. Tree, Hazardous	Staff recommends as is
2	20.20.048	3. Tree, Heritage	TPCT withdraws to re-work
2	20.20.048	4. Tree, Landmark	TPCT submitted revised definition (pg. 2)
2	20.20.048	5. Tree, Nonsignificant	TPCT withdraws
2	20.20.048	6. Tree, Significant	Staff reviewing; TPCT submits revise (pg. 3)
3	20.20.050	1. Urban Forest	Staff recommends as is
		2. Urban Forest Canopy	Staff recommends as is
<b>20.50 General Development Standards</b>			
4	20.50.280	Tree Purpose (new)	TPCT withdraws
5	20.50.290	Tree Policy	Staff recommends w/edits; TPCT agrees
6	20.50.300	General Requirements	Staff recommends edits; TPCT revise (pg. 4)
7	20.50.310 B.1.	Exemptions from Tree Permits	Staff denies; TPCT maintains as is (pg. 6)
8	20.50.350 B.1.	Tree Retention	Staff reviewing; TPCT revises/maintains 25% (pg. 7)
9	Exception 20.50.310(B)(1)	Waiving Tree Retention Requirements	Staff recommends; TPCT objects (pg. 8)
10	Exception 20.50.360(C)(b)	Tree Fee-In-Lieu	Staff denies; TPCT maintains as is (pg. 9)
11	20.50.370	Tree Protection Measures	Staff recommends w/edits; TPCT maintains as is (pg.11)

**Agenda Amendment 2. Item 4.****Tree Preservation Code Team Response (TPCT) 11/18/21**

20.20.048 T Definitions (Tree, Landmark)

**Revised definition**

After discussion with Planning Commissioners and City Staff, the Tree Preservation Code Team submits the following revised definition for Landmark Tree:

*Any healthy tree that is or over 24 inches in diameter at breast height (dbh) that is worthy of long-term protection due to a unique combination of size, age, location, shape, aesthetic quality for its species or any other trait that epitomizes the character of the species, and/or has cultural, historic or ecological importance or is a regional erratic. Long term protection and recognition of any landmark tree may be obtained through the Landmark Tree Designation program as detailed in SMC 20.50.350(F).*

**Justification 11/18/21**

The Tree Preservation Code Team recommends the definition for a Landmark tree include a 24" diameter at breast height (dbh) measurement. Without a clear and definitive measurement indication, the code is subject to various interpretations by homeowners, arborists, developers, and City Staff.

City Staff confirms that Lake Forest Park uses a designation of 24" dbh for a Landmark Tree designation.

In addition, it is recommended that the existing Landmark Tree Designation program, already represented in the SMC, be included in this definition as information for Shoreline citizens interested in participation in the program.

*(End of Amendment 2, Item 4 response)*

## Agenda Amendment 2. Item 6.

### Tree Preservation Code Team Response (TPCT) 11/18/21

20.20.048 T Definitions (Tree, Significant)

#### Revised definition

After discussion with Planning Commissioners and City Staff, the Tree Preservation Code Team submits the following revised definition for Tree, Significant:

*Tree, Significant: Any healthy tree six inches or greater in diameter at breast height (dbh) excluding those trees that qualify for complete exemptions from Chapter 20.50. SMC, Subchapter 5, Tree Conservation, Land Clearing, and Site Grading Standards, under SMC 20.50.310(A).*

#### Justification 11/18/21

Both City Staff and the Tree Preservation Code Team reviewed adjacent jurisdictions regarding dbh measurements for Significant trees. The following cities define six inches (6") dbh for Significant trees: Edmonds, Lake Forest Park, Lynwood\*, Redmond, Kirkland, Seattle, Woodinville, Issaquah, Snohomish\*, and Bellingham.

In addition, the City of Shoreline already uses the 6" dbh metric for Significant trees when referring to public right-of-way trees. Code 12.30.040 Right-of-way street trees. B.4.: All existing trees six inches in diameter at breast height or greater allowed to be removed under clearing and grading regulations shall be replaced with an approved variety of street tree in the area of removal according to the replacement formula in SMC 20.50.360(C)(1) through (3)."

Therefore, for the sake of consistency, the definition of Tree, Significant should match the SMC for public right-of-way trees.

*\*Lynnwood excludes black locust, cottonwood, native alder, native willow, Lombardy poplar from this measurement.*

*\*Snohomish excludes alder and cottonwood from this measurement.*

*(End of Amendment 2, Item 6 response)*

## Agenda Amendment 6. 20.50.300. General Requirements

### Tree Preservation Code Team Response (TPCT) 11/18/21

In the 11/18/21 agenda packet, referencing Amendment #6, City Staff proposes deletion of the words "and vegetation" in Items H, I, L1, M and M2 because (*quote*) "vegetation on sites without critical areas should not be regulated the same way. Property owners should have the flexibility to add, remove, or change any vegetation on their site without repercussions." (*end quote*). TPCT agrees with eliminating the words "and vegetation".

