

# EMERALD CITY TASK FORCE

## AUGUST 23, 2007 MEETING SUMMARY

On August 23, 2007, the Emerald City Task Force (ECTF) held their third meeting at the Seattle Municipal Tower. The meeting included a review of a letter to the ECTF from a City Council committee and a detailed discussion of suggestions to improve Seattle's tree laws identifying the challenges and opportunities associated with specific preservation and protection methods.

### Task Force Members in Attendance

Randy Bannecker, Seattle/King County  
Association of Realtors  
Dan Duffus, Soliel Development LLC  
Deb Guenther, Mithun  
  
Ann Hirschi, Tree Solutions, Inc.  
Garrett Huffman, Master Builders Association  
Martin Liebowitz, The Madrona Company  
Amalia Leighton, SvR & the Seattle Planning  
Commission  
John Hushagen, Seattle Tree Preservation  
Eric Pravitz, HomeSight  
Paul Tomita, Weinstein A/U

### City Staff in Attendance

Scott Dvorak, Dept. of Planning &  
Development (DPD)  
John Skelton, DPD  
Tracy Morgenstern, Office of Sustainability &  
Environment (OSE)  
Mark Mead, Seattle Parks & Recreation  
Eli Levitt, OSE  
Diane Kelso, DPD  
Samantha Updegrave, DPD  
  
Janet Osland, DPD  
Robert Knable, DPD

### Members of the Public

Favero Greenforest  
Barbara Warren  
Michael Oxman  
Richard Ellison  
Nicholas Johnson  
Ann Stevens  
John Barber  
Joe Markovich

*The notes below are meant to capture the various points made during the course of the meeting – they are not a literal transcript, nor are they meant to imply that there was agreement on any one point. Instead, they only serve as a reminder of the discussion and the points made.*

### **EEMU Letter**

- The members of the Environment, Emergency Management, & Utilities (EEMU) Committee of the Seattle City Council sent a letter to members of ECTF. The letter was included in materials passed out at the meeting. The EEMU offered several points for ECTF to consider during its discussions and invited the group to attend a committee meeting later in the year after they have developed their recommendations.

### **Tree Removal Limits**

- The question on tree limits is how do you make the limit or permit system user friendly. Permits need to be available at Neighborhood Service Centers (NSC) throughout the city and on-line. People can travel ten minutes and park for free at an NSC. Imposing a permit or removal limit gets people to think before cutting. Another question for the group: what sort of fees should be charged for a permit? Maybe none. Lake Forest Park and Kirkland do not charge a fee.
- Seattle has more density and smaller lot sizes than many of the cities reviewed in the tree regulation matrix. How far can we go in a dense urban environment? Most single family lots in Seattle are

between 5,000 and 7,500 square feet. Shoreline, WA, in comparison, has some lots in the range of one half acre to two acres.

- The permit should be affordable for homeowners at no more than \$50. Or residents should receive free permits. Allow people to apply on-line for permits with no fee, but charge a tough fine or penalty for cutting without a permit.
- There is a qualitative aspect to tree protection and tree permits – perhaps there is a need for different strategies for different neighborhoods. Eugene, OR asks developers to fill out a check list corresponding to the functional purposes of a tree: is it part of riparian area? Does it add to canopy to the ROW, front yard, or backyard?
- Cities are starting to recognize that green infrastructure is important. Most people do not know or understand how and when city policy changes. We need to educate people about how things are changing. Education is key part of launching and maintaining a tree permit process. We need something that says trees and tree protection are really important – this canopy area is valuable to the city for important reasons. We do not analyze the latest aerial photographs every day, but things happen to Seattle's trees every day. Some tree specialists are convinced that many trees come down needlessly on property that is already developed. Seattle's tree canopy cover will drop in the future because the wind storm last November created a level of panic. We need new tree protection and preservation rules as soon as possible.
- How about regulating the tree companies? They pay for and complete permits in many places. This takes the mystery out of it for the homeowner. For example, developers don't get sewer permits, subcontractors do and they pass on the cost. Subcontractors assist with the process by taking care of permits – they have the expertise and they handle that aspect of the project. The down side of tree companies taking care of permit is a missed education opportunity for members of the public. This could be a tool to educate homeowners and others in the public.
- If the permit for tree removal is free, there is a need for significant penalties for taking down a tree without a permit.
- Bellevue used to have a point system for canopy coverage like Olympia, which seems fairly complex. Not sure what happened with that program but they may not be using it any longer.
- There needs to be more consideration and monitoring of changes in impervious surfaces. Development growth in this area needs to be monitored year by year. The City needs to take steps to think about this – and consider buying certain properties to protect pervious land area and to plant additional trees in dense areas. There are many limitations on impervious surfaces on the books currently for planners and developers to consider.

