

Portland Planning and Sustainability Commission

September 8, 2020

2:00 p.m.

Meeting Minutes

PSC Commissioners Present: Jeff Bachrach, Ben Bortolazzo, Mike Houck, Katie Larsell, Oriana Magnera, Steph Routh, Katherine Schultz (joined at 3:40 p.m.), Chris Smith, Eli Spevak [2 open positions]

Urban Forestry Commissioners (UFC) Present: Daniel Newberry, Damon Schrosk, Lorena Nascimento, Vivek Shandas, Bruce Nelson

City Staff Presenting: Andrea Durbin, Mindy Brooks, Daniel Soebbing, Tom Armstrong; Rebecca Esau, Kimberly Tallant, Emily Sandy (BDS)

Documents and Presentations for today's meeting

Chair Spevak called the meeting to order at 2:00 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.

There are wind and internet challenges we are experiencing today, so we acknowledge this and will be keeping the Tree Code written record open until this Friday at 12 p.m.

Items of Interest from Commissioners

Commissioner Routh: Because we have multiple bodies at today's meeting, please do rename yourself in the Zoom window to help testifiers know who they're talking to. I've been thinking about safety and our talking about it a lot in our various deliberations. But I don't think our general definition of safety is only what we need to think about. I'd love us to think about how we can focus more on how people of color are subject to violence in the spaces we're working to plan.

Chair Spevak: We have an opportunity to represent someone to the Community Involvement Committee. *Commissioner Magnera* expressed interest to do this. I would nominate her to this role. *Commissioner Houck* seconded.

(Y8 – Bachrach, Bortolazzo, Houck, Larsell, Magnera, Routh, Smith, Spevak)

Commissioner Smith: Update on the SW Corridor work group. We've been trying to align our recommendations with the Fall BuMP process, but there doesn't seem to be a good fit there. We recognize the community is doing equity work around the project, so rather than a letter, we'll spend time reaching out to the equity work group to make sure we have productive ways to align our work. *Commissioner Magnera* has offered to help with outreach.

Commissioner Houck: I decided to drop off that committee, however, I did indicate to staff that I'm happy to help work on parks and greenspace issues, and I have a meeting with staff tomorrow.

Director's Report

Andrea Durbin

- We are starting a recruitment process for PSC members. The announcement will come tomorrow, so please share with your networks.

Consent Agenda

- Consideration of Minutes from the August 25, 2020, PSC meeting.

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

(Y7 – Bachrach, Bortolazzo, Houck, Larsell, Routh, Smith, Spevak)

The consent agenda passed unanimously.

BDS Overview

Briefing: Rebecca Esau, Kimberly Tallant (BDS)

Director Esau thanked the PSC members. BDS works on implementing goals and policies and is the on-the-ground real life action. This is a partnership, and the ongoing feedback loop is vital. We're always available to provide insights about how regulations are working, conflicts in the code, etc. Our land use services staff are immersed in the code daily and how it applies to unique sites and circumstances. We appreciate the coordination with BPS and PSC.

Today we want to provide some broader thoughts and input about roles, code compliance, etc.

Kimberly is the manager of the land use services division at BDS. She provided thoughts about 5 items:

1. Need for a holistic look at new regulations in the context of current regulations. It's important to think through which regulations are prioritized, should be removed with new code, and otherwise understand all the impacts – not to expect BDS to work it out later.

2. Cost of administering codes. We are pleased to see PSC is looking at costs. If not imposing additional costs to applicants, we need to have more simplified regulations. Time is money for BDS, so costs directly correlate to the intricacy of codes and reviews.
3. Streamlining and simplification. It would be helpful if focus would be to write the code to carry out the policy goal. DRAC advises BDS regarding process improvements and fees, so this part of your recommendation should go to DRAC through the PSC (via your liaison, *Commissioner Bachrach*).
4. Technology and services should not be in the Zoning Code. DRAC has a subcommittee working on process improvements and technology. BTS has a tech workplan, so adding specifics about tech in the Zoning Code can go against this work plan.
5. It's problematic to add amendments after public testimony has closed. It doesn't allow impacted bureaus to work on this before the PSC makes recommendations to Council or share how the changes impact code implementation, costs, etc.