#### Updates:

1. Staff has revised their recommendation pertaining to this code in the agenda packet for 11/18/21, page 5. Staff has removed their original recommendation "to withdraw and bring back" and is recommending Items H, I, J, provided the words "and vegetation" are removed. TPCT agrees with removal of the words "and vegetation". Staff is not recommending Items L1, M1 and M2.
2. TPCT asks for clarification regarding L1. Does this pertain to City fees for site review?
3. In L2, TPCT has withdrawn the following: "and \$20,000 per Heritage Tree" because the referenced Heritage Tree definition has been withdrawn.
4. TPCT requests removal of Item G on page 13 and will wait for Staff to revise document.

#### Justification 11/18/21

The language in this proposed code amendment is not new to Shoreline Municipal Code. This language essentially matches some of the code appearing in SMC 20.240, SMP (Shoreline Master Program) Critical Areas Regulations and in SMC 20.80 Critical Areas, and is recommended by the Tree Preservation Code Team for trees on all development sites. See the original TPCT justification submitted to the City in November 2020 and presented to the Planning Commission on 10/7/21.

In Agenda Amendment #6, TPCT asks the City to extend these code protections to all Significant trees on all development sites to ensure that Significant trees will be legally protected from sustaining injury or destruction during clearing and grading activity. Shoreline's Comprehensive Plan, Natural Environment, Element 6, Goal NE II, states the goal to protect the natural environment and the critical areas. It does not state only the "critical areas" but places equal significance on all of the City environment.

Citizens want the SMC to communicate to developers that Shoreline values all trees, including trees protected under a development permit where "native vegetation on development sites is at the greatest risk of being lost" (*Comprehensive Plan, page 144*). Amendment 6 adds this protection. If trees have been altered in violation of the subchapter, this proposed code provides a stop work order for all ongoing development work until the area in violation is restored. This proposed code will also require penalties for trees removed without a permit and financial guarantees to insure performance.

*Amendment 6 (continued)*

At this point, Staff is not recommending Item L1. This item, as we understand, pertains to City fees to review an impacted construction site (clarification requested). The Staff recommendation in the 11/18/21 packet states these costs may be prohibitive to private owners, but these codes also apply to MUR-35 and MUR-45 property developments.

The Tree Preservation Code Team requests the Planning Commission ask Staff for language to be included in this proposed code to exempt single family residential lot owners from the review costs, as restrictive fees for individual homeowners are not the intent of this proposed code amendment.

The Tree Preservation Code Team confirms Items M1 and M2, the financial guarantee requirements, be retained in this proposed code as pertaining to MUR-35 and MUR-45 properties.

The trees remaining in our neighborhoods need more protection. With the current no-tree retention/replacement requirement in place for seven (7) development zones in Shoreline, it is important that the public know that these proposed code amendments apply only to residential, MUR-35, and MUR-45 zones.

All trees can be removed on NB, CB, MB and TC-1, 2 and 3, and MUR-70' zones.

*(End of Amendment 6 response)*

**Agenda Amendment 7. 20.50.310.B. 1.Exemptions from permit - partial exemptions.**

**Tree Preservation Code Team Response (TPCT) 11/18/21**

**Summary of proposed code** submitted in November 2020; presented to the Planning Commission on 10/7/21:

Every 3 years: Removal of 3 Significant trees on lots up to 7200 square feet and one additional Significant tree for every additional 7200 square feet of lot area up to one acre. After one acre, the Tree Preservation Code Team recommends a graduated chart for removal of Significant trees. See TPCT chart on City Staff Att A – 2021 development codes, page 16.

**Justification 11/18/21**

Per the Tree Preservation Code Team (TPCT) original justification, this amendment is proposed to preserve, protect and maintain Shoreline’s urban tree canopy on all private properties where the majority of the urban tree canopy is found. In response to a Planning Commissioner's request to Staff for a map of Shoreline's land parcels over one acre, it shows that as of 10/20/21, Shoreline has many parcels over one acre. (See map attached to this email.) Some of the larger tracts of land have wide belts of contiguous tree canopy providing the multi-benefits of trees and habitat for urban wildlife. These extensive tree canopies are effective wind blocks, have enormous storage capacity of stormwater runoff, and stabilize slopes. According to the U.S. Department of Agriculture, one acre of forest absorbs six tons of carbon dioxide and produces four tons of oxygen per year.

