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Jessica Jones (Position # 12 – Public Health) • **Lia Hall** (Position #13 – Community/Neighborhood)

May 17, 2023

Mayor Bruce Harrell and Seattle City Council Members
Seattle City Hall
600 4th Ave
Seattle, WA 98124

RE: Updating Seattle’s Tree Protection Ordinance (CB 120534)

Dear Mayor Bruce Harrell and Seattle City Councilmembers,

Duwamish Lands (Seattle, WA) – The Urban Forestry Commission thanks you for your continued work on updating Seattle’s tree protection ordinance.

Many of the provisions in Council Bill 120534 would be a step forward in improving Seattle’s tree regulations on private property.

However, the UFC has these concerns:

- 1) The process by which the legislation was drafted, introduced, and reviewed was flawed and in violation of Seattle Municipal Code.
- 2) The City did not follow the Seattle Race and Social Justice Initiative’s Racial Equity Toolkit process.
- 3) Canopy inequities may persist or worsen.
- 4) Reporting requirements are inadequate.

Given the flawed and rushed process, the likelihood of canopy inequities persisting or worsening, and the limited reporting requirements, the UFC asks the Council to:

- 1) Defer voting on the bill until the end of July to allow Councilmember conversations with the UFC and other stakeholders.

And,

- 2) Work on remedies:
 - a. Ascertain urban forest vision and goal.

- b. Additional amendments to address public concerns before the ordinance is signed by the mayor, including a tree inventory and a tree plan on the front end of development permit applications.
- c. Propose council-driven resolutions to allocate additional, or reallocate existing resources for tree protection, management, and planting.
- d. Propose departmental policies and executive orders to monitor the performance of the new tree protection ordinance.
- e. Engage the UFC early in future tree-related plans, policies, and design guidelines.
- f. Use all tools including tax levies or ballot measures to address social issues of density and equity, as well as mitigate the relationship between tree protection and developments.
- g. Reconsider how the Race and Social Justice Initiative of the city is being applied, especially since important stakeholders such as UFC are given short notice or not consulted on working matters to the city's urban forests.
- h. Move forward together as stakeholders with common purpose and goals to protect our urban forests and address inequities and injustices around urban forest ecosystems and environments.

Flawed Process in Violation of SMC 3.72.050.A.3 and the Seattle Race and Social Justice Initiative

The Mayor's draft ordinance was transmitted to the City Council on March 7, 2023, and referred to the Land Use Committee on March 22, 2023. These actions occurred without prior review and recommendations by the UFC. This appears to be in violation of SMC 3.72.050.A.3, which states that it is the responsibility of the UFC to "provide recommendations on legislation concerning urban forestry management, sustainability and protection of associated trees and understory vegetation and related habitat on public or private property prior to its introduction and referral to any Council committee" [underline added to emphasize relevant language].

Further, The Seattle Race and Social Justice Initiative that began in 2014 states that stakeholders should be involved in policy development so that "information from community and staff [is gathered] on how the issue benefits or burdens the community in terms of racial equity." However, the Mayor and City Council excluded the UFC and other important stakeholders in working through the Race and Social Justice Initiative process. The UFC represents 13 working members within urban forestry, adjacent fields, and community members – that include Black, Indigenous, and people of color – who are all volunteering to provide professional expertise and lived experiences to advise City council and leadership in these matters.

Throughout this process, stakeholders and volunteer commissioners were asked to react to complex, fully-drafted proposals with few resources and little time to make full and informed recommendations. For example, during the amendment process, fifty amendments were published with fewer than 48 hours for review before Council action.

The UFC believes the City could have built trust, reduced conflict, and created better code by collaborating with stakeholders substantively throughout the policy development process. The UFC requests that courtesy moving forward.

Canopy inequities may persist or worsen

As the UFC has expressed previously, an 85% hardscape allowance on Lowrise zones or 100% hardscape allowance on Midrise, Commercial, and Seattle Mixed Zones is not likely to protect regulated trees on these zones. The Addendum to the 2022 SEPA Determination of Non-Significance (March 2023) shares that outlook, stating “properties in the multifamily and commercial zone categories will face greater long-term pressure for future redevelopment than properties in [Neighborhood Residential] zones, due to the potential for financial gain. This may mean the risks for future tree removals would be most probable on the Tier 2 trees located on...properties allowing the densest forms of development.”

Tree canopy is already inequitably distributed, with multifamily and commercial zones significantly less treed than neighborhood residential zones. Many of these low-canopy neighborhoods, including Beacon Hill, New Holly, and others, are identified as Environmental Justice Priority Areas. If the City moves forward with the hardscape allowances and low one-to-one mitigation requirements for certain regulated trees, the UFC will not be surprised to find canopy inequities persist or worsen in coming years. The UFC acknowledges and supports the proposal’s intent to prioritize tree planting in low canopy neighborhoods, but the UFC is concerned that finding suitable plantable space for replacement trees may be more challenging than anticipated.

The City’s expectation that tree loss under the proposed ordinance will be most probable on properties allowing densest forms of development, which are also historically low-canopy and low-income, is at odds with the City’s values and goals stated in the Green New Deal for Seattle (Resolution 31895), Section 13.J: “Encouraging preservation and planting of trees citywide to increase the city’s tree canopy cover, prioritizing historically low-canopy and low-income neighborhoods...”

