



SDCI Briefing

Urban Forestry Commission

Photo by John Skelton



Seattle Department of
Construction & Inspections

SDCI / Urban Forestry Commission
March 13, 2019 3:00PM – 5:00PM

INTRODUCING SDCI

Our Purpose

As stewards and regulators of land and buildings, we preserve and enhance equity, livability, safety, and health of our communities.

Our Services Include:

- Reviewing permits for construction
- Inspecting projects that have proper permits
- Enforcing rules for rental housing, land use, trees, shorelines, tenant relocation assistance, just cause eviction, vacant buildings and noise
- www.seattle.gov/sdci www.seattle.gov/dpd/prioritygreen

SDCI ORGANIZATION

Number of Staff

- +/-400 employees
- 4 floors (Floors 19-22 of the SMT)

Departments

- Land Use
- Zoning
- Engineering Services
- Inspections
- Enforcement



Images by SDCI, Seattle
Municipal Tower, LMN

SDCI REGULATIONS

Codes We Enforce

- Building, Electrical, Energy, and Mechanical Codes
- Housing & Building Maintenance Code
- Land Use Code including Shoreline Master Program
- Environmental Protection and Historic Preservation Code
 - Chapter 25.11 Tree Protection
 - Chapter 25.09 ECA Regulations



URBAN FORESTRY

- SDCI Responsibility
 - Develop,
 - Implement, and
 - Enforce the regulations
- Code Development
 - Tree Protection
 - Environmentally Critical Area
 - Shoreline Master Program



Photos by greenseattle.org

URBAN FORESTRY

- Implementation
 - Four subject matter experts in Land Use Services available to review/consult with other reviewers
 - Review for hazardous trees
 - Review permits (MUP and Building permits)
- Enforcement
 - Inspectors assigned geographically
 - Investigate complaints
 - Determine if violation occurred
 - Levy penalties
 - Non-compliance cases - Law Department



Photo by joelrogers.photoshelter.com



2019/20 CODE DEVELOPMENT

- Status of Executive Order Implementation
- Status of Tree Ordinance Update
- Draft MHA Resolution

TREES FOR ALL

Becoming Better Stewards of Seattle's Urban Forest

Councilmember Rob Johnson

The Problem

Managing Trees is Complex
Nine different city departments manage trees, and it's often confusing as to who does what and when a permit is needed. And there's a need for better data to account for changes to our tree canopy.

Lack of Environmental Equity
Wealthy, white neighborhoods are more likely to have tree-lined streets than poor neighborhoods or neighborhoods of color.

The Solution

Councilmember Johnson's proposed framework would create stronger stewardship of the trees we have, allow our canopy to keep pace with growth and greater density, and plant more trees in neighborhoods that lack them: poor areas and communities of color.

Benefits

- A Cleaner Environment**
Improved water quality and cleaner air
- A More Resilient Environment**
A more robust ecosystem responsive to climate change
- A More Beautiful City**
Increased natural beauty & better connection to nature
- A Healthier City**
Better mental & physical health for everyone
- A More Equitable City**
More trees will be planted in areas without them

How It Works

STEP 1 Create a One-Stop Online Portal for Tree Permits
A new citywide website would be created for tree permits, making it simple for the public to get what they need.

STEP 2 Require a Permit for Cutting Down Trees
Any tree over 12" in diameter or trees designated to have special value would require a permit for removal.

STEP 3 Plant a New Tree(s) Somewhere Else
You can replace the lost canopy by planting a new tree(s) on your property or nearby.

OR

STEP 3 Pay into a "Tree Offset" Fund
If you don't want to replace the tree onsite, you can pay an in lieu fee and the city will plant tree(s) elsewhere.

Get Involved

- Become a Tree Ambassador**
Volunteer to become a steward of Seattle's trees!
- Plant a FREE Tree**
Contact Trees for Neighborhoods to increase the canopy in your own yard
- Track the Process**
The first conversation will be at the City Council on 5/16 @ 9:30am
- More Information**
seattle.gov/trees



2019/20 CODE DEVELOPMENT

- Status of Executive Order Implementation
- Director's Rule 17-2018, [Calculating Tree Valuations and Civil Penalties for Tree Protection Code Violations](#)
- Defines the penalties for illegal removal of trees.
- Effective May 14, 2018
- New website coming soon



Photo by wedgwood.cc.org

2019/20 CODE DEVELOPMENT

- Status of Tree Ordinance Updates
- Draft Ordinance Withdrawn
- SDCI focus on Executive Order
- Draft MHA Resolution includes tree protection



Photo by Maggie Glowacki

DRAFT MHA RESOLUTION

What is MHA?