Commissioner Houck: Thank you if you can provide this in writing. There is a process BDS has called administrative review, which I've become involved with lately. I have some major concerns about enforcement, specifically with regard to lack of enforcement and the admin review process, which precludes citizens from participating. What I'm hearing from you is that it would be inappropriate for me to talk to staff about this, but I have and am expected to again soon. Do we need to go through DRAC? Sallie Edmunds is helping me on this too.

- Rebecca: Process issues or technology issues go through DRAC. A particular site would be a specific case / meeting, but this is not the venue for that. If there are issues about how the code is applied, I'd meet with you and Mike Liefeld on my staff too.

Commissioner Smith: I want to agree and disagree. I suspect I was a prime offender about adding technology to code. In general I agree, but we had an instance with the neighborhood contact requirement re: physical signs at development sites, but this is exclusionary to various populations. I know it was a pain to do the web piece, but I still think it was the right thing to do. In terms of big changes after testimony, I agree in principle; I try to inject bit ideas into earlier drafts. But if we put boundaries around how we can respond to public testimony, we're falling short of responding. RIP is a big example.

- Kimberly: We're suggesting that if it's a significant change after testimony, perhaps we reopen testimony so there is opportunity for the public and bureaus to provide additional comments on that – otherwise it gets complicated if we do this at Council.

Commissioner Bachrach: These are issues that have been stirring at DRAC. We want to have cleaner packages going to Council. DRAC is focused on the nitty-gritty of the code e.g. loading docs. RICAP. The take-away from what I've heard is how we can in a process get everyone a little more in synch.

Commissioner Larsell: Thank you for presenting today. I can see how it can happen so easily. We need to continuously work on the process of a smooth coordination. I would also like to hear some specifics, perhaps some other time.

Chair Spevak: Behind each suggestion, I'd like to see (maybe via written memo) some of the projects we could learn from. Perhaps a menu of code clarifications from BDS could help us in upcoming RICAP processes. I also share the questions about when we make amendments after hearing/closing testimony – sometimes we're working to Council deadlines, etc. Perhaps BDS staff could look at them as they come to and through BPS staff.

Commissioner Bortolazzo: I'm glad to have this conversation. We need to focus on how we administer the code and its complexity, but this starts at the legislative process. It's easy to get carried away and try to solve every issue, but we can't and shouldn't do that via code.

Commissioner Houck: Funding has been an issue I've heard many, many times. If PSC can be involved in being advocates for funding for BDS, I'm in favor of that.

Commissioner Bachrach: What's the follow-up to this conversation? Also, thank you to Andrea to asking Rebecca to join us. I can share ideas with both DRAC and PSC ideas from today.

Ezone Map Correction Project

Briefing: Mindy Brooks, Daniel Soebbing

Presentation

Mindy shared the agenda for today and a reminder about the Ezone project timing. Today we are going to address 5 of the topics: exemptions from the ezone code, the existing map error correction process, who benefits and who is burdened by the project, a summary of the ESEE Analysis and wildfire (which is very timely). Then we will provide an updated on the site visit work.

We will schedule another briefing, date yet to be determined, when we will discuss the topic of septic systems and any other issues you ask us to bring back.

The purpose of the environmental overlay zones is to protect streams, wetlands, flood areas, steep slopes, forests and wildlife habitat. And to protect people, homes and businesses from risks like landslides, floods and heat island.

The purpose of the Environmental Overlay Zone Map Correction project is to make sure the zones actually align with the natural resources.

The project is needed because the overlay zones were mostly applied in the 1990s. Since then technology has improve a lot and we find that the resources we intended to protect are not always being protected.