Current SMC 20.50.310 B.1. allows large property owners, Seattle Golf Club as an example, to remove a surprising 900+ trees every three years; this computation and scenario is confirmed by Staff. The majority of Shoreline's urban tree canopy exists on private properties and is a critical part of our environment. To sustain this tree canopy, specific codes of protection are required. For example, Bellevue Muni Code under land use, 20.20.900 Tree retention and replacement (specifically, Item E. Retention of Significant Trees in the R-1 Land Use District in the Bridle Trails Subarea for any type of land alteration or development), requires more stringent permitting and tree retention on particular land tracts, namely the R-1 in Bridle Trails Subarea.

We appreciate and concur with Staff’s comment to equitably treat and respect Shoreline’s private property owners’ rights. However, preservation of the trees on these one-plus acre properties will help ensure there is no further loss of our urban tree canopy. The intent is to maintain and preserve, if not improve, the City’s urban tree canopy. Despite plantings of new trees to counter the removal of mature trees, there remains the effectiveness and attributes of mature trees. Frankly, given our current and ongoing global climate crisis, preserving any existing tree canopy should definitely be a priority.

*(End of Amendment 7 response)*



**Agenda Amendment 8. 20.50.350 B.1. Tree Retention.****Tree Preservation Code Team Response (TPCT) 11/18/21**

**Proposed code:** Increase tree retention percentage from 20% to 25%.

**Justification 11/18/21**

The Tree Preservation Code Team believes the current 20% minimum Significant tree retention requirement on sites is too low. This code pertains to residential zones, MUR-35 and MUR-45 zones only.

This code does not apply to tree retention in Zones NB, CB, MB and TC-1, 2 and 3, and MUR-70'. All trees can be removed from these 7 zones and no tree replacements are required.

This code proposal increases the percentage of Significant tree retention to 25%. According to City Staff 10/7/21 recommendation, Staff (*quote*) "looked at several recent permits that included tree removal and most of those projects are retaining over the 25% retention." (*end quote*). Therefore, it appears that it will not be a hardship to increase the minimum Significant tree retention requirement from 20% to 25% to save more trees.

The Tree Preservation Code Team has withdrawn the "Tree Retention Incentive Table" and any reference to it in our original proposed code amendment since Staff points out that implementation of the proposed incentive table would be onerous due to lack of staff and would require inter-departmental approvals. Staff does not seem opposed to providing incentives for developers to retain more than the required percentage of existing Significant trees. **Therefore, the Tree Preservation Code Team requests the Planning Commission recommend Staff study other workable incentives for Significant tree retention above the proposed 25%.**

In the City Staff explanation for the 11/18/21 meeting, the Staff memo on page 7 states (*quote*) "Staff is comfortable raising the minimum significant tree retention if the Director has the increased flexibility to waive or reduce minimum significant tree retention as proposed in Amendment #9" (*end quote*). The Tree Preservation Code Team believes these are two different and separate issues and asks the Planning Commission to recommend only the change from 20% to 25% Significant tree retention.

*(End of Amendment 8 response)*

## Agenda Amendment 9. Exception 20.50.310(B)(1). Significant Tree Retention

Proposed by City Staff.

### Response by Tree Preservation Code Team (TPCT) 11/18/21

Amendment #9 has been proposed by City Staff. This code adds one word to SMC Exception 20.50.350(B)(1) – the word “waive”.

Per existing code, the Director already has the right to reduce the retention of trees in zones which now require 20% Significant tree retention. Essentially, Staff is proposing the Director’s authority be extended to “waive” the retention of any Significant trees in residential, MUR-35 and MUR-45 property zones. Staff noted that this is necessary as (page 7 of November 18 Staff Memo) (*quote*) “there are rare times where a homeowner needs to remove a tree that is causing unusual damage to structures or utilities and the tree must be removed.” (*end quote*). This statement by Staff brings SMC Exception 20.50.310(B)(1) into question.

Furthermore, City Staff has stated in the 11/18/21 agenda memo to the Planning Commission that (*quote*) “Staff is comfortable raising the minimum significant tree retention [to 25%] [Amendment 8] if the Director has the increased flexibility to waive or reduce minimum significant tree retention as proposed in Amendment #9.” (*end quote*). The Tree Preservation Code Team declines, objects to, and questions this recommendation for the following reasons:

Existing code 20.50.350(B)(1) already provides the Director the authority to override any Significant tree retention in residential, MUR-35, and MUR-45 property zones, if all provisions in i-iv are met. By exercising existing SMC 20.50.350(B)(2), the Director can currently reduce the retention of Significant trees required by code on residential, MUR-35 and MUR-45 property zones without the power to waive. This calls into question how often does the Director reduce the retention of Significant trees on residential, MUR-35, MUR-45 property zones? The Tree Preservation Code Team asks the Planning Commission request an accounting of the properties where retention of Significant trees has been reduced pursuant to SMC 20.50.350(B)(1) in the last two years and provide this information to TPCT.