Mandatory Housing Affordability (MHA) is a new policy to ensure growth brings affordability.

MHA requires new commercial and multifamily development to include affordable homes or contribute to a City fund for affordable housing.

Tree Protection

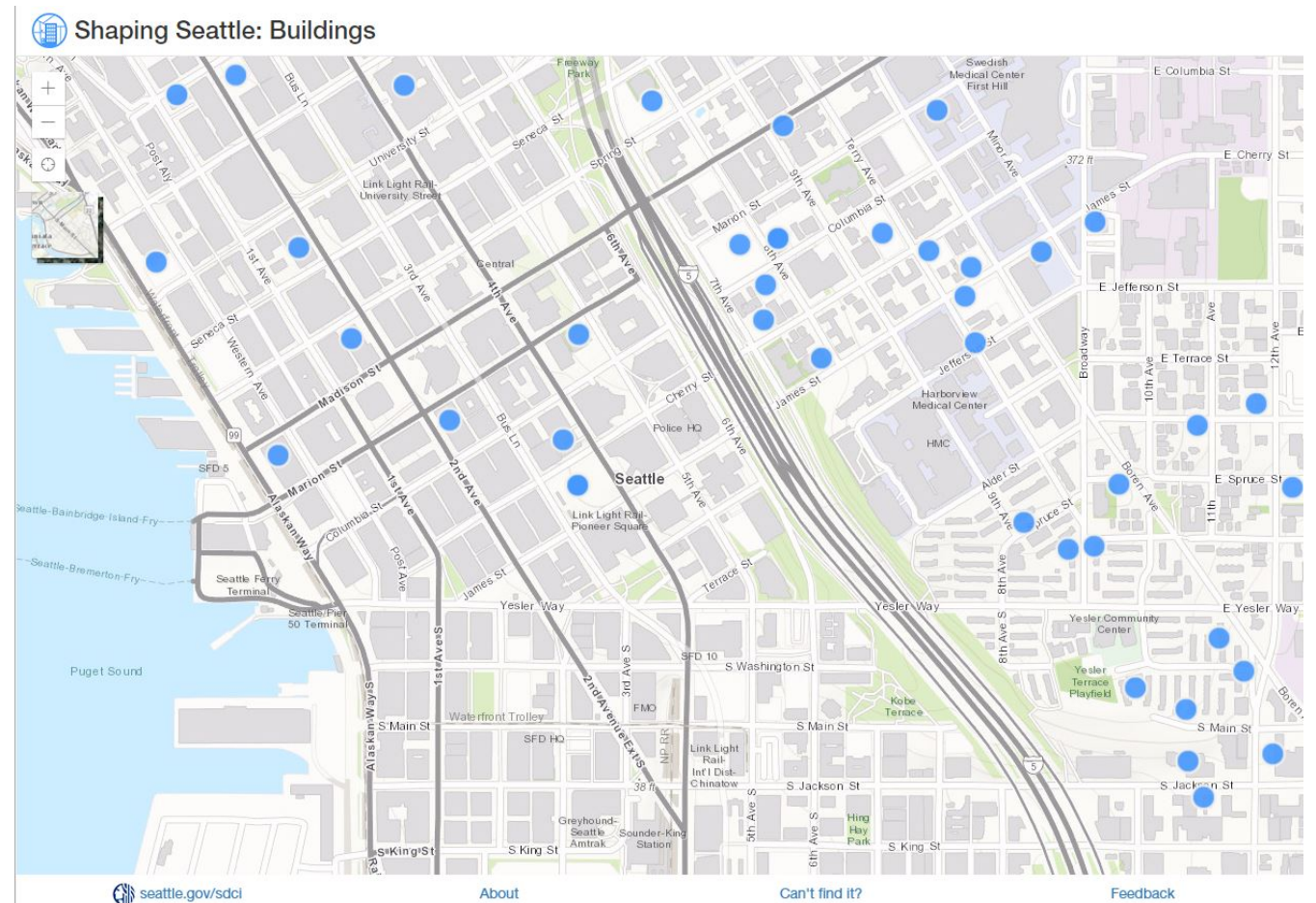
- Retain protection and expand definition of exceptional trees
- Create a permit process for tree removal of significant trees (6 in < DBH)
- Require replacement for significant tree removal.
- Simplify tree planting and replacement requirements
- Maintain tree removal limits in single-family zones.
- Explore the feasibility for in-lieu fee option for tree planting
- Track tree removal and replacement throughout Seattle
- Provide adequate funding to administer and enforce tree regulations



