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Sent via email (sszafran@shorelinewa.gov; plancom@shorelinewa.gov)

Shoreline Planning Commission
c/o Steve Szafran, Planning Commission Liaison
Shoreline City Hall
17500 Midvale Avenue N
Shoreline, WA 98133

RE: Development Code Amendments Related to Trees

Dear Shoreline Planning Commission:

This letter offers preliminary comments on behalf of The Innis Arden Club (“IAC”) concerning certain aspects of the proposed Development Code amendments related to trees now pending before you. As you may know, The Innis Arden Club is the homeowners association pursuant to RCW Ch.64.38 for the Innis Arden community and its over 500 residential lots and fifty acres of dedicated Reserve Tracts.

1. **Landmark Trees:** The proposal before you is apparently to reduce and revise the benchmark for a landmark tree from this:

Any healthy tree over 30 inches in diameter at breast height or any tree that is particularly impressive or unusual due to its size, shape, age, historical significant or any other trait that epitomizes the character of the species, or that is an regional erratic.

to this:

Any healthy tree that is or over 24 30 inches in diameter at breast height (dbh) that is worthy of long-term protection due to a unique combination of ~~or any tree that is particularly impressive or unusual due to its size, shape, age, location, aesthetic quality for its species historical significant~~ or any other trait that epitomizes the character of the species, and/or has cultural, historic or ecological importance or

that 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).

The proposed change is ill-advised in two respects. One is the reduction of minimum dbh with little actual study of the need for, effect, or impacts of such reduction. The other is in the carryover, albeit in new wording, of the fundamentally fatal vagueness and overbreadth of the current definition. The standards enunciated both in the current Code and in the proposal are blatantly vague and amenable to unpredictable and personalized interpretations, contrary to basic precepts of code drafting and interpretation. See Anderson v. Issaquah, 70 Wn. App. 64, 851 P.2d 744 (1993). There is no predictability in a prolix potpourri of poorly defined factors.

2. **Significant Trees:** The proposal before you appears to be to similarly reduce and revise the benchmark from this:

Any tree eight inches or greater in diameter at breast height if it is a conifer and 12 inches or greater in diameter at breast height if it is a nonconifer 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). (Ord. 669 § 1 (Exh. A), 2013).

to this:

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).

Again, the significant reduction in minimum dbh with little actual study of the need for or impacts of such reduction is ill-advised. Those proposing such a change have an obvious, openly declared agenda, which is fair enough. But municipal government is supposed to balance a number of interests and policy objectives. This cannot occur without relevant information and analysis. For example, has there been any competent expert study of how many lots in the City of Shoreline would be affected by this proposed change? Has there been any attempt to professionally and competently calculate how many more trees would be affected?

There has been reference with regard to proposed amendments to their similarity to “adjacent” cities’ codes. However, some of the “adjacent” cities are not so “adjacent”, such as Bellingham. Other more “adjacent” jurisdictions that have codes more consistent with Shoreline’s current provisions were apparently overlooked. See, e.g., Kenmore Municipal Code 18.20.2730 (significant tree is nonhazard tree with 8 inch minimum diameter for evergreens and 12 inches for conifers); Bellevue Municipal Code 20.50.046 (healthy evergreen or deciduous tree, eight inches in diameter or greater); Bothell Municipal Code 12.18.030 (trees over eight inches in diameter

excluding alders and cottonwoods as measured four feet above grade); Everett Municipal Code 19.37.220 (at least eight-inch diameter at breast height); Sammamish Municipal Code 21A.15.1333 (healthy noninvasive species tree: coniferous with a diameter of 8 inches or more dbh or deciduous tree with a diameter of twelve (12) inches or more dbh). If the Planning Commission is asked to consider provisions from other cities, the survey and data presented to it should be inclusive, not curated.

Tree Replacement Discretion: There is apparently a proposal to limit the Director's current discretion with regard to replacement trees. But lots are not identical and the factors that inhere in them vary widely. The replacement requirements are sufficiently onerous to begin. Any proposal that reduces the ability to tailor replacement requirements to particular circumstances should be denied.

Solar Access: One factor that is notably absent from discussion in agenda materials suggests a conflict with current energy policy. That conflict is reflected in the failure to address the solar gain/loss impacts of the proposed amendments. Discussion across the country reflects careful consideration of this factor. In fact, the Washington HOA Act explicitly favors solar panel installation and use and limits an HOA's ability to regulate it because solar access and power is an important part of energy policy and carbon reduction. See RCW 64.38.055. How is it then that the impact of trees on solar is absent from the City's considerations? This oversight and the questions raised above strongly suggest that the changes being considered should not be swept forward based on a SEPA Determination of Nonsignificance, but should be the subject of a full SEPA EIS.

IAC expects to provide additional commentary as the current proposals evolve. Meanwhile, thank you for reviewing these preliminary comments.

Sincerely,

EGLICK & WHITED PLLC

A handwritten signature in black ink, appearing to read 'P. Eglick', written in a cursive style.

Peter J. Eglick

Cc: IAC