#### **Allow Removal with Replacement or Fee in Lieu**

- Replacements or a fee in lieu system is an idea to consider and pursue. Perhaps it should be applied throughout the city, not just in single-family areas. A banking system or a fee in lieu system could be very attractive.
- What about a system to encourage a tree concept similar to transfer of development rights (TDR)? A TDR system could be priced in a manner that is attractive to developers and preserve more trees.
- What is the ideal policy if there is only one tree left on a lot and the homeowner is sure they want to remove it – is this okay? This should not happen and this presents the issue of defining the permit and limit criteria. A policy on replacement needs to look at basal area as well as canopy. A tree bank does give people a positive option. Replacement should focus on function - not simply replacing a large tree with a small seedling.
- Some people choose to pave entire lots and this group cannot dictate private property rights. At least a fee in lieu system establishes a place for another tree. The fee should cover planting and care costs (covering the cost of the tree itself is not enough). A tree banking system needs to have teeth or people will only see it as a cost of doing business.
- Fines touch on issues of fairness – can individuals afford a \$2,000 fine on a limited income? Large fines or high permit fees create an undemocratic situation – people cannot afford expensive fines.
- Do we need to consider the taxes we pay to take care of storm water? We all pay for water retention. Perhaps we need to consider value of property and value of tree. The City does not have enough arborists to give advice or provide resources on site. Perhaps we need a DPD arborist who consults with residents and refers them to local resources. Realtors and owners want homes that look good,

green, and well taken care of. A permit system allows cities to keep tabs on how many trees are removed, where trees are being cut, how many are removed because of disease etc. A permit system provides quality information and data each year. It might help urban foresters and others understand patterns. It may also require hiring additional staff at the City.

- A pool of volunteer tree professionals already exists. The University of Washington's Center for Urban Horticulture, Earth Corps, and others may want to be a party to a new system. Asking for a full time employee in the City often means calling for a long process and delays at the least. Maybe we need to have a bank of people to consult. Perhaps we could consider something like Master Gardeners (WSU/ King County Extension), Master Composters (Seattle Tilth), and now Master Arborists or Foresters.
- Perhaps City staff should contact regional cities and see how the permit process is working out for them. In many places, instituting permits has not been arduous. It allows for a conversation about canopy cover and decrease the rate of tree cutting. Seattle residents who want to cut a tree have it too easy. It is important to use both a carrot and stick approach. Perhaps people could plant more trees for a reduction in their utility or SPU bill.
- DPD should consider shopping new ideas around within the City to see which concepts have potential and/or gain traction.

