

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING (Via Zoom)

November 18, 2021
7:00 P.M.

Commissioners Present

Chair Mork
Vice Chair Sager
Commissioner Malek
Commissioner Callahan
Commissioner Lin
Commissioner Rwamashongye

Staff Present

Rachel Markle, Planning Director
Steve Szafran, Senior Planner
Carla Hoekzema, Planning Commission Clerk

Commissioners Absent:

Commissioner Galuska (excused)

CALL TO ORDER

Chair Mork called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

ROLL CALL

Ms. Hoekzema called the roll.

APPROVAL OF AGENDA

The agenda was accepted as presented.

APPROVAL OF MINUTES

The minutes of November 4, 2021 were accepted as presented.

GENERAL PUBLIC COMMENT

There were no general public comments.

STUDY ITEM: 2021 DEVELOPMENT CODE AMENDMENTS – Part 2 – Tree Amendments

Steve Szafran, Senior Planner, made a presentation regarding the proposed Tree Code Amendments.

- Amendment 1 would add definitions for Critical Root Zone and Inner Critical Root Zone. Staff agrees with the applicant on this.
- Amendment 2:
 - Tree Canopy definition - Staff proposed an amendment to the applicant's definition leaving in the total area of the tree.
 - Hazardous Tree definition – Staff agrees with the applicant.
 - Heritage Tree definition – This was withdrawn by the applicant.
 - Landmark Tree definition – Staff's proposed language would keep the diameter for a landmark tree at 30 inches.
 - Nonsignificant Tree definition – This was withdrawn by the applicant.
 - Significant Tree definition – This would change the existing diameter from 8 inches to 6 inches for conifers and from 12 inches to 10 inches for non-conifers.
 - Urban Forest and Urban Tree Canopy definitions – Staff agrees with these recommendations.
- Amendment 4 was withdrawn by the applicant.
- Amendment 5 would change section titles from purpose to policy, add tree preservation and protection language, and add language that clarifies the section, (SMC 20.50.290) – Purpose (Tree Conservation, Land Clearing and Site Grading Standards). Staff recommends changes as shown in the Staff Report.
- Amendment 6 would add new sections to 20.50.300 – General Requirements (for Tree Conservation, Land Clearing, and Site Grading Standards). New sections include Best Management Practices; Site Violations; Restoration Plans; Site Investigations; Monetary Penalties; Financial Guarantees (Performance and Maintenance Bonds). Staff generally agrees, but there are some concerns as highlighted in the Staff Report because the language was originally written for critical areas and includes “vegetation”. Staff does not believe that vegetation on sites without critical areas should not be regulated in the same way. Requiring maintenance agreements and mitigation plans for tree replacement on a single-family home lot may be overly burdensome to the typical property owner.
- Amendment 7 would revise the maximum number of trees that may be removed without a permit. SMC 20.50.310 – Exemptions from Permit
- Amendment 8 would increase minimum tree retention requirements. 20.50.350 – Development Standards for clearing activities. The applicant recommended keeping the increase to the significant tree retention from 20% to 25% but deleting all the incentive language. Staff is recommending approval of the changes to this amendment.
- Amendment 9 would allow the Director to waive or reduce the minimum significant tree retention to facilitate other priorities and other circumstances such as preservation of a greater

number of smaller trees, landmark trees, recommendations by a certified arborist, perimeter buffers, or other tree preservation goals. Exception 20.50.250(B)(1) – Significant Tree Retention.

- Amendment 10 would require the applicant to either provide replacement trees for significant trees removed during development or pay the fee-in-lieu of tree replacement to the dedicated tree fund if trees cannot be replaced on-site. The intent is to restrict the director from reducing the number of trees that would have been replaced on site.
- Amendment 11 would propose tree protection measures that clarify the best management practices that need to be implemented to improve and safeguard the survival of the designated trees to be retained during construction. 20.50.370 Tree protection standards.
- Amendment 12 proposes amendments to Title 12 – Street Trees which would require public notifications when trees in the right-of-way are proposed to be removed.
- Associated Request: Establish an Urban Forestry Advisory Panel to establish consistent oversight and accountability for the city-wide urban forest and tree management decisions.

