

## Portland Planning and Sustainability Commission

August 25, 2020

5:00 p.m.

Meeting Minutes

**Commissioners Present:** Jeff Bachrach (joined at 5:03 p.m.), Ben Bortolazzo, Mike Houck, Katie Larsell, Oriana Magnera (joined at 5:07 p.m.), Steph Routh, Katherine Schultz, Chris Smith, Eli Spevak [2 open positions]

**City Staff Presenting:** Andrea Durbin, Joe Zehnder; Briefing: Emily Sandy (BDS); Steve Kountz, Jeff Caudill, Brian Landoe (PP&R)

### Documents and Presentations for today's meeting

*Chair Spevak* called the meeting to order at 5:00 p.m.

*Chair Spevak:* In keeping with the Oregon Public Meetings law, Statutory land use hearing requirements, and Title 33 of the Portland City Code, the Portland Planning and Sustainability Commission is holding this meeting virtually.

- All members of the PSC are attending remotely, and the City has made several avenues available for the public to watch the broadcast of this meeting.
- The PSC is taking these steps as a result of the COVID-19 pandemic and the need to limit in-person contact and promote social distancing. The pandemic is an emergency that threatens the public health, safety and welfare which requires us to meet remotely by electronic communications.
- Thank you all for your patience, humor, flexibility and understanding as we manage through this difficult situation to do the City's business.

### **Items of Interest from Commissioners**

*Chair Spevak:* We have an opportunity to appoint a commissioner to serve on the Airport Advisory Committee. *Commissioner Bortolazzo* has been the PSC appointee; *Commissioner Magnera* has expressed interest in this. *Commissioner Routh* recommended. *Commissioner Houck* seconded. (Y7 – Bortolazzo, Houck, Larsell, Routh, Schultz, Smith, Spevak)

### **Director's Report**

Andrea Durbin

- Residential Infill Project review from City Council:
  - Council members were very appreciative of the work this Commission did. So, thank you all.
  - City Council passed RIP on August 12. The vote was 3-1.

- They kept the package largely as you proposed it – allowing 4 units on most single-dwelling lots, with a visitability requirement. There were 6 amendments, which Andrea shared.
- The full package will be effective August 1, 2021.
- It brings us into conformance with SB534 and mostly into conformance with HB2001, but we still need to work on R10/R20/RF and cottage clusters.
- This is an example of where the PSC did a lot of the heavy lifting – hearing the most testimony and making tough choices.
- *Chair Spevak* shared in the appreciation for BPS staff. We are looking forward to the implementation of the project.
- In September, we will start recruitment for open and upcoming positions on the PSC. We will share the announcement with PSC members and ask you share and help promote serving on the Commission.

### **Consent Agenda**

- Consideration of Minutes from the August 11, 2020, PSC meeting.

*Commissioner Larsell* moved to approve consent agenda. *Commissioner Smith* seconded.

(Y9 – Bachrach, Bortolazzo, Houck, Larsell, Magnera, Routh, Schultz, Smith, Spevak)

The consent agenda passed unanimously.

### **Tree Code Project**

Briefing: Emily Sandy (BDS); Steve Kountz, Jeff Caudill, Brian Landoe

### **Conflicts of Interest**

*Commissioner Magnera*, in her role at Verde, was interviewed in the initial round of questions on the project. *Commissioner Bachrach* was interviewed as well.

### Presentation

Emily introduced the project, which is the staff proposal for amendments to Chapter 11.50, Trees in Development Situations. BDS is the lead on this project since it deals with regulations in development situations. However, we have worked collaboratively as a team with Portland Parks & Recreation-urban forestry division and the Bureau of Planning and Sustainability.