The UFC recommends consulting with the Green New Deal Oversight Board for remedies.

Strong reporting requirements sorely needed

Given the novelty and scale of the proposed changes and the mounting threats to our urban forest on numerous fronts, the UFC believes it was irresponsible for the Land Use Committee to have failed to improve reporting requirements. **The UFC renews its call for the City Council to require stronger monitoring and evaluation, proposing this language:**

Twelve months after the effective date of this ordinance, and no less frequently than every three years thereafter, the Department of Construction and Inspections, in collaboration with the Office of Sustainability and Environment, the Urban Forestry Commission, and in consultation with outside experts and stakeholders, shall prepare and deliver a report to the Mayor and Chair of the City Council Land Use Committee, or its successor committee, on changes needed to ensure this ordinance serves its purposes, especially as it pertains to reducing indiscriminate tree loss, addressing canopy inequities, and avoiding undue delays or burdens on development. Specifically, the report shall include:

- *The use by permit applicants of payment in-lieu of tree replacement. This report shall include the number of permit applicants that used the payments, payment amounts, total payments collected, City costs related to tree planting and establishment, and any recommendations for changes to the payment amounts to be included in a revised Director’s Rule. Recommendations for changes to fee amounts shall include consideration of adequacy of payment amount to replace removed trees, cover City*

planting and establishment costs, and effects of payment amount on permit applicant decisions about usage of the payment option.

- *The use by permit applicants of development standard flexibility to preserve trees. This report shall include the number of permit applicants that take advantage of allowed departures from development standards to accommodate tree preservation. The report shall include the types of departures used and the number of trees preserved therefrom, as well as the number of trees removed. Species, size, and other information about tree preservation, removal, and replacement shall also be reported. Recommendations for changes to the development standard departures shall include consideration for adequacy of tree preservation, adequate incentives to builders, and effects of hardscape allowance on tree preservation, replanting, and development processes.*
- *The number and location of replacement trees planted offsite. The report shall include descriptions, statistics, and qualitative reports about required replacement trees planted offsite, both through direct replacement by developers or by City efforts funded by the One Seattle tree fund. The report shall include information on costs, survivability, and community reception and feedback.*
- *Identification of unintended consequences. The report shall include an assessment of any unintended consequences arising from the implementation of this ordinance, including but not limited to inequitable canopy impacts on Environmental Justice communities; disincentivized tree ownership, stewardship, or proactive management; impacts to the livelihoods of urban forest professionals; and cost and time to developers.*
- *Recommendations on how this legislation can support the strategies in the forthcoming Tree Canopy Equity and Resilience Plan.*
- *Reporting on impacts to the urban forest due to climate change including from pests, pathogens, and insects.*
- *Examination of code's alignment with urban forest management best practices and national standards.*

Future considerations

Governor Inslee recently signed an act increasing middle housing in areas traditionally dedicated to single-family detached housing. The new law would allow the development of between four to six units per lot on all lots zoned predominantly for residential use.

Additionally, wide-scale upzoning is under consideration through the City's Comprehensive Plan update process.

How the City works to implement the new middle housing law and which growth strategy the City selects in the updated Comprehensive Plan could have serious implications for tree canopy. The next City Council needs to be prepared to reevaluate our tree code as other City and State policies come into force.

Additional thoughts regarding the process for the tree protection ordinance

Additionally, the ordinance update was drafted without publicly known and thorough discussions and studies based on the recently released canopy cover data. As a result, genuine issues related to

the city's urban forest might remain undisclosed to the public or unaddressed by the draft ordinance.

The data on tree loss was unequivocal. From the UFC's standpoint, this led to a clear path to achieving the city's goal of canopy cover through protection, management, and planting. In contrast, the UFC recognizes that issues such as development, density, and equity are intricate and cannot be resolved through one straightforward solution. While the UFC has actively collaborated with communities and city departments over the past decade to generate ideas and measures, including contributions to previous drafts of the tree protection ordinance, the current version overlooks the UFC's previous endeavors. The ordinance's focus has been redirected to address significantly more complex social issues, and this shift occurred within a limited timeframe of a few months. As a result, the UFC has had insufficient time and resources to provide comprehensive and substantive responses. Furthermore, the UFC was excluded from discussions leading to the current version of the ordinance. Thus, the UFC has not been given the proper recognition for its contribution and position.

Regarding the ordinance: The UFC firmly believes that the tree protection ordinance is not a magic solution for addressing environmental and social challenges, rather, it is a prescription for planning, design, and practices to protect existing trees and promote the long-term health of the city's urban forest. The current draft falls short of this objective by introducing ambiguity and favoring development. Notably, the ordinance update was drafted without publicly known and thorough discussions and studies based on the recently released canopy cover data. As a result, genuine issues related to the city's urban forest might remain undisclosed to the public or unaddressed by the draft ordinance.

The Commission requests five minutes to make a public comment as a group at the Council meeting on May 23.

Sincerely,



Josh Morris, Co-Chair



Becca Neumann, Co-Chair



Laura Keil, Co-Chair

CC: Yolanda Ho, Naomi Lewis, Toby Thaler, Monisha Harrell, Adiam Emery, Christa Valles, Marco Lowe, Dan Nolte, Jessyn Farrell, Sharon Lerman

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