The overall change is a 4% total increase in ezone coverage across the project area.

Exemptions

There are 25 activities exempt from 33.430, including:

1. Maintenance, repair and replacement of existing structures as long as the footprint is not increased
2. Maintenance of gardens, lawns and planted areas
3. Changes to existing disturbance area for gardens or play areas
4. Change of crop/farming technique (this include forestry practices)
5. Pruning of plants within 10 feet of structures
6. Removal of trees within 10 feet of structures
7. Removal of dead, dying and dangerous trees (tree replacement is required)

8. Removal of invasive plants and planting of native plants

Zoning Code map error correction process

There is a process for correcting the location of a zone boundary, which can happen at any time and is a free process. One of two criteria need to be met – either the boundary can be corrected to follow a topographic feature like a stream or slope, or the boundary can be corrected based on legislative intent. The second approval criterion is difficult to use because the existing plans often do not provide sufficient legislative intent to correct the environmental zones through the quasi-judicial process. This project is updating the legislative intent to be clearer and more concise.

Chair Spevak: If this happens while a project is in escrow, how much will this take cost- and timewise?

- Mindy: There is no cost. It depends on how much resources we need to use timewise. Currently it can take up to 6 months if we have to pull documents from archives to research legislative intent. We hope to reduce the timeframe by having clearer legislative intent adopted with this project.

Commissioner Bachrach: “Near” is variable – doesn’t it vary site-by-site? Tree canopy is not called out in Goal 5 – it can be done there. But since we have tree regulation in Title 11, why do we need both?

- Mindy: Please refer to Volume 2, Part A-G. Every resource site specifies exactly what resources are to be protected within each. These policy decisions are intended to reflect the original policy adopted by the original plans. Goal 5 does require local jurisdictions to address trees both as part of riparian areas and upland areas. Title 33 is land use regulations and is comprehensive addressing the functions trees provide, like microclimate and water quality, not just the individual tree. Title 11 is more of an infrastructure title and address trees from the standpoint of things like stormwater management. The laws and jurisdictions are different.

Commissioner Houck: Portland is mandated to implement Title 13 (Goal 5). Fish and wildlife habitat... two totally different things between Title 11 and Title 13.

Who benefits and who is burdened

The purpose of this project is to make sure the existing natural resources are adequately and appropriately protected. As we discussed last time, most of the resources are located in the West Hills and in Johnson Creek.

As part of this project we wanted to get a better understanding of how these changes to the boundaries of the environmental overlay zones may impact vulnerable populations.

This is the City’s vulnerability risk map. It’s a collective ranking of the percentage of people in each census block who are:

1. Renters
2. Communities of color
3. Their educational attainment
4. And households at or below 80% median family income

The darker the blue the more vulnerable the population of that census track is. The most vulnerable populations in the Ezone Project area are in Powellhurst/Gilbert, Lents and Eastmoreland/Reed in outer southeast and Wilkes in outer northeast.

We aren't able to say anything more specific because we don't know exactly what properties are owned by vulnerable people that are also getting changes to the overlay zones. We can say that majority of changes are occur in the West Hills where we have less vulnerable populations.

In addition, the question of who benefits and who is burdened isn't just about which properties have changes to their regulations.

Natural resources provide critical and important functions:

- Trees hold hillsides in place, reducing risk of landslides
- Streams and wetlands move and hold stormwater, reducing the risks of erosion and flooding
- Floodplains are high risk areas
- Trees cool the air and provide respite from heat island impacts (the map is heat island in Portland)

Studies have been done about the presence of natural resources and property value. Properties near resources like trees often see an increase in value.

So the topic of who benefits and who is burdened is complicated.

Commissioner Houck: Thank you, Mindy, for bringing this up. there are 2 sides to the natural resources question. I am glad Mindy listed some of the many benefits to protecting natural resources such as projects that have reduced flooding along Johnson Creek in the Lents area, which definitely has a positive impact. Too often only the negative impacts are considered with regard to regulations to protect natural resources..