Public Comments:

Rebecca Jones, Seattle, Tree Preservation Code Team member, spoke in support of saving mature conifer and native trees in Shoreline. Due to increased climate and development pressures, the Team requests that the timeline be adjusted for a more expedient review.

Susanne Tsoming, read a statement on behalf on John Hushagen, Shoreline, Tree Preservation Code Team member, in support of his proposed Amendment 11, SMC 20.50.370 Tree Protection Standards. He thanked staff for approving most of his proposed amendment. As for the unapproved language in item D regarding tree protection barriers, he believes that the 6-foot-high chain link fence is a better barrier to protect tree root zones than the flimsy orange plastic fencing which is only four feet high and easily trampled. Furthermore, he disagrees with city arborists that a 6-foot-high chain link fence cannot be supported on steep slopes or other soil conditions that would make installing or maintaining unreasonable.

Gayle Janzen, North Seattle, Tree Preservation Code Team member, spoke regarding Amendment 8, 20.50.350 (B1) Tree Retention. The Code Team believes the current 20% minimum significant tree retention requirement on development sites is too low especially since this code pertains only to residential zones, MUR35, and MUR45 zones. She noted there are currently no retention requirements on seven zones. The Code Team has withdrawn the tree retention incentive table due to staff's concern that this would be labor intensive. The Code Team is asking staff to study other workable incentives for significant tree retention above the proposed 25%.

Nancy Morris, Shoreline, Tree Preservation Code Team member, spoke in support of Amendment 7, SMC. 20.50.310 (B1) Exemptions from Permit – Partial Exemptions. Given the present and increasing climate crisis preserving all existing tree canopies must be a definite priority.

Bill Turner, Shoreline, Tree Preservation Code Team member, spoke in support of Amendment 2, item 6, SMC 20.20.048 Significant Tree Definition. The Code Team submits the following revised definition: “Tree, Significant. Any healthy tree six inches or greater in diameter at breast height (DBH) excluding those trees that qualify for complete exemptions from SMC Chapter 20.50, Subchapter 5.” Adjacent jurisdictions of Edmonds, Lake Forest Park, Lynnwood, Redmond, Kirkland, Seattle, Woodinville, Issaquah, Snohomish and Bellingham define 6 inches DBH for significant trees. Additionally, Shoreline already uses the 6-inch DBH when referring to public right-of-way trees.

Kathleen Russell, Shoreline, Tree Preservation Code Team member, spoke against staff’s proposed Amendment 9 which would allow staff the ability to waive the retention of any significant trees in MUR35 and MUR45 properties. The Code Team asked that this code be revised to exclude the authority of the director to waive or reduce the required significant tree retention on these properties and language be provided to solve the concern when an owner does need to remove a tree due to unusual circumstances.

Isis Charest, Shoreline, Tree Preservation Code Team member, spoke in support of a revised definition of Landmark Trees in Amendment 2, item 4, 20.40.048 Landmark Tree Definitions. The Code Team recommends the definition for a Landmark Tree include the 24-inch diameter at breast height (DBH) metric. In addition, it is recommended that the existing Landmark Tree Designation Program be included in this definition as information for Shoreline Citizens who are interested in participating in this program.

Melody Fosmore, Shoreline, Tree Preservation Code Team member, spoke in support of Amendment 10, Exception 20.50.360 (CB) Tree Replacement. The Team recommends the code be amended to read: “To the extent feasible, all replacement trees shall be replaced onsite. When an applicant demonstrates that the project site cannot feasibly accommodate all 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.”

Wally Fosmore, Shoreline, Tree Preservation Code Team member, spoke regarding Amendment 6, SMC 20.50.300 General Requirements. This amendment pertains to the protection of trees on development sites including stop work orders and penalties if trees are negatively impacted by construction. Citizens want the municipal code to convey to developers that Shoreline values all trees including trees protected by a development permit. Amendment 6 adds this protection. Staff is recommending deleting the words “and vegetation”. The Code Team agrees with this recommendation. In addition, staff is not recommending items L1, M1, and M2; therefore, the Code Team asks the Planning Commission to ask staff to provide language for L1, M1, and M2 to protect individual homeowners from financial duress. The Code Team also requests that the language for L1, M1, and M2 be maintained for developers in MUR35 and MUR45 zones.