### **Waiting Period**

- If you have a permit system, the City knows when trees have been cut. If you have a waiting period, then the City would need a permit process. Limiting the number of trees removed per year can lead to better decisions. Can we realistically ask a homeowner who wants to develop a site to wait for three years? It is very difficult to educate residents about I-5 construction, much less changes in tree rules that ask homeowners to wait to take action on their own land.
- A permitting system seems more viable than a waiting period that prevents selling or construction on a site. A waiting period might need to focus on cutting only – once a person maximizes their tree cutting, they must wait a given period to cut again.
- We need to be careful that new tree rules are not in opposition to the urban growth goals. We should not rely solely on the developer to put in more trees. Many times trees are located where the building should be. The City will waste time on waiting periods – a permit system may work better. Enforcement would be difficult – it is a struggle to keep up with complaints and a waiting period rule. People are always going to try to get around the system. There is a need to simplify the code and write it in such a manner that avoids creating loopholes and complicated rules (e.g. rules applying to single-family homes that are not in single-family zones). Whatever new code language is developed needs to be very clear. The ECA Ordinance is a good model for single-family zoning codes – it is flexible yet clear.
- One of the best ways to go about protecting and planting trees is to build in more flexibility to Seattle's land use code. Set backs and floor-to-area ratio (FAR) incentives could help solve the need for trees and density while maintaining affordability. Right now the code is very prescriptive. People cut most of the trees on an undeveloped lot and then sell the land. The code is partially to blame for driving people to this situation. Unfortunately, creating more flexibility means changing land use code, and this is a primary tool to create effective tree rules.
- Perhaps the Growth Management Act (GMA) goals are in conflict with tree protection? It appears that Seattle is just starting to see the start of a much bigger wave of change in terms of density. Where are we going to put trees to achieve 30% canopy cover goal? We want density and we also want trees – the group wants to provide incentives for tree planting and preservation. How do we replace the trees lost each year?
- Mayor Nickels has supported detached accessory dwelling units (DADU) in a trial phase. This allows people to build new units in back yards of single family homes that are up to 1000 square feet in size. The idea puts a tremendous amount of pressure on single-family residential zones to increase density. DADU's in single-family zones reduce space for trees – the group could add a requirement that DADU development cannot result in net tree loss. However, DADU rules are very restrictive and not many are being built.
- The Certificate of Occupancy (CO) in Athens-Clarke County, GA sounds like a powerful tool – connecting the regulations to something that is instrumental in the development process provides teeth.

### **Short Platting**

- The City should consider a requirement for binding tree protection plans and bonding.
- Trees provide canopy and multiple functions for the community. Perhaps people should be required to provide the same function on the site originally when it first comes to DPD's attention. This provides a focus on performance versus a tree plan.
- Large underground storm water vaults are very expensive. If we value the tree for storm water mitigation or protection than it is really expensive to remove trees throughout the city. The City gives incentives for green roofs, tracks impervious surfaces, and yet the City does not track or inventory trees city-wide. If we talk about trees as storm water tools, this helps to bridge a gap and find compromise. SPU is ultimately the city agency responsible for creating incentives on storm water and rate payer scales. The City should require less storm water detention if trees are present. A decision on these lines has some effect on SDOT as well because they are responsible for street trees. What about cheap solutions like natural swales as seen in many parts of northern Seattle? The City should encourage more natural drainage systems. In addition, parking lots present a large opportunity for storm water retention and for trees. City policy should require less or no parking to allow space for trees in multi-family zones.

### **Defining and Identifying Trees to Protect – Designation**

- In terms of designations, people often use different adjectives. Is it viable? Does it provide the canopy cover we want? Does the tree provide many services? How does the City think about functionality and different surfaces?
- Construction and the development process crush soils and the side affects last for years. It is time to look at services provided by trees, not just individual trees on a lot. Perhaps there is a need to survey all trees over 2 feet high and to protect young trees if possible. This means the city needs to revisit tree protection and designation criteria. Any survey should include more than just exceptional trees – trees over a certain size (to understand which young trees are coming along).
- Trade offs to save the tree aren't necessarily cost effective – planners need to consider the life expectancy of a tree, is that the right tree in the right place etc. Planners and developers should look decades out when considering trees to save – we already designate density goals and plan infrastructure several decades into the future.
- This City needs better and broader tree definitions in two areas – cultural trees (heritage or landmark trees) versus significant or exceptional trees – i.e. the minimum standard for protection.
- The Portland, OR example provides a menu – choices give residents a range of options to meet minimum tree protections under different conditions. This approach might assume a base level of vacant land. In addition, many lots in Seattle only have one or two significant trees left or none at all.