ESEE analysis process

This section gets us really into the weeds! ESEE stands for Economic, Social, Environmental and Energy Analysis and is a requirement of the Oregon statewide land use planning Goal 5 for protecting natural resources. Portland has an existing program established between 1989 and 2002 that complies with Goal 5. Each of the original 12 plans included an ESEE and resulted in application of the environmental overlay zones citywide.

In 2005 Metro adopted Title 13, Nature in Neighborhoods. Title 13 follows the Goal 5 process and was deemed by the state to be in compliance with Goal 5. What that means is that local jurisdictions can follow Title 13 entirely to comply with Goal 5. Local jurisdictions do not have to do their own ESEE – they can rely on Metro's Title 13 ESEE and recommendations.

In 2012, Portland's existing program was deemed by Metro to be in compliance with Title 13. Then in 2018 Portland adopted the 2035 Comprehensive Plan which directs the city to keep our environmental program up to date.

Metro Title 13 determined through an ESEE that all streams, wetlands, riparian areas, Special Habitat Areas and uplands in Open Spaces should be protected. Because Title 13 complies with Goal 5, Portland needs to only address Title 13 for those resources. We can rely entirely on Metro's ESEE and do not have to do our own ESEE.

Upland habitat that is not a Special Habitat Area and outside of Open Spaces was determined by Metro to not be of regional significance. Metro said that local jurisdictions may find these resources to be of

local significance and must follow the full Goal 5 process to protect them. That means Portland must do a local ESEE to protect uplands.

A very important note – Title 13 says that while uplands are not regionally significant, local jurisdictions with existing protections of uplands cannot rollback those protections. So, in the document you will see a local ESEE only for uplands that are not Special Habitat Areas and outside of Open Space. Volume 4 includes the full compliance steps for Title 13 and Goal 5.

Commissioner Smith: How the public perceives the ESEE. We have done these at the resource site level, which contains many properties. So when a property owner sees this, they see the impacts on their particularly property, but we don't analyze it at that level. It behooves us to be explicit about this when we talk to property owners.

- Mindy: Goal 5 requires local jurisdictions to perform the ESEE at the resource site level. A "resource site" includes multiple properties with like conditions, such as land use.

Commissioner Bachrach: When is a site-specific ESEE required?

- Mindy: Goal 5 requires the ESEE be done for a resource site, not individual properties. And Goal 5 specifies that the ESEE not be overly complicated when doing the analysis. This same process was deemed adequate and appropriate in our last project.

There is testimony that we need to address things like housing impact. We should look at the testimony with our City Attorneys to make sure we have it right.

- Mindy: Yes, we are working with the City Attorneys. There are standards in the zoning code that allow a house to be built on each property (33.430.140) so there should be no impact on housing capacity.

Commissioner Houck: I was asked in 1982 in WA County to do their Goal 5 inventory for all of their CPOs, and subsequently other jurisdictions. I also participated in Metro's Title 13 process. Mindy is totally correct about not doing a site-by-site ESEE. As with mapping, in 1982 the maps were quite crude; it's improved dramatically over the years, as has ESEE analysis. Both Metro's and the City's ESEE are the gold standard.

Chair Spevak: Has Metro given City of Portland a deadline to synch up regulations?

- Mindy: We already did Title 13 compliance with our existing program, and we are doing it with River Plan. There is a different process to update compliance with Title 13. Metro doesn't require an update, but the City's Comp Plan does require us to keep our plans and programs up to date.

