

Seattle Urban Forestry Commission

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October 20, 2010

Honorable Council President Richard Conlin
Chair, Regional Development & Sustainability Committee
Seattle City Council
PO Box 34025
Seattle, WA 98124

RE: DPD's Proposed Tree Regulations Follow Up

Dear Council President Conlin,

On July 14, 2010 the Department of Planning and Development (DPD) released the City of Seattle Proposed Tree Regulations document. Public comment for this proposal will end on October 31, 2010. On August 13, 2010 the Urban Forestry Commission provided Council with an initial letter stating our concerns with the proposal as released. Our letter today reiterates those concerns and provides detailed suggestions on how to move forward with the process in a positive and constructive manner. While there are concepts in the proposal that we do support, there are several elements that need further refinement and others that need to be added and/or re-evaluated. Our comments are divided into three broad categories:

1. Process (both public and internal)

- A more inclusive public process is needed
- Public comment period needs to be extended
- City Departments, such as City Light, SPU, Parks, and Department of Neighborhoods need to provide written input
- The Urban Forestry Commission needs to be engaged more constructively
- Arborists and those with specific urban forest responsibilities need to be engaged more constructively

2. Goals of an effective tree protection ordinance

- Promote a healthy urban forest across the city
- Elevate and recognize the urban forest as critical infrastructure
- Provide stronger protections for larger trees
- Ensure public education and outreach is integrated into the release and implementation of the tree protection ordinance
- Ensure a comprehensive urban forest management approach
- Recognize ecosystem value and wildlife habitat
- Formally adopt and implement the Urban Forest Management Plan

3. Tools for implementing an effective tree protection ordinance

- A permit system to manage, slow down, and document tree removal
- Professional standards to ensure safe and competent removal of trees
- Tree planting and protection standards to establish best practices
- Development standards to mitigate the impacts of increased density
- Mitigation standards to minimize impact and ensure canopy growth over the long-term

We hope this letter helps Council evaluate the proposed regulations as we move toward ordinance development. Specifically we feel Council should consider the following changes to the process.

1. **Slow the process down by three to five months** allowing the City agencies to fully discuss and incorporate the comments received, complete additional research, and engage the public and the Urban Forestry Commission on ordinance details.
2. **Hold a series of Townhall meetings** that engage the public in meaningful conversation about the urban forest and specific elements of the proposed regulations.
3. **Have DPD work with the Urban Forestry Commission** to vet the issues and determine the feasibility and methods of incorporating the Commission's recommendations into DPD's portion of the final Tree Protection Regulations.

Below we provide a more expansive explanation of our main points.

Process (both public and internal)

More inclusive public process and more engaged internal process

To date, only one open house has been held by DPD (September 21, 2010 at City Hall) to gather general feedback from the citizens of Seattle. DPD did present the tree proposal to a variety of 'standing' groups, but the comment period will end on October 31 without sufficient citizen representation. We are recommending Council provide additional opportunities for public comment to address specific recommendations of Resolution 31138 not included in the proposal. In addition, the Commission recommends a more inclusive internal process that engages other City Departments and this Commission not only in commenting on the proposal but also providing elements and language that should be added. Significant weight should be given to the input of city arborists in this process.

To date the process has followed a typical internal document creation methodology by DPD with a complete unveiling of a single document to the Mayor, to Council, to the Urban Forestry Commission and to the public all at once. DPD should consider a more iterative process where the large complex pieces of the regulations can be discussed in some depth. For instance, once DPD decided against the permit system this knowledge should have been vetted through the Urban Forestry Commission. The removal of a permit system, the exceptional tree element, and the three trees per year requirement all caught the Commission off guard. DPD could have and should have briefed the Commission and the Council on their thoughts regarding these major changes before going public with a proposal.

Goals of an effective tree ordinance:

Healthy Urban Forest Across the City

A healthy urban forest is comprised of a sustainable mix of trees and shrubs of various species, ages and geographic distribution. It includes valuable large trees and tree groves as healthy wildlife habitat. It also provides a consistent distribution of large trees throughout the city for equitable access. The monetary and habitat values of a vibrant urban forest should be measured and promoted.

Elevation of Trees as Infrastructure

The understanding that trees are critical urban infrastructure has most certainly grown over the last few years. However, the Commissioners believe more needs to be done. Specifically the tree protection ordinance needs to be more explicit in its acknowledgment of the monetary and public health benefits of a healthy urban forest. For instance, the cost-benefit analysis on whether or not to implement a permit system in the DPD proposal only took into account the direct cost to city staff budgets, but did not account for the monetary benefit accrued by the ecosystem services provided by a healthy urban forest or potential for revenue generation by a permit system. A permit system which reduces the premature removal of trees will save money in stormwater management and air pollution mitigation.