INTAKE PROCESS

Seattle Services Portal:

<https://cosaccela.seattle.gov/portal/Cap/CapDetail.aspx?Module=DPDPermits&capID1=18DPD&capID2=00000&capID3=09816&agencyCode=SEATTLE>



CODE IMPLEMENTATION PROCESS

LAND USE DISCRETIONARY REVIEWS INVOLVING TREES

- Development Applications for Projects on Parcels Involving certain ECAs
 - Master Use Permits
 - Phased Permits
 - Construction Permits
- Stand-alone ECA Restoration Plan Applications
- Stand-alone Hazard Tree Removal Applications

IMPLEMENTING:

- SMC 25.09 (ECAs)
 - 25.09.065 (Mitigation Sequencing)
 - 25.09.070 (Restoration/Revegetation)
- SMC 25.11 (Trees)
- Director's Rule 16-2008 (Exceptional Trees)
- Director's Rule 13-2008 (Herons)
- Executive Order 03-05 (City Departments)

CODE IMPLEMENTATION PROCESS

LAND USE DISCRETIONARY REVIEWS

- General Approach (what to review)
 - Trees on parcel or street tree
 - Mis-identification or mis-measurement of trees
 - Missing or mis-mapped trees
 - Exceptional tree status; groves
 - Hazard tree status and correct documentation
 - ECA restoration plan / tree replacement
 - Basic Tree Protection Area intrusion and correct documentation

RESOURCES

- Application materials
 - Site plan
 - Plan set
 - “arborist report”
- SDCI site photos
- Aerial photography
- Google Street View
- Site visits (rarely)



CODE IMPLEMENTATION PROCESS

CHALLENGES: REGULATORY SIDE

- General Departmental consistency in implementing tree and ECA regulations
- Lack of access to on-call consultants
- Interpretation of “33% Intrusion” rule for Basic Tree Protection Areas
 - How to apply
 - To which trees does it apply (all trees to-be-retained or just Exceptional trees?)
- Jacobson (2006) used to establish Exceptional size thresholds is now dated
- Discrepancy (and poor science) in determining Basic Tree Protection Area
- DR-16-2008: inclusion of this phrase “*potential damage to existing or future targets....*”
- Inconsistent and unclear language among SMC 25.09 and 25.11, and Tip 331b (Hazard Trees) (Regulated trees should be regulated the same, whether inside or outside ECAs)
- No provision for vista creation or maintenance in ECAs
- Lack of City-wide Urban Tree Manual