Wildfire-related exemptions

The environmental zoning code has a number of exemptions that address wildfire including:

- Pruning of trees and shrubs within 10 feet of structures
- Removal of trees within 10 feet of structures
- Removal of invasive plants and planting of native plants
- Pruning of vegetation in accordance with Title 11 which includes pruning of coniferous trees within 30 feet of structures within a wildfire hazard zone and pruning to abate an immediate danger

The exemptions in the zoning code are consistent with the national Firewise recommendations which include:

1. Remove flammable materials 5 feet around homes. That does not mean no vegetation, but flammable vegetation should be removed
2. Trees within 10 feet of homes should be removed
3. Ladder fuels out to 30 feet from homes should be removed. Ladder fuels are those that bring a fire from the ground into tree canopy. English Ivy is a ladder fuel.

The best way to reduce wildfire risk in natural areas is to remove invasive plants and plant more fire-resistant native plants. There are resources listed here to help property owners choose fire-resistant native vegetation for landscaping.

We would like to come back in November or December with two amendments that will clarify the zoning code exemptions related to wildfire. These will not change the intent of the exemptions but will make it clearer where trees and branches can be removed.

Commissioner Houck: There was the wildfire on the bluff at UP, and where native species were, there wasn't fire. It was just where the invasive species (Himalayan blackberry). My recollection is the City worked with FEMA funds to do restoration aimed at reducing fire risk and develop a fire hazard mitigation plan. .

Site visits update

Please refer to attachment K to the memo, which is a list and maps of the site visits conducted between June 19 and August 25. Most of these were the result of phone calls or emails received in response to the Measure 56 notice. We've completed 90 site visits.

We follow the mapping protocols adopted in 2012 in the Natural Resources Inventory and explained in Volume 3. What you are seeing in the attachment are the corrections to the feature mapping.

Once all of the site visits have been completed, we will update the environmental overlay zones to follow the corrected features. The updated overlay zone maps will be the subject of the continued hearing.

Daniel walked through 2 examples of a typical site visit and the outcome: stream mapping and forest mapping.

Commissioner Bachrach: These examples are apparently shrinking the ezone.

- Daniel: Through the project we are expanding the protection zones. However, following the visit, we reduced the amount of expansion – there is still expansion, but it's smaller than the proposal was initially. More commonly we're shrinking the area of ezone expansion, but it does occasionally happen. There has been one site recently where we found a stream that was not mapped.

Commissioner Smith: So the hope prior to the next hearing is that staff has met and agreed with property owners. I'm worried about a discrepancy and how we'd have to vote. How do you foresee that process happening?

- Mindy: 95% of the time, we agree on the feature mapping but we might have disagreement on the policy choice. The mapping protocols, found in Volume 3, are intended to be

nondiscretionary. If there is disagreement when it gets to the hearing, we can share why we think it meets our mapping protocol. Then we would apply the overlay zones. The rare circumstances of disagreement are typically about headwater streams.

Chair Spevak: Are there some situations where you won't be able to get information in a different season?

- Daniel: There are a handful of headwater stream situations like this where we have disagreement and we're going back in January to review.

Commissioner Houck: It's likely the most controversial ones will be the headwater streams. Could staff share some research about ephemeral and headwater streams?

- Mindy: Yes. Please also look at Volume 3, where we define a stream versus a drainage.

Staff is recommending that the December 8 continued hearing be postponed until February 23 to allow staff to complete all site visits and produce amended zoning maps.

In January or February, we will do another briefing on septic systems, wildfire, and the remaining site visits. If there are other topics you would like addressed at that briefing, please let staff know. The public hearing will be continued on February 23 followed by work sessions and a recommendation in the spring.

Tree Code Project

Hearing: Emily Sandy (BDS); Tom Armstrong

We are doing public testimony today, but we will keep the written testimony open until noon on Friday to allow those who are unable to join today to enter their comments.

Chair Spevak introduced PSC members and UFC *Chair Shandas*. Each commissioner shared their name, role outside the PSC or UFC, and their favorite tree.

Chair Vivek noted there is not a quorum of UFC members. We will hold our continued public hearing at our meeting on September 17.