Provide Stronger Protections for Larger Trees

Large trees provide more benefits than small trees. The City needs to be cognizant that if we shift our urban forest from one of more mature higher value trees to one of smaller more ornamental trees, the City will lose significant ecosystem function and benefits. The Exceptional tree element has been removed by DPD, but the Commission feels strongly that some element needs to be added to address the desire to protect large mature trees, especially native deciduous and native conifers.

Public Outreach

Public outreach while not explicitly part of the tree protection ordinance is still an integral component of the process. DPD has proposed removal of all regulation of trees on private property outside of development. It's important to understand that only one half of one percent of properties are developed in any typical year, leaving over 99% of the private land in the city unprotected. The DPD proposal, as written, could shift costs and responsibilities to preserve, enhance, and maintain the urban forest on to other city departments. For instance, canopy loss on unregulated property will require increased planting in city right-of-way and public property, increasing the city's long term maintenance burden. DPD does not plant trees, nor maintain trees. Will the new regulations create unintended financial consequences on those city departments required to ensure the 30% canopy goal is met through tree management and planting?

Comprehensive Urban Forest Management

To ensure successful protection and enhancement of the urban forest, the City of Seattle must look at the urban forest in a comprehensive manner. From the perspective of the tree protection ordinance itself this means an equitable ordinance with clear compliance and equitable mitigation requirements. It means that there needs to be a strong enforcement mechanism with punitive measures as a deterrent. From the larger perspective it means the city must implement the tree protection ordinance and all other urban forest efforts efficiently.

Recognize Ecosystem Value and Wildlife Habitat

A key ecosystem value provided by the urban forest is the preservation of valuable wildlife habitat and biodiversity. An interconnected urban forest canopy can enhance wildlife corridors throughout the city and the region.

Formally Adopt and Implement the Urban Forest Management Plan (UFMP)

By ratifying the UFMP and the 30% tree canopy cover goal and the mechanisms within the UFMP to meet this goal, the Council will signal their commitment to our City's urban forest and provide a tangible goal to evaluate the effectiveness of the tree protection ordinance against. Implementation of the tree ordinance and achieving the City's 30% canopy goals requires that a realistic budget be created, approved and sustained.

Tools for implementing an effective tree protection ordinance:

Permit System

The DPD proposal spent significant time refuting the feasibility of a permit system. Its conclusion relied heavily on additional costs and their determination of effectiveness. The Commission disagrees with DPD and recommends that Council take another look at the permit system and its feasibility for Seattle. Specifically, we recommend a full cost accounting that looks at the potential cost savings benefits of a permit system as well as the costs. The city of Atlanta's Arboricultural Manager confirmed that the city receives close to \$1 million dollars a year from permits and fees as part of their urban tree protection efforts. We would like to see DPD follow up on these reports to determine if Seattle, a city similar in size to Atlanta, can in fact implement a cost effective permit system.

Below are five distinct advantages the Commission feels a permit system will bring to Seattle. If the city decides against a permit system it must decide how to achieve these benefits or we will not meet our canopy cover goals.

- **Comprehensive Urban Forest Management:**
A permit system provides a mechanism for urban forest management, closing the gap in protection for private land outside of development. Comprehensive protection of Seattle's urban forest cannot be guaranteed without a permit system to formally and equitably manage tree removal in the city.
- **Tracking:**
Knowing exactly when, where, and what type of trees are being removed in the city is a vital tool to measure progress toward the canopy cover goals. Under the proposed DPD changes, private landowners have no requirements to meet before removing a tree. At the very least this could lead to unsafe removal that puts neighbors or the public at large in danger. There is no method of even volunteer registration of tree removal or planting.
- **Public Education**
The permit application process is an opportunity to give a homeowner pause and promote alternatives to removal. In some cases posting to inform neighbors of removal plans may also be warranted.

- **Enforcement**

The current complaint-driven enforcement system would function much better in conjunction with a permit system. Citizens or staff could easily check to see if a permit was obtained. When a tree is removed without a permit or based on incorrect information, the penalties can be straightforward and easily collected.

- **Recognition of Value and Benefits**

As part of DPD's case against a permit system, they equated permits with the permanent protection of certain trees and the burden it would place on citizens. The Commission believes that a simple online permit system would be sufficient in many cases and could easily reduce the cost to DPD and the burden to citizens. The protection of large trees is part of the UFMP, but so is the removal of hazard trees. Many trees eventually become too big for their space in the urban environment and in some cases require removal for safety. Public safety is often cited as a primary reason permits are currently required for sewer work, fixing retaining walls, building high fences, electrical work, building decks and many other activities.