CODE IMPLEMENTATION PROCESS

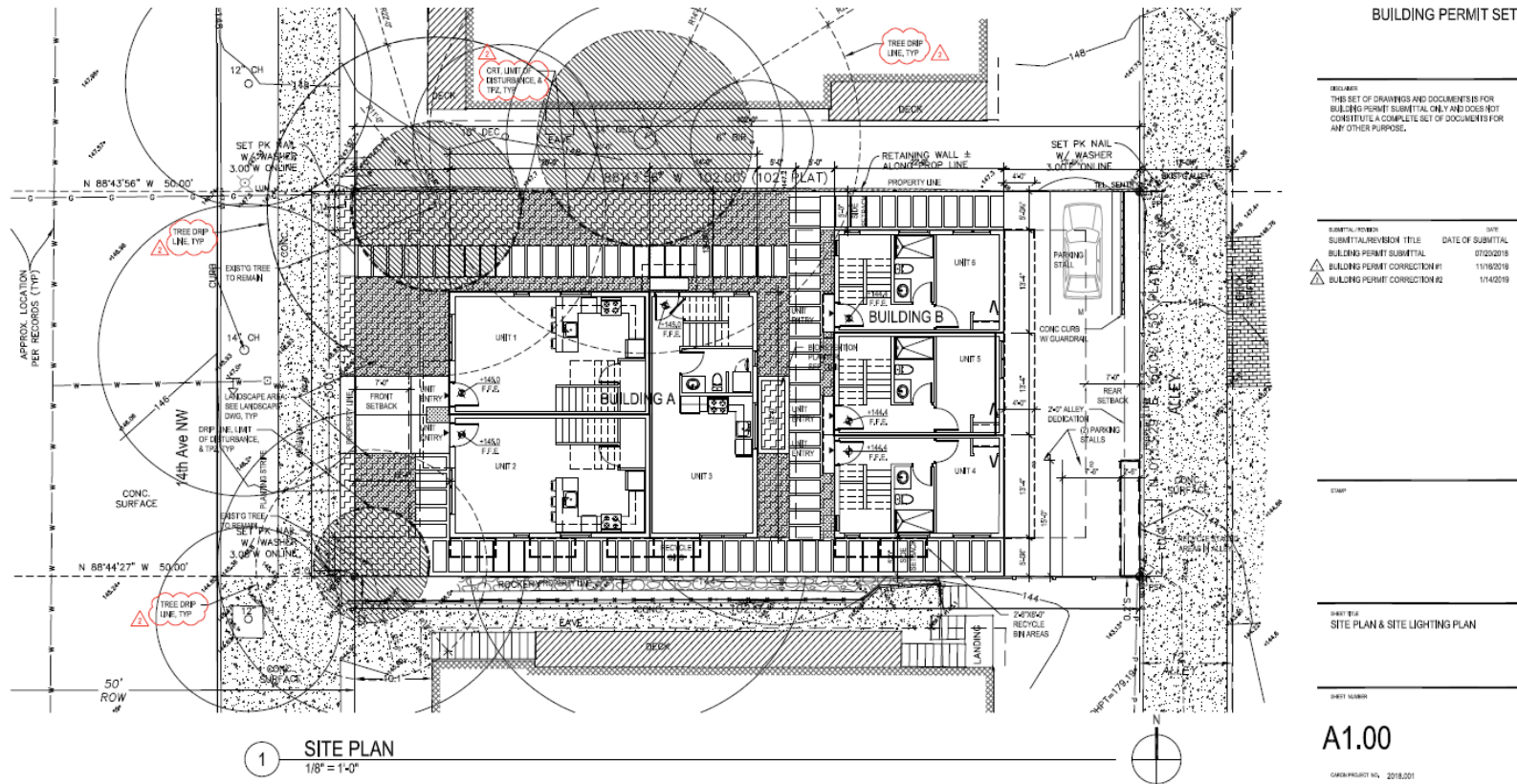
CHALLENGES: APPLICANT SIDE

- General lack of understanding of tree and ECA regulations
- Inconsistent and poor “arborist reports”
 - “Tree Inventory and Assessment Report”
 - “Tree Preservation, Protection, and Replacement Plan”
- Tree mis-identifications
- Trees measured < 1-inch short of size threshold for Exceptional
- Mis-use / abuse of ISA TRAQ Methods
- Mis-application of DR 16-2008, especially *wrt* Groves and application of ‘Hazard’ to Exceptional trees
- Hazard Tree issues:
 - SDCI requires ‘clear and convincing evidence’
 - Removal as a last resort
 - No dispute resolution process
 - Dead and dying trees
- Lack of City-wide Urban Tree Manual

CASE STUDY: 666XXX-CN (Ballard)



PLANS



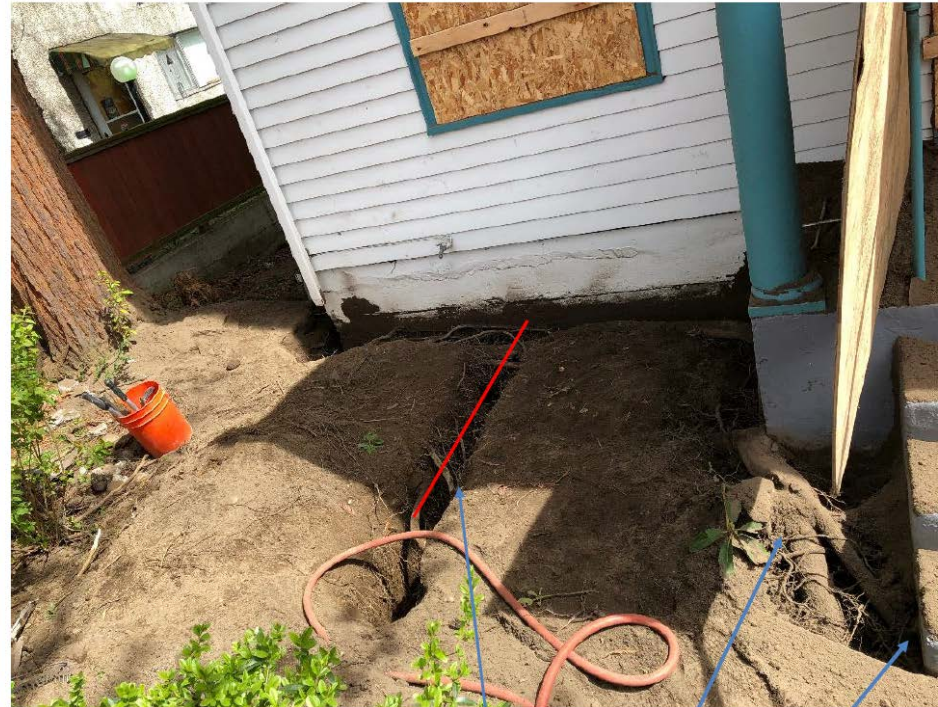
- Public input
- Terms
- Exceptional trees
- Existing structures