Presentation

Emily noted that UFC will continue their hearing through September 17. Staff is working on logistics and next steps. The PSC today will hold this hearing and wrap up oral testimony, with the written record staying open until noon on Friday, September 11.

Emily shared an update and presentation.

(slide 2): The PSC requested to highlight urban heat islands within the currently exempt zones, which are shown on the next two maps. As you will see, heat index is high in much of the IH zone, a little lower toward the confluence of the rivers.

(slide 3): The urban heat island effect is lower in much of the central city, comprised mostly of CX and EX, but higher in the central eastside, which is a mix of the CX, EX, and IG1 zones, and Brooklyn Yard area, which is mostly IG1.

(slides 4-5): These are exempt zones with existing tree canopy identified, and highlights the areas analyzed. As a reminder, our analysis focused on the BLI sites, which are hatched in the maps. Slide 4 shows IH zone in gray and tree canopy in green. Areas in the BLI that were analyzed are shown in brown and blue. Red hatched areas that look pinkish at this scale are areas are places with other environmental protections that were not included because they are not part of the BLI. Slide 5 map shows the same as the previous map, but CX, EX, and IG1 zones are shown in peach, purple and yellow, respectively. Together, these maps show where tree canopy is located on sites that are expected to develop over the next 20 years. It should be noted that much of this tree canopy – especially in the Central City – is located within the right-of-way and would not be impacted by the current proposals.

The chart on slide 6 shows total acres, acres in the BLI, and acres in the BLI with tree canopy. There are 7,463 acres total in the four exempt zones. Of that, 1,488 acres are within the BLI and contain 253 acres of tree canopy.

- BLI acres with tree canopy comprise 3.4% of total acreage in exempt zones. (252.9 of 7,463.1 total acres)
- BLI acres with tree canopy comprise 47% of total acres with tree canopy, so almost half of existing tree canopy is within the BLI. (252.9 of 542 total acres)
- Overall, tree canopy covers 6.8% of all IH sites and 42.6% of that total IH canopy is located on BLI sites (157.2 of 368.9 acres).
- Tree canopy on IH BLI sites makes up 62% of the total tree canopy in all four exempt zones.

Some of these areas are already subject to environmental overlay zone regulations, as highlighted in the table on slide 7.

PSC requested disaggregation of construction from within the industrial employment sector as it relates to employment of people of color and people that are white alone. Figure 11 of the staff proposal, page 45, shows that industrial occupations employ 21% of workers of color vs. 18% of white-alone workers; among the higher paying occupations ((middle and high wage) , only the industrial occupations employ proportionately more workers of color than white-alone workers. Within this industrial sector construction occupation employs 5% of workers of color and 4% of white-alone workers. The other industrial occupations employ 16% of workers of color and 13% of white-alone workers.

Members of both the UFC and the PSC had questions relating to Goal 9 generally, and how the City addresses compliance with Goal 9. Related questions included how Goal 9 will be addressed specifically in the upcoming Economic Opportunities Analysis or EOA.

Tom noted the memos shared with PSC members. For context, Statewide planning goals provide the framework for our Comp Plan. Goal 9 is about the economy and job opportunity. There is also Goal 10, about housing. Both are foundational guidance for cities that have 20-year Comp Plans, wherein we demonstrate we have capacity to accommodate growth. Our conversation is often about Goal 9 and industrial land capacity in Portland since it's the most constrained. Housing impacts tend to be less of a focus in the analyses, but both have an admin rule that lays out what the City has to do to accommodate 20 years of growth. the EOA is adopted as a supporting document to the Comp Plan, which we did in 2016. As part of that, we recognize that as economic and housing forecasts are updated by Metro and allocated to Portland, we need to update and refresh the EOA about every 5-7 years.