Core team members include:

- BPS: Sallie Edmunds, Jeff Caudill, Steve Kountz, Tom Armstrong
- Urban Forestry: Nik Desai and Brian Landoe
- BDS: Kimberly Tallant

Last fall we came to you with a proposal on extending a sunset date for required preservation or inch-per-inch mitigation fees for trees 36-inch dbh or greater to allow for additional work and evaluation of that provision. PSC and UFC supported the extension and made additional recommendations relating to

removal of exemptions for tree preservation and tree density requirements in Central Employment, Central Commercial, General Industrial 1 and Heavy Industrial Zones. UFC also made a recommendation to reduce that threshold from 36 inches to 20 inches.

City Council passed the sunset date extension through 2024. However, acknowledging the lack of notice, engagement, and legal considerations of the additional recommendations, instead of acting on them, City Council passed a resolution directing additional work. This project is in response to that resolution.

Emily provided background about the current tree code details (slides 3-4).

Mitigation fees paid in lieu of preservation or planting go to the City's tree planting and preservation fund. The fund can be used for tree planting as well as preserving trees through easement or property acquisition. The use of the fund is guided by the citywide tree planting strategy developed in 2018, *Growing a More Equitable Urban Forest*, to increase tree canopy throughout the city in areas where it is needed most.

The strategy prioritizes tree planting in neighborhoods that are both low-income and low-canopy. Industrial zones are not an identified priority area largely because the strategy focuses the limited amount of funds available to areas where underserved communities live, and housing is not allowed in industrial zones.

Exemptions are proposed to be removed primarily in the central city and in Gateway, while the areas where the exemptions are not proposed to be removed include the north reach of the Willamette and the western parts of the Columbia Corridor.

Reducing the size threshold for inch per inch mitigation from 36 inches to 20 inches brings the cost of mitigation closer to the structural value of the tree but does not match the investment retained by the preservation of a tree over time.

A major parameter of our analysis includes maintaining compliance with Statewide Planning Goal 9, Economic Development. Goal 9 requires local governments to demonstrate that there is an adequate inventory of developable industrial and employment land to accommodate forecasted economic growth over short-term and 20-year horizons. This supply is analyzed in a state mandated Economic Opportunities Analysis (EOA), performed by BPS. The City's EOA was most recently updated as a part of the 2035 Comprehensive Plan, adopted in 2016.

The EOA estimates the 20-year supply and demand for employment land in the city by geography and land use types and uses a Buildable Land Inventory (BLI) that identifies specific properties that are most likely to redevelop over the 20-year period. Once the 20-year land supply is identified, local governments must monitor the availability of that land supply to ensure that the projected demand can still be met. If the land supply is reduced to a level below the 20-year demand projected in the EOA, the local government then becomes out of compliance with Goal 9.

To estimate the supply of land available, development constraints are incorporated into the analysis. Development constraints may be physical constraints that reduce the physical land available for development such as steep slopes or wetlands. They may be regulatory constraints like environmental overlay zones, or flood plains. They may also be financial constraints that may affect the market to reduce the probability that the land will be developed. Examples include the cost of brownfield cleanup, or the cost to provide public sewer or water to a site. This project essentially conducted a discrete EOA-

like analysis, using the land supply adopted in 2016 and the effect of other subsequent code amendments since then as a baseline for land supply. The analysis then factored in the additional cost of the potential changes as development constraints.

The first analysis was a tree canopy analysis to estimate the frequency of trees and different tree size categories.

To estimate the diameters of trees located on industrially-zoned lands currently exempt from tree preservation and density requirements, an environmental consulting firm, SWCA, was hired to complete a GIS analysis. SWCA staff also used existing PP&R tree inventories and site visits to eight industrial sites to calibrate the model and achieve an acceptable statistical significance.

For all other zones, staff reviewed the past two years' worth of development permits to estimate composition of trees.

Using the outcomes of the tree canopy analysis, Johnson Economics completed an economic analysis to assess the potential impacts of the proposals on the availability of industrial lands that is required by Goal 9. The analysis focused on lands with tree canopy defined as "vacant" or "underutilized" in the Buildable Lands Inventory. Portions of sites already in environmental overlay zones were excluded.