ARBORIST REPORT

Tree #	Species	DBH (in.)	Condition	Drip line Radius (ft.)	Exceptional Tree?	TPA (Tree Protection Area) Radius (ft.)
Subject Property Significant Trees						
1	English Yew	9.9	Fair	3	No	
2	Smoke tree	12.5	Good/ Fair	12	Yes	*12/ 6.5
*Tree #2's TPZ is to be a 12 ft. radius (dripline radius), except where the dripline intersects with the proposed building foundation and front porch entryway (6.5 ft. to the northeast).						
Tree #2 requires arborist supervision during all excavation activities within its dripline.						
3	European Mountain Ash	17.4	Good/ Fair	16	No	
4	Douglas Fir	20.3	Good	16	No	
5	Coastal Redwood	33.3	Good	22	Yes	*TBD
*Tree Protection for Tree #5 is not adequate with proposed design; the NW corner foundation must be moved approx. 7 ft. south to avoid large roots.						
A Certified Arborist must supervise all excavation activities within the dripline of Tree #5, as well as during any demolition activities within the dripline.						

Flexible pavers with no excavation (?)

Tree #5 Air-knife root exploration (photo taken looking northeast)



Area of new proposed excavation (NW corner of proposed foundation)

Root "B" splits into 2 roots (small root to right and larger root to left)

Existing entry stairs and new north limit of excavation

CORRECTIONS PROCESS

- Changes required in plans
- Examples
 - Add fence with dimensions
 - Add detail
 - Can't have paved path in inner root zone
 - Move utility line