A permit system will help elevate trees to urban infrastructure status and ensure that the work is being done safely and efficiently by trained professionals. A permit system may or may not be the best method for Seattle, but we believe DPD needs to do a better analysis than simply concluding it costs too much and burdens citizens.

Specifically we recommend a permit or registration system that incorporates the following elements:

- Online access with the ability to apply and print documentation from home
- Collect tree and parcel information appropriate to homeowner understanding
- An education component that promotes options to removal and programs for replacement
- A mechanism to stop people from unknowingly removing trees illegally such as street trees they may think they own
- A public posting period to allow public input
- Size and location thresholds above which a certified arborist must be engaged to do the work. We recommend that most trees over 6" DBH (diameter at breast height measured at 4.5 feet above the ground) require a permit and that most trees over 18" require a certified arborist's consultation
- Emergency approval mechanisms for removing diseased trees which pose a threat to the larger urban forest

Professional Standards

One of the key ways to ensure safe removal or pruning of trees is to require professional standards. Currently, the only qualification that the City requires of tree companies and arborists working for private clients is a business license. To ensure the implementation of an effective tree ordinance the city needs to be diligent in who is doing the tree work and the professional standards that should be required. Tree care professionals are also more inclined to suggest pruning options versus total removal. Enforcement and damages for improper work by professional companies should be part of the ordinance.

We recommend that the ordinance establish the following:

- Thresholds above which all work must be done by a certified Arborist. We recommend that most trees over 6” DBH require a permit and that most trees over 18” require a certified arborist’s consultation
- Professional registration of Arborists working in the city
- Strong penalties for those who violate the tree protection ordinance as part of their business practice

Tree Standards

In order to promote the establishment of a healthy and diverse urban forest the ordinance should require appropriate tree selection and proper planting and maintenance standards.

We recommend that the ordinance require best practices and establish by secondary documents such as planting details and specifications, maintenance and protection standards and approved tree selection lists.

Development Standards

The current proposed regulations do have some good elements to minimize tree removal on parcels undergoing development. Some of these elements, like the tree credit system need to be further refined before a complete evaluation of their effectiveness can be made.

- **Tree Credit in Single-Family Zones**

The proposed tree credit for single family zones may be a viable approach. The proposed credits however do not place enough weight or incentive on tree preservation and it is unlikely that a tree would be preserved under new construction or major renovation. As written, the tree credit system is most likely to lead toward a reliance on small caliper trees and not achieve the desired goal of promoting and protecting large mature trees. The Commission also would like to see a better approach to the protection of conifer and native trees within the credit system.

- **Green Factor for Multi-Family and Commercial**

The proposal refers to monitoring the 2009 revisions to the Green Factor for effectiveness in tree preservation however, since this proposal intends to give flexibility and incentives for tree retention, the Commission suggests that the Green Factor reassessment occur with this change in code and not wait for additional monitoring. The Green Factor likely needs additional incentives to allow for tree retention. We suggest that it may provide more consistency to work toward developing a “Green Factor” for single family zoning.

- **Industrial Zones**

We agree with the tree planting requirements for commercial uses in industrial zones however we also suggest that some tree planting or offsite mitigation for industrial development within these zones should be required. Locations within industrial zones for mitigation should be identified as part of the city wide canopy coverage. We believe all areas of the City should have some canopy to improve overall habitat and wildlife corridors.

- **Bonding**

The city should investigate financial programs such as landscape maintenance bonds to ensure survival or required trees.

In summary, an effective tree ordinance protects all elements of the urban forest: both public and private, both inside and outside of development. An effective tree ordinance is comprehensive, bold and enforceable, yet predictable and flexible. It maintains the health of a diverse and geographically dispersed urban forest and recognizes the urban forest as an integral part of the green infrastructure system. Trees are elevated to the same status as stormwater management elements, transportation, and sewer infrastructure.

Thank you for the opportunity to comment and please contact us with any questions you may have. We look forward to continuing to work with the Mayor City Council, City Departments and our citizens to ensure protection and enhancement of our urban forest.

Sincerely,



Matt Mega, Acting Chair
Seattle Urban Forestry Commission

cc: Diane Sugimura, Jill Simmons, Marshall Foster, Brennon Staley, Councilmember Bagshaw, Councilmember Burgess, Councilmember Clark, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember Rasmussen, Councilmember O'Brien, Michael Jenkins

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