TPCT asks the Planning Commission to request a review and revision by Staff to this code section so that it solves the concern raised by Staff (*quote*) “... the rare times where a homeowner needs to remove a tree that is causing unusual damage to structures or utilities ...” (*end quote*).

(End of Amendment 9 response)

## Agenda Amendment 10. Exception 20.50.360 (C)(b). Tree Replacement

### Tree Preservation Code Team Response (TPCT) 11/18/21

**We maintain the original revised code proposal** as submitted in November 2020, and presented to the Planning Commission on 10-7-21:

*Exception 20.50.360 (C)(b). To the extent feasible, all replacement trees shall be replaced on-site. When an applicant demonstrates that the project site cannot feasibly accommodate all of the required replacement trees on site, the Director may allow the payment of a fee-in-lieu tree replacement at the rate set forth in SMC 3.01 Fee Schedule.*

We are adding one word to the first two sentences of the existing code, the underlined word tree. We propose all other provisions of this code be deleted.

Our proposed amendment clarifies that a fee in lieu is imposed in instances when replacement trees cannot be replaced on-site. The current code of this exception allows the Director the discretion to reduce the number of trees replaced “if all of the sub-item roman numerals ‘i thru iv’ are satisfied”. These sub-items include special circumstances, reasonable use of property, vegetation removal, and no harm to the public welfare or injury to other property. We have asked that “special circumstances and reasonable use of property” be addressed in the revision of SMC Exception 20.50.310(B)(1), proposed Amendment 9 only.

We believe the current wording of this Exception 20.50.360 (C)(b), dilutes the importance of preserving existing trees, favors developers, and loses potential tree replacement revenue for the City. The fee in lieu for tree replacement is to protect the existing Shoreline tree canopy. Per code 20.50.290 Purpose. L. there is the “goal of no net loss of tree cover”.

Though there is no master file (as requested via Public Records Request) of the Director’s activity in reducing the replacement of trees on a property site, there are examples. On a development site in the Ridgecrest neighborhood, 133 replacement trees were required, but upon request by the developer, the Director reduced to 68 standard size trees and 25 large shrubs, no fee in lieu was applied. Another example, on a project at NE 145<sup>th</sup>, 62 trees were to be replaced, but 28 were waived, no fee in lieu was applied.

The proposed code provides the developer/owner the following options:

1. Replace all of the Significant trees required by code on-site per replacement tree code that the replacement trees will be viable and thrive.
2. Replace as many of the Significant trees required by code on-site as possible and pay the fee in lieu for the Significant trees that cannot be accommodated on-site.
3. Redesign the building or structure to accommodate Significant tree replacements.

We understand from Staff that the reduction of replacement trees “does not happen often”. The fact that it does happen, means there is ambiguity in this Exception. We ask the Planning Commission to approve Amendment 10 with the wording “The Director may allow the payment of a fee in lieu\* of tree

*Amendment 10 (continued)*

replacement at the rate set forth in SMC 3.01 fee schedule". This is clear, concise and in the best interest of citizens.

\*Note: the fee in lieu as passed by City Council on November 15, 2021 is \$2779 per tree.

*(End of Amendment 10 response)*

**Agenda Amendment 11. Exception 20.50.370. Tree Protection Measures****Tree Preservation Code Team Response (TPCT) 11/18/21**

Response as prepared by John Hushagen, consulting arborist, and a member of the Tree Preservation Code Team.

Thank you, City Staff, for “mostly” approving my proposed amendment. As for the unapproved language in Item D regarding tree protection barriers, it continues to be my opinion that the proposed 6’ high chain link fence is a better barrier to protect tree root zones. Currently on construction sites, the flimsy orange plastic fencing, also known as polyethylene laminar safety fencing, is inadequate because it is only 4’ high, can be easily trampled, stepped over and shifted. It acts as a demarcation instead of a barrier. For example, I saw firsthand at one of the newer apartment or condo developments on the north side of N. 185th, the builder had placed orange plastic fencing well within the ICRZ of fir trees which meant that the trees lost 75% of their roots and will be dead in a few years.

Furthermore, I disagree with the City’s arborist belief that a “6-foot chain link fence cannot be supported on steep slopes or other soil conditions that would make installing and maintaining a 6-foot chain link fence unreasonable” and would welcome a debate on this issue.

*(End of Amendment 11 response)*