Metro is finishing their process that takes us out to 2040, and our workplan is included in your packet. So we are doing this work, which will result in 2022 in a new EOA with understanding about what types of job opportunities we can provide. As part of this process, there are lots of demands on the industrial land capacity. Not only from tree exemptions, but from ezone updates; new federal floodplain regulations; and other projects on the other end that look to convert industrial lands (e.g. baseball stadium at T2). We anticipate getting to in early/mid 2021 is to look at the different scenarios and what the impacts/trade-offs are to our employment capacity for different types of jobs. A main concern is if we limit capacity for industrial jobs, we lose opportunities for people who don't have college degrees. So we need to balance growth of high-end office jobs, and we need to provide a range of opportunity.

How/when we address and balance the Statewide planning goals: This is done in the context of the Comp Plan. So when we update or amend it, you can begin to balance and look at what kinds of jobs we want to grow, strategy, environmental protections, etc. The goal analysis is rarely done on a case-by-case basis, but it's done within the framework of the Comp Plan.

Testimony

1. Christine Buhl: member of Forest Health Unit with Forestry. There is more that can be addressed in the proposal. I know we want to keep things general, but I want to continue to conserve the ecology. We have lots of remnant forests, and I hope with larger developments we make an effort to build in rather than over Portland. East Portland is most important. I would propose a species replacement requirement, which is built in some places, but not broadly in the Tree Code – more natives, replacement with comparable trees.
2. Albert Kaufman: Interested in the Tree Code changes as proposed and an even stronger approach to preserve more trees.
3. Justin Wood: Homebuilder and current DRAC member, president of the OR Homebuilders Assn. Concern about lowering threshold to 20" for tree removal. It's getting more difficult to building entry-level houses in Portland due to costs. In small, infill lots, it's often not possible to save small trees. We generally try to design around trees, but it's sometimes not feasible. Not all trees are created equal, depending on where in the site they are located.

Commissioner Bachrach: Can you talk about cost impacts to take down a tree or two and some sense of how often it happens and scares you from trying to build?

Justin: 36" or larger we have to weigh in. 20-36" can be less cost-prohibitive, but we will think twice if this changes as proposed. \$5-7k for that mid-range size tree just to remove it, excluding City fees.

4. Bob Sallinger, Portland Audubon: Support all staff recommendations and appreciate these. It is important to lower the threshold to protect more trees. Lift exemptions on commercial and industrial lands. On heavy industrial, we think this should be lifted as an exemption, too, since this area is ecologically important. And they often border lower-income, higher-minority, worse air quality areas. It doesn't require that the property owner retain trees on-site, so there aren't areas that should be taken off the table. The City has converted lots of industrial uses, so we encourage lifting this exemption. *see written testimony.*

5. Piper Wyrick, Portland Youth Climate Council: Requiring mitigation for only some industrial land only protects some areas. Let's stand up to remove exemptions from all commercial and industrial – including heavy industrial – land. Don't stop us part way. Stand up for trees like they are our first line of defense. Stand up for environmental justice.
6. Aquiles Montas: I second what Justin Wood mentioned. The restrictions on builders and the costs to having more affordable housing in low-income areas is difficult. When we try to build ADUs especially, the cost of removing a tree is difficult and increases start-up costs, especially for low-income and people of color.
7. Robert (Bob) Gelpke: Downtown Nhood Assn. Please to support the tree code amendments as proposed in downtown Portland. *see written testimony.*
8. Solomon Duke, Portland Youth Climate Council: working towards a more environmentally-just tree code. We are supportive of the proposal, but we need to remove exemptions on all zone types, including heavy industrial. Make the Tree Code strong, like the Bottle Bill. There is insufficient data, skewed to big corporations, if we don't remove the exemption on heavy industrial. Replant trees instead of just paying a mitigation fee. Unmitigated climate change is real. We need a comprehensive view to take environment, climate, and community to heart.
9. Susan Harris: Clean Air Committee Chair, Arbor Lodge Nhood Assn. Add and increase the number of trees in our neighborhoods.
10. Felice Kelly, 350PDX Forest Defense Team: Appreciate the reduction from 36" to 23" to help grow tree canopy. However, we don't support the exemption of the heavy industrial zone as in the proposal. Apply the Tree Code to the entire city.
11. Jeanne Galick: Support the improved tree code. But the major loophole to have exemptions for zones – particularly heavy industrial – needs to be removed.
12. Ted Labbe, ED Urban Greenspaces Institute: Support proposal to reduce tree size threshold and exemptions for commercial and industrial zones. Reconsider the proposal to continue to exempt heavy industrial. *see written testimony.*
13. Micah Meskel, Portland Audubon: The maps presented today make some of the Portland Audubon's points clear – heat island map and adjacent communities. Vacant heavy industrial land maps too. In terms of Goal 9, the City should not just be predicting heavy industrial, but we should clean up these lands too with trees. *see written testimony.*
14. Barbara Wharton, Trees for Life Oregon: Support reduction from 36" to 20" and removing exemption for general industrial, central and employment zones. We don't support the exemption from heavy industrial as others have noted today.