While the tree code regulations can be physical or cost-related development constraints depending on how an applicant chooses to meet the requirements, for purposes of this analysis we assumed that fees-in-lieu of preservation or planting would be paid. This was primarily due to the difficulty of estimating physical area impacts given the variety of differing site conditions, numbers of trees, and tree conditions, and development needs on individual sites; as well as uncertainty estimating the choices applicants would make to meet the requirements.

Areas within the current BLI that have tree canopy were analyzed to narrow on in on the areas that would be affected by the changes. IH zone has 59% of the total acreage of the four zones, the IH zone has 60% of tree canopy acreage in those zones at 56 acres. In total, 94 acres were analyzed in the four exempt zones. Looking at total acreage outside of environmental zones, not just in the existing buildable lands inventory, the ratio of canopy acres to non-canopy acres is lower than looking at the BLI alone. While IH zone has 81% of the total acreage of the four zones, the IH zone has 69% of tree canopy acreage in those zones at 193 acres. The tree canopy on the 137 acres already not included in the buildable lands inventory is unlikely to be impacted by development over time.

#### Tree Canopy Distribution:

- Citywide canopy is 30.1% but this is not distributed equitably.
- West side canopy is 56% while east side is 21%.
- Current distribution of trees is uneven and is directly linked to income. Affluent and west-side neighborhoods have significantly more tree canopy, while east-side and lower-income neighborhoods have less tree canopy. Communities of color, low-income, refugee, and immigrant communities are also generally located in areas characterized lower amounts of tree canopy.
- Areas with steep slopes or that are protected through other means, such as environmental zoning, also contribute to canopy levels.

Populations of color are more likely to reside in low-canopy neighborhoods and, particularly in North and Northeast Portland, neighborhoods with a higher percentage of communities of color are adjacent to industrial zones. Note that data is represented on the neighborhood level. Portland's industrial zones do not allow housing; however, housing may be adjacent to industrial zones.

Providing adequate land supply for employment and, in particular, industrial employment is important. The preservation of adequate industrial capacity ensures the availability of middle-wage jobs. Workers of color are underrepresented in the region's high-wage occupations and overrepresented in the low-wage occupations. Given this, the region's wage-polarized growth trends disproportionately impact workers of color and contributes to racial income disparities. Among middle- and high-wage occupations, industrial jobs stand out as the only major occupation group in the Portland region occupied by proportionally more workers of color than workers that are white alone.

Middle-wage industrial occupations are also unique in that they can result in higher paying jobs long-term by offering higher starting wages, more benefits and job-ladder careers, relative to low-wage occupations. Given the demographics of these workers, these benefits can be an important steppingstone for communities of color.

Certainly, a more equitable future provides access to all job types and wage classifications. Ensuring availability of middle-wage jobs is one piece of an overall strategy to address effects of systemic racism.

Using data collected from the tree canopy analysis, coupled with outcomes of the 2016 amendment that established the current preservation threshold at 36", we established some simple projections for future tree preservation and mitigation fees. The 2016 amendment did have success in decreasing the number of 36" trees removed by 64%, and that percentage increase and overall rate of preservation is reflected here.

There are several reasons why these projections might not be accurate, however. Regarding the tree size threshold, there are more 20-36" trees than 36" or greater trees, increasing the likelihood that more of those trees would be removed. On the other hand, smaller trees have smaller root protection zones, decreasing the likelihood trees in that category would be removed.

The rate of preservation in IG1 and IH zones, could be lower due to other existing exemptions. However, other site variables could contribute to a higher rate of preservation, including the location of trees on large sites in groves or in parking areas, where they are less likely to be impacted by buildings.

Overall, we can say with confidence that the rate of tree preservation and the amount of fees-in lieu of preservation will increase; however it is difficult to predict to what levels.

Emily walked through the Community Engagement Plan for the project (slides 18-19).