Martha Diesner, Shoreline, Tree Preservation Code Team member, spoke in support of preservation of significant trees at the 198th affordable housing project on Highway 99 near Echo Lake. With existing regulations, the developer can remove all of the 12 significant trees from the Mixed Business zone. Additionally, the architect has requested that the City remove all the significant trees on the residential zone as well. Per Amendment 9, Exception 20.50.310 (B1) the director has the right to reduce the retention of trees in residential zones, MUR35 and MUR45. The Code Team is requesting that the code be revised and that director refuses the request of the architects and that the structure at 198th be redesigned to accommodate the trees on the residential zone and mixed business where there are conifers.

Discussion:

Both staff and the applicant agree on items Amendments 1, 3 and 8. There was no further discussion on these. Discussion on other amendments followed:

- Amendment 2, definition of Tree Canopy – Staff is recommending approval with amendments. Senior Planner Szafran commented that staff was uncertain if the applicant was in agreement with staff's amendment. Staff is recommending keeping language that the applicant wanted to delete. Chair Mork commented that it appeared to mean the same thing. Senior Planner Szafran concurred.
- Amendment 2, definition of Hazardous Tree – Staff is in agreement with the applicant.
- Amendment 2, Heritage Tree – This has been requested to be withdrawn by the applicant.
 - Commissioner Rwamashongye noted that within Amendment 6, you find language referring to heritage trees. If this is deleted, how do they mention a heritage tree in Amendment 6? Senior Planner Szafran clarified that the applicant requested to remove the language referring to heritage trees in Amendment 6 also.
 - Commissioner Callahan pointed out that the 2014 Shoreline Urban Forest Strategic Plan has as one of its goals to explore a heritage tree program. Vice Chair Sager echoed Commissioner Callahan's comments; she thinks this needs to be on the City's radar in the near future.
 - Chair Mork summarized that the Planning Commission strongly encourages staff come up with language for this. Senior Planner Szafran replied that if this is withdrawn staff can address it separately at a future meeting. Director Markle noted that this could be a discussion with the next biennial budget so there can be an adequate staffing plan in place. Commissioner Malek thought this is something that could possibly be addressed by a tree commission.
- Amendment 2, Landmark Tree – The City is recommending this definition with amendments. The applicant had proposed a revised definition for this. Additionally, the applicant has proposed 24 inches in diameter; staff is proposing 30 inches.
 - Vice Chair Sager spoke in support of the 24-inch DBH for landmark trees but would be willing to compromise to 27 or 28 inches.
- Amendment 2, Nonsignificant Tree definition – This has been withdrawn.
- Amendment 2, Significant Tree – This definition has also been revised. Mr. Turner had proposed that the diameter be 6 inches as a definition for a significant tree.
 - Vice Chair Sager agreed with the 6-inches as a definition; she noted that 6 out of the 10 jurisdictions looked at had 6-inch trees as significant trees.
- Amendment 4 – This was withdrawn.

- Amendment 5 – Tree Policy – Staff is recommending approval with amendments. Senior Planner Szafran did not recall if staff received comment about their proposed changes. Director Markle explained she is the one who had written this. She combined everything new from the applicant into the purpose section. The applicant’s content was kept largely intact. There was consensus that this was agreeable.
 - Commissioner Rwamashongye commented that in general the recommendation by the Tree Preservation Code Team was well balanced. They tried hard to balance the needs of both the community and development.