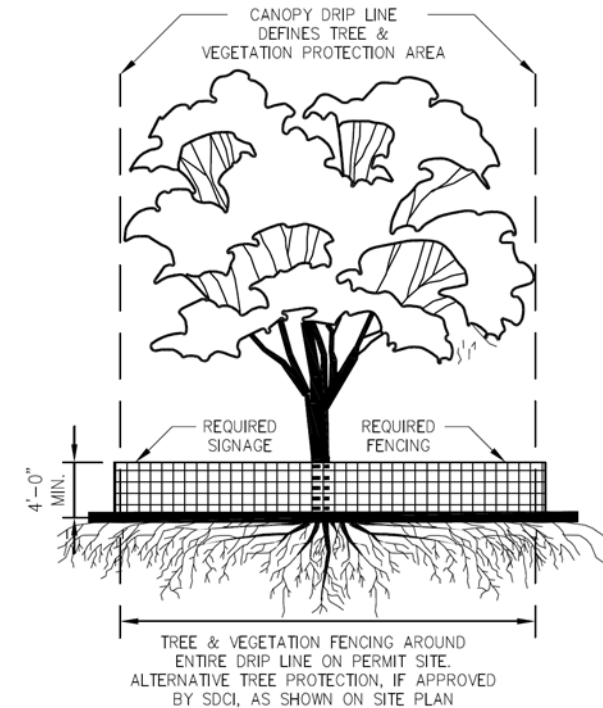
TREE & VEGETATION PROTECTION

TREE PROTECTION FENCING AND SIGN

1. CHAIN LINK, WIRE MESH, OR SIMILAR OPEN RIGID MATERIAL (NO PLYWOOD)
2. MUST BE INSTALLED PRIOR TO DEMOLITION OR GROUND DISTURBANCE
3. KEPT IN PLACE FOR THE DURATION OF CONSTRUCTION
4. NO SOIL DISTURBANCE OR ACTIVITY ALLOWED WITHIN FENCED AREA: MATERIAL STORAGE/STOCKPILING, PARKING, EXCAVATION, DUMPING, OR WASHING
5. MODIFICATIONS OF THESE REQUIREMENTS BY APPROVAL OF SDCI PLANNER ONLY
6. IF ROOTS GREATER THAN 2 INCH FOUND OUTSIDE OF FENCING, PROTECT BY HAND EXCAVATION AND, IF NECESSARY, CUT CLEANLY AND KEEP MOIST
7. USE 3 INCHES OR DEEPER WOOD CHIP MULCH OUTSIDE FENCED AREAS TO PROTECT FEEDER ROOTS

VEGETATION PROTECTION

1. ORANGE MESH OR SIMILAR OPEN MATERIAL
2. MINIMIZE CONSTRUCTION ZONE
3. PROTECT VEGETATION OUTSIDE CONSTRUCTION ZONE WITH FENCING AS SHOWN
4. USE 3 INCHES OR DEEPER WOOD CHIP MULCH OUTSIDE FENCED AREAS TO PROTECT FEEDER ROOTS



SYMBOL: ○ — ○ — ○ (VEG)

LINK TO MORE TREE PROTECTION INFORMATION:



HAZARD TREE REMOVAL APPLICATIONS

- Exceptional Trees
 - TRAQ-high risk
 - Declining or likely to decline with construction
 - Examples (not actual applications)



Image by <http://northernlakestreeservice.net/hazard-tree-removal/>

HAZARD TREE REMOVAL APPLICATIONS

- Has dropped limbs in the past
- Near powerlines, driveway, street
- Arborist report says that falling branches in the future pose a high risk
- Do we approve?



MORE HAZARD TREE EXAMPLES

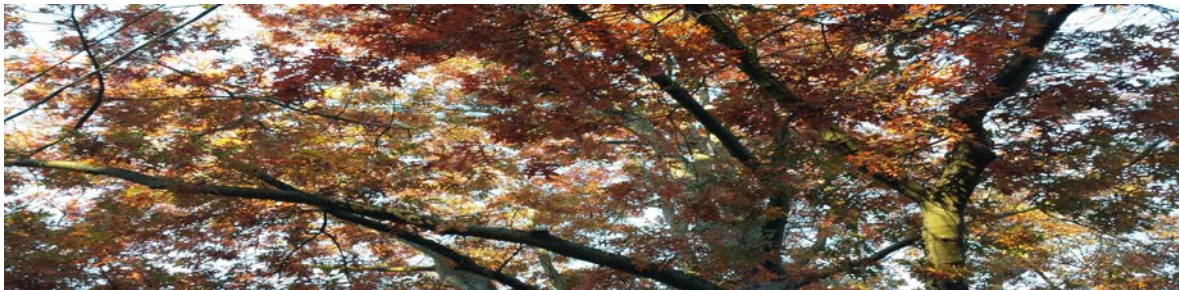
- May not qualify as high hazard
- Clear decline
- Do we approve?



Image by <http://turfmastercare.com/problem-library/tree-problems/bronze-birch-borers/>

HAZARD TREE REMOVAL APPLICATIONS

- Sometimes clearly “hazardous” trees can be retained with willing owners:
- Red Oak in Broadview
 - Clearly TRAQ-high risk w/o mitigation
 - Owner dismayed with having to remove it, but concerned about failure and injury
 - SDCI suggested bracing (bolting) and to explore this with an experienced arborist
 - So far, so good! And more years of autumnal beauty!



ENFORCEMENT

Tree Protection Code (SMC Chapter 25.11) -

- Purpose: Protect and encourage retention of trees, preserve City character by preventing removal of trees: “trees look nice and are good for the City.”

ECA Regulations (SMC Chapter 25.09) -

- Purpose: Avoid and mitigate adverse environmental impacts, preserve the ecological functions of the ECAs: “trees have important function in environment.”

TREE CUTTING PROHIBITIONS - Chapter 25.11

On ALL lots -

- Can't remove exceptional trees

On UNDEVELOPED lots -

- Can't remove trees greater than 6" diameter
- Can't remove exceptional trees

On MOST residential and commercial lots (except for single family < 5000 SF)

- No more than 3 trees greater than 6" diameter can be removed each year
- Can't remove exceptional trees

Emergency or hazardous trees

- Must obtain an exemption from SDCI before tree removal

TREE CUTTING PROHIBITIONS - Chapter 25.09

- Can't disturb or remove trees or vegetation in most ECAs, especially landslide-prone areas
- Can't top trees anywhere
- Need a permit or exemption from SDCI for most work in an ECA



TREE CUTTING: HOW DO WE ENFORCE?