The staff proposal is shared on slide 20:

- Remove the exemptions on tree preservation and tree density for IG1, CX, and EX, zones.
- Retain the tree preservation and tree density exemptions in the IH zone.
- Reduce the key tree preservation threshold from 36 inches to 20 inches in diameter. Overall, sites must continue to preserve at least 1/3 of trees. If trees 12-20 inches are used to meet that standard, the fee in lieu of preservation would remain at \$1800/tree not preserved. All trees 20

inches or greater would be required to be preserved or pay an inch-per-inch mitigation fee, and these trees could be used to meet the one-third standard.

- Finally, staff notes that there are opportunities for future work to increase tree canopy in IH zones.

Staff recognizes the importance of tree preservation to mitigate climate change, while protecting our most vulnerable communities **and** providing economic growth and job opportunity. Future work to address tree canopy in IH must work towards a solution that meets both of these goals.

Re-evaluation of this exemption, or identifying other ways to increase canopy in the IH zone, may be a part of two future projects: the update to the Economic Opportunities Analysis undertaken by BPS and the potential future broader Tree Code project.

BPS' work on the update to the EOA has begun and this process usually takes approximately 2 years. The updated EOA will incorporate a number of new environmental considerations, including updated BES wetland inventory data and environmental overlay zone map corrections, and could include new tree requirements on IH zoned land.

As specified in the City Council resolution, Urban Forestry is tasked with developing a scope of work for a broader update of the Tree Code and is in the early phases of developing the scope now. This project is not currently funded, however, and your advocacy at the City Council level is appropriate. Any proposed changes to IH zone requirements of the tree code could be coordinated with and incorporated into the new EOA.

The PSC and Urban Forestry Commission (UFC) will have a joint hearing on September 8, followed by individual commission work sessions and recommendations.

PSC officers have indicated a desire to have some joint discussion after testimony on September 8. They have also expressed interest for 1-2 members of each commission to coordinate after the September 8 hearing and prior to your respective work sessions and recommendations. This would involve communicating with each other on amendments you may want to introduce and discuss at your September meetings, and attending each other's meetings as a resource for each other's commissions. We have contacts for UFC liaisons already and hope to have a couple PSC members' names today or shortly after.

The project will be at Council on October 29.

### **Discussion**

*Commissioner Houck* noted the issue with Goal 9 yet again. In the past, I have asked staff if they could go to the state and ask for an exemption. We only have so much land, and unless we plan on moving into Sauvie Island or another area, we are stuck with the land we have. It's the tail wagging the dog. Has staff discussed requesting an exemption? It's a huge equity issue as well in terms of where the trees are and impacts of urban heat island where there are few trees. I have read the report and am really impressed with the work staff did. I have other questions, but I'm still working through some of the technical work.

- Emily noted this question was raised with the UFC as well. We haven't requested an exemption for this project specifically.
- *Chair Spevak* noted that BPS staff will share perspectives at the September 8 meeting before we have the public hearing.

- Joe responded about the Goal 9 question: we have had our eye on this issue for a while now. in terms of the long-range viability to protect our industrial land and still meet objectives in the Comp Plan. We know there are important natural resources on our heavy-industrial land. So it's in the EOA that we're working on where a request to the state would come. We're working our way towards having the discussion (and hopefully succeed), but there are policy choices we need to review and work with and not get caught in the dilemma between protecting natural resources.

*Commissioner Smith:* How are we tracking on overall canopy goals? The question is largely about equity about how the canopy is distributed.

- Brian: We update canopy analytics every 5 years; information is from 2015.

*Commissioner Magnera:* Industrial jobs are good middle-wage jobs. I have concerns about the health impacts of those jobs, and there are typically more BIPOC people in those jobs, so we need to be aware of the impact on quality of life. On the IH side, I would be interested to understand the reasoning about the canopy in the IH zones and proximity to BIPOC communities. Lots of gratitude to the staff who worked on this project! The community engagement work was really well thought-through.