- Amendment 11 – There was a disagreement with the applicant about the height of the fence and also the type of fence. Senior Planner Szafran indicated staff could bring back some language for the Planning Commission to consider.
 - Commissioner Callahan asked why there was opposition by staff to the 6-foot height and the chain link fence. Senior Planner Szafran replied that the Planning Commission was free to make a recommendation for this. Commissioner Lin suggested modifying the language to allow what is most durable, which may not necessarily be a 6-foot chain link fence but could be something comparable. The purpose is for the protection, but they could allow some flexibility for different site needs. Senior Planner Szafran agreed. Commissioner Malek concurred with Commissioner Lin. He was in favor of allowing alternates that are effective. Commissioner Rwamashongye also agreed with Commissioners Malek and Lin. There was consensus that the plastic snow fence is not acceptable, but alternatives such as chain link or something similar would be acceptable. Senior Planner Szafran noted that the existing language of “constructed of chain link or similar material” gives staff a lot of flexibility. They would also be deleting the plastic fencing which would not qualify as a “similar material”.

- Amendment 6 – Staff’s recommendation is not to include the penalties, L1, M1 and M2. The applicant is requesting that these be included. Senior Planner Szafran explained that staff had justifications for not including those.
 - Commissioner Rwamashongye expressed concern about penalizing someone for something that is not feasible. He would consider a fee-in-lieu of the penalty if they restore the Director’s authority to make certain decisions (as proposed in a different amendment). Senior Planner Szafran indicated he would need more time to consider this.
 - Director Markle reiterated staff’s need for more time to make sure there is adequate time in staff’s work schedule to consider these topics. She explained that tree amendments were not on the work plan, but the City got a lot of great suggestions ahead of when it is on the work plan. Staff agrees that they need greater enforcement and perhaps penalties, but staff needs to work with code enforcement to analyze what the penalties would be.
 - Vice Chair Sager agreed that there needs to be penalties, and that these probably aren’t right. She asked for clarification about what would be so onerous for the homeowner. Senior Planner Szafran explained it is very expensive for a typical homeowner to go through the monitoring and other maintenance requirements. Vice Chair Sager asked if removing native vegetation could damage or destabilize a tree. Senior Planner Szafran indicated that when proposals come in staff relies on the arborist’s report.

- Commissioner Lin commented that the understory within the tree drip line will normally be protected by the tree fence. If there is additional landscaping it will go in per the overall design. She agrees with staff on Amendment 6 in terms of allowing some flexibility for the homeowner. Some of the language does need to be modified, especially where it says if there is any violation, they need to stop all work. It is important to also consider construction timeline and sequencing. Regarding monitoring and maintenance requirements, it will be costly for the regular homeowner and time consuming for staff. This also needs to be considered, but there should be some mechanism to make sure that the trees are in good condition.
- Commissioner Malek agreed with Commissioner Lin. He expressed frustration that some of the language is punitive and unnecessary.
- Commissioner Rwamashongye agreed with Commissioner Malek and commented that using the definition of 6 inches DBH also would capture ornamental trees on properties that people had planted.
- Chair Mork suggested staff could prepare something that would keep the parts of this that they all agree with and put the parts that need more work to be modified or considered in the future. Senior Planner Szafran agreed that was possible. The Commission could recommend the language that is underlined except the blue parts (on the PowerPoint slides). Staff could look at the penalties and the financial guarantees in a future work plan and bring those back to the Commission. Chair Mork summarized that the Planning Commission thinks this is an urgent area that needs attention and hopes that staff would prioritize this.

Given the late hour, the discussion on the Tree Code amendments (#7, 9, 10 and definitions of Landmark Trees, and Significant Trees) was continued to a future meeting.

REPORTS OF COMMITTEES AND COMMISSIONER ANNOUNCEMENTS

Commissioner Malek commented that the Point Wells decision is under review, and a decision should be rendered on or before December 1.

AGENDA FOR NEXT MEETING

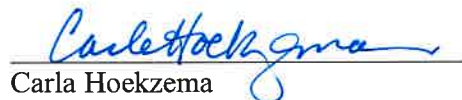
The next meeting is scheduled for December 2, 2021. Topics covered will be MUR70-related amendments and the continued Tree Code discussion.

ADJOURNMENT

The meeting was adjourned at 8:57 p.m.



Laura Mork
Chair, Planning Commission



Carla Hoekzema
Clerk, Planning Commission