Complaints are received by phone or online www.seattle.gov/sdci

Information obtained from callers -

- Where? Address? Visible from ROW? Vacant lot?
- What? Species, tree size
- When? Is it still happening?
- Who? Tree company name? Who hired?



Images by Seattlepi.com and mrtreeservice.com



TREE CUTTING COMPLAINT

Steps involved include the following:

- Inspector visits site ASAP, documents violation
- May issue stop work order if still happening
- Documentation – photos, statements, measurements
- Evaluation – consultation with SDCI arborists



Photo by Seattle Times and westseattleblog.com

SUPPORTING A TREE CUTTING VIOLATION

Location issues

- Any property line issues
- Is it on public ROW? (refer to SDOT)
- Is it in an ECA? Zoning?
- Is it undeveloped or vacant lot?

Quality of evidence issues

- First-hand observation? 2nd or 3rd party info?

Who is Responsible?

- Ownership research – tax records
- Information on tree company, if known
- Someone other than the owner?

Applicable code?

- How many trees were cut? What type? How big? Exceptional tree? Over 6 inches?



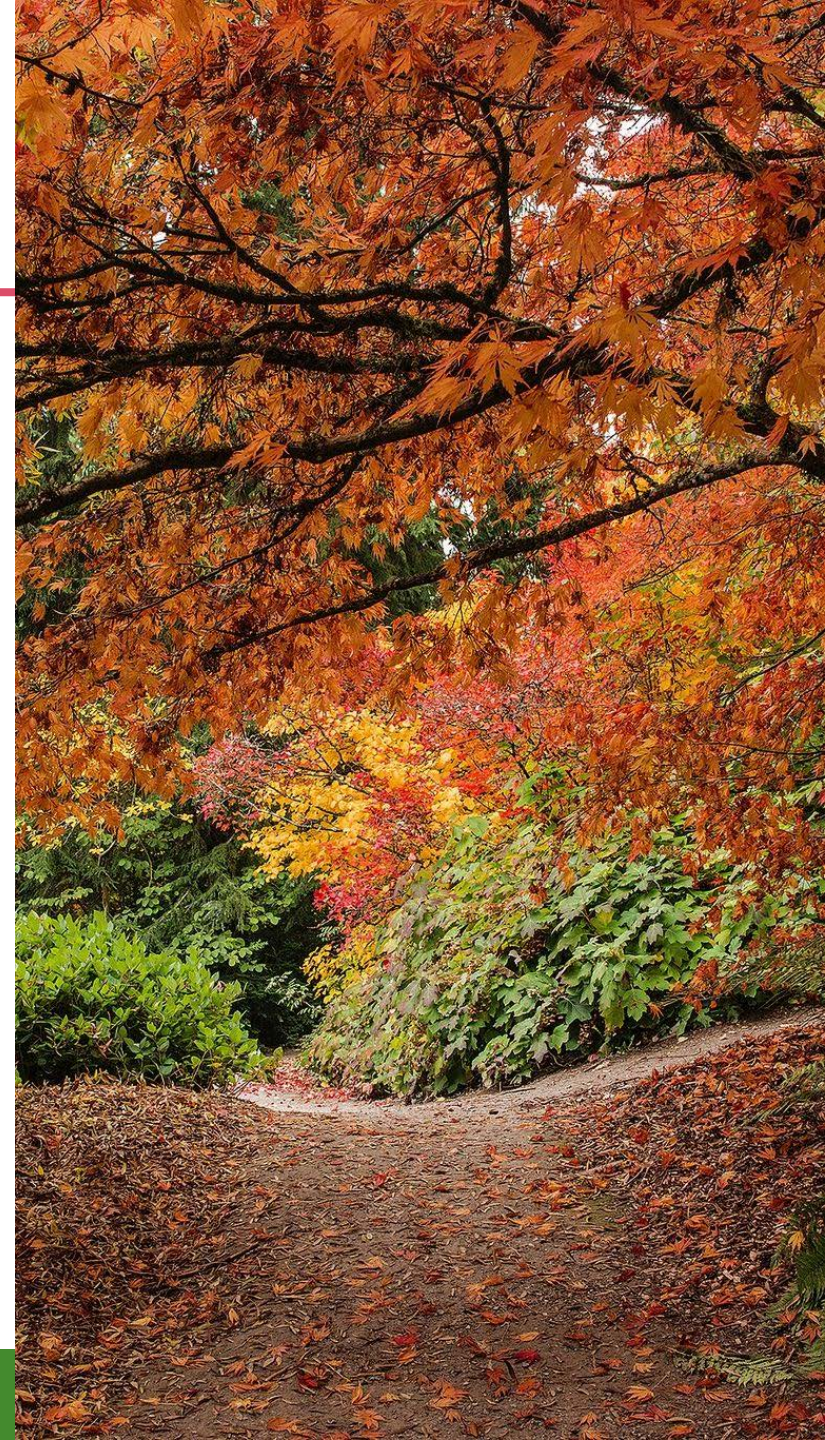
EXCEPTIONAL TREES

Code Definition (SMC 25.11.020):

- “a tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource, and is deemed as such by the Director according to standards promulgated by the SDCI.”

Director’s Rule 16-2008 Designation of Exceptional Trees:

- Trees over 30 inches almost always deemed exceptional
- Smaller trees may be exceptional depending on species
- Tree groves may be exceptional even if individual trees would not be exceptional



EVIDENCE CHALLENGES

SCENARIO:

What if we can't get close enough to view the tree without trespassing? What if the tree is just a stump or the stump has been ground up by the time we get there??

SOLUTIONS:

- Resources – we use whatever is available to determine existing conditions, species, and size
 - GIS, Google, Bing, Zillow, Redfin, tax record photos, neighborhood photos, statements
- Standard of proof- is “more likely than not” (preponderance of evidence)