*Commissioner Bachrach:* I also applaud staff, who did a huge amount of work and analysis. I did want to draw the Commission's attention to the community interview process, which drew some stark conclusions. Wide-spread agreement that the tree code is not working well. This is a 5-year-old program of regulations, and I think as we go forward it's important to keep in mind, even if your perspective is different, simply having regulations without being clear on their outcomes doesn't serve the community or anyone well. Title 11 and Title 33 both have tree regulations, which is confusing and cumbersome. We should try to streamline this.

*Chair Spevak:* Developers will actually survey their sites before they design them – this is a promising outcome of this project. What about people trying to game the system: what is the process to take down a 19" tree that's not in the development situation? I also am interest in the arborists' credentialing and influence, given that their determination of tree diameter and health can have significant financial impacts. In IH, it seems to me that it would be relatively easy to meet tree density standards by planting lots of trees on unused portions of the property, in contract to tree removal fees that are hard to avoid with new IH development – yet the analysis suggests both have significant financial impacts. Why?, I understand that the affect on average housing prices across the city would be miniscule. But for fully treed individual lots – especially on larger ones zoned multi-family - fitting in buildings to meet even minimum density could mean paying a large tree removal cost.

- Emily: The .11% total construction cost is the impact on overall new construction in the city over 20 years. There will be a wide variety of impacts on individual sites; the cost looks at a macro level. In terms of tree density in IH zones, for consistency-sake, we did assume the fees in lieu would be paid instead of the trees actually being planted; this is the same for tree preservation, Particularly in less-dense industrial areas., because those areas are not employment dense, there is a thin margin for how additional costs affect development.
- Steve: The development impacts of the tree density requirements are high in the IH zone, but they were uneven overall in the analysis. In commercial and residential zones, development is estimated to be reduced by less than 1% on BLI sites affected by the code changes; but the reduction is 34% in the Harbor Access industrial area that is mostly zoned IH; and a 17% development reduction is estimated on other lands in the harbor and airport districts at sites with IH, IG2 and other zoning. Part of the development impact is from preservation

requirements for trees there. Most vacant land there is on portions of sites that are more likely to have trees. And part of the development impact is from tree-density requirements, because the exempt zones don't have zoning landscape proportion requirements like other zones do, so the tree density requirements would also result in a significant reduction in predicted development.

- Jeff: Something to consider about tree preservation vs tree density: the tree density requirement applies to all BLI sites, whether they have tree canopy or not. The tree preservation requirement applies only to sites with trees greater than 12 inches dbh. Therefore, the area subject to the tree density requirement is much larger, so the tree preservation requirement may have comparatively smaller land-area impact, but the costs associated with tree preservation are higher so it balances out a bit.
- Emily: Rules for removing a tree in non-development situations have a much higher threshold for removing. We can explain this more in a response from UFC.

*Commissioner Routh:* You mentioned the stakeholders; were there any union representatives included?

- Emily: No. The stakeholder interviews (27 individuals and 25 organizations represented) tried to capture industrial groups, environmental groups, neighborhood/geographic groups, non-geographic groups, and a broad cross-section.

*Commissioner Magnera:* Another mapping request – it would be valuable to see the heat island map and the IH sites.

- Brian: on the heat island comment, the report includes the map that shows about a 15-18% temperature increase in these zones. We can add this to the presentation itself.

*Chair Spevak:* On industrial occupations graph showing workforce percentages of communities of color, can we add construction workers? My sense is these workers are just as diverse as those working in industrial settings.

- Steve: This is included in the industrial group.
- *Chair Spevak:* So this category includes people working in construction city-wide... Can we disaggregate these numbers, so we can better understand the demographics of folks working in the IH zones that could be impacted by this project?

*Commissioner Magnera:* If we are disaggregating, we should also see who's owning the businesses and the workers.

The September meeting will start at 2 p.m., and the Tree Code Project hearing is expected to begin at 3:30 p.m.

## **Adjourn**

*Chair Spevak* adjourned the meeting at 6:07 p.m.