### **Defining and Identifying Trees to Protect – Incentives**

- Incentives have to be real – increase FAR, provide more setbacks, or plan for higher and denser buildings. These incentives will bring more density and better protection of trees. Affordability is a constant challenge in the consideration of new tree rules and incentives.
- The concept of expediting permits has been around and does not work well. There is a need for real carrots like reduced parking or additional units in exchange for better protection and planting of trees. DPD has strong incentives to build densely. Is there a need for disincentives to build large homes (e.g. 4,500 square foot homes) which leave little or no room for trees on single-family lots?

### **Tree Protection During Construction**

- We need to overlay each of the systems on hand (sewer, cable, trees, trenches, sidewalks, etc) for single-family homes and multi-family buildings. The city may require new sidewalks under a new plan released publicly today. There is a need for flexibility to move a sidewalk or a trench to preserve and plant trees. In addition, the fine for crossing a tree protection fence on a construction site needs to be quite expensive.
- Current fines are not necessarily big enough to prevent damage to trees. In one case, it was cheaper a group to pay a fine on a ginkgo tree (compared to the cost of protecting it during construction) – it required the good will of the developer to save the tree. Fines are a system to help keep honest people

honest. ECTF cannot propose a \$500,000 fine in a legal or practical sense. There is value in fining those who do the actual work on the ground – those who are at fault for any damage to trees.

- Trench consolidation would increase the number of trees that can be protected – this means stacking both private and public utilities (water, gas, electricity, cable, phone, etc). DPD, SDOT, SCL, and others need to reconsider current trench standards. Private utilities such as cable and phone companies should be required to trench share. The City needs to move away from single department based solutions. Trench sharing requires a solution that crosses a number of City departments.
- The City needs to raise trees to the same level as parking, building height, and initial design are in the standards – this would allow for beneficial trade offs. New tree rules will fail otherwise. The argument it is not about a net loss of housing. It needs to be about trading and creating options. Can I lose two parking spaces and instead plant more trees? Can I have a smaller footprint to protect trees and build one more floor in exchange? During construction, we need to remember that not all trees are worth saving.
- An important question for ECTF members and others to consider – why are we losing canopy cover? If the group does not answer this question, any proposal may be ineffective.

### **Public Comments**

- The City needs to create a workable and practical plan. There needs to be resolve to write a quality proposal to change Seattle's tree laws and incentives. ECTF should think about how City Council has addressed tree issues in the recent past (including the work of City Council Member Drago several years ago). The ECTF public process lacks credibility without environmental groups at the table. This means that any ECTF proposal may falter in front of the environmental community. An arborists report should be required before any tree permit is issued.
- Seattle was in same situation – evaluating new tree rules and laws – nearly eight years ago. Yet, in the end, the code was not rewritten. Beneficial trade-offs need to be built into a new system. Realtors cut trees in front to improve views, homeowners cut trees to put in gardens, and new owners cut trees that were protected during construction. Bonds don't always work – the important question is how to maximize retention in the long term. Education is of primary importance and we need environmental groups on board. Groups like Audubon could help with understanding the need to protect habitats and diverse tree species.
- Townhouse development is leaving little to no room for trees. We need a TDR concept for tree protection. In this case, homeowners could get some value for not totally developing their land - get more height and leave more space for trees. Tree protection plans need to consider storm water effects, an increasingly serious issue in Seattle. Groups in Seattle are appealing storm water permits and the region is in trouble because of storm water problems. Preserving ridge tops with trees means protecting Seattle's identity. We need to find incentives to protect trees on ridge tops.
- Single-family zones should be a strong focus – this is where there is significant room for improvement. The permit process is a way to track and provide indicators on canopy cover. Increased enforcement would require additional funding and more staff – which could be a barrier, but should be addressed.
- An ordinance to address Dutch Elm disease should be a priority – the disease represents a significant risk for Seattle.