PENALTIES – Chapter 25.11 (Tree Code)

Per day penalties (up to \$500/day)

Civil penalties (equal to appraised tree value – can be very \$\$\$)

- ISA Guide for Plant Appraisal (industry manual)
- Director's Rule 17-2018, *Calculating Tree Valuations and Civil Penalties...*
(lay inspectors using Cost Approach/Trunk formula)

Triple penalties

- For willful and malicious tree cutting

Restoration Plan

- May be required for environmental and property damages

PENALTIES – Chapter 25.09 (ECA Regulations)

Per day penalties (up to \$500/day)

Additional \$5,000 per tree penalty (flat fee per tree)

Additional penalties possible

- For egregious or especially harmful work equal to value received for damage done

Restoration Plan

- May be required for environmental damages

NOTICE OF VIOLATION (NOV)

NOVs under both codes can be contested

- Director's Review = in-house administrative review. Review officer evaluates evidence, looks for any inspector mistakes, considers owner's defense
- Director's Order – sustain, withdraw, or amend NOV
- Appealable to Municipal Court available under Tree Code, not under ECA regulations

What if owner does not comply?

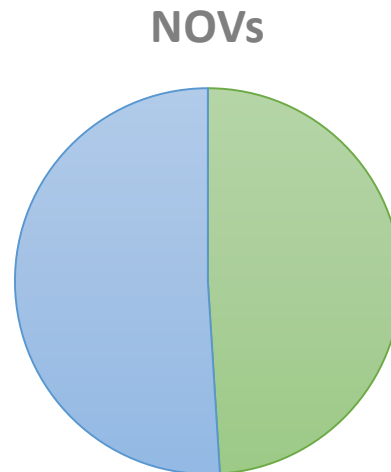
- Compliance – pay fine, restoration plan
- Noncompliance – file refer to Law Dept for collection of civil penalties
- Civil penalties – go into General Fund
- Law process – very lengthy, outcome uncertain, case may be settled prior to law referral

ENFORCEMENT - SUMMARY

In the past few years: Approximately 7 per year before Code Compliance involvement
Approximately 40 per year in 2018 (2/3 ECA regs and 1/3 Tree Code)

Appealed NOVs

- Approximately ½ of City's Notice of Violations are appealed
- Many violators say they were unaware of the rules or ill advised by realtor or tree company



Not Appealed NOVs

- Enforcement is challenging
- City must defend findings in court and sometimes cannot do so due to difficulty obtaining evidence

QUESTIONS?

SDCI Staff:

Clayton Antieau

Deborah Brown-McGarry

Diane Davis

Chanda Emery

Margaret Glowacki

Art Pederson

www.seattle.gov/sdci