Chair Spevak closed oral testimony for the PSC at 4:34 p.m. Written testimony will be accepted in the MapApp until 12 p.m. this Friday, September 11.

Commissioners' comments

Commissioner Houck: I was really impressed with both written and oral testimony. 97 people supported the staff proposal and removing the exemption from IH lands. Mr Sallinger's comment about off-site mitigation is interesting; I'd be interested in staff's response. As for other creative ways to address IH lands, I'm curious if there are options.

Chair Spevak: I would be interested in an in-between option for the IH zone. I could even be open to considering splitting the IH zone into a separate project so the staff proposal could proceed on the current timeline while affording staff more time to analyze options for IH.. Also, from the homebuilder perspective, I'm interested in considerations for large wooded sites where even if you preserve all the largest trees there may be considerable payments due to remove trees necessary to meet minimum housing density requirements.

Commissioner Larsell: I was aware middle-income jobs are disappearing and can be a first line of jobs for none-college-degree people. I would maintain this exemption but am also interested in options for heavy industrial lands.

Commissioner Smith: Echo comments about a solution to address borders around IH. In the big picture, I want to make sure we don't miss the forest for the trees. We don't know how we're progressing on overall canopy goals. But it's clear we have a huge distributional problem, so I hope we're looking at addressing that. On the EOA, we do it infrequently, and it seems to me the context has changed radically with the Climate Emergency declaration and the Governor's executive order. Shouldn't the EOA be ones of the City's main look on a new Green Deal economy?

Commissioner Bachrach: On the housing side, I can understand if we can't ask staff to do a more quantitative sense of potential housing loss. But we have a housing crisis. So this is another incident where we're imposing new costs and will lose some affordable housing units, so that's bothersome. Does Title 11 have an exemption for affordable housing? Could that be included for some forms of affordable housing? I don't know what a benchmark is for a first-time affordable house.

- Emily: Inch-per-inch fee currently is at 36", but if these amendments go, it will be at the 20".

Commissioner Schrosk: There is an exemption for affordable housing. I wanted to recap the great comments we heard today – amendments/waiver for affordable housing; the (in)ability to build around trees. Middle income jobs are extremely important, as are the areas and conditions in which they are located.

Commissioner Magnera: In Micah's testimony, the strip of land is proximate to Portsmouth, St Johns and the Columbia Corridor. The land differences and tree coverage is stark. In Cully, near industry, there aren't lots of trees, and you feel the heat island impacts walking across parking lots. I encourage us to be a bit more creative instead of buying into narrative about jobs and Goal 9 that influence our long-term goals around climate. What are the health impacts of the jobs on the industrial side? Are there more BIPOC members in those jobs because they are industrial jobs white people don't want? I support the suggestion of breaking out the IH side of things from the project to better understand the job and health impacts.

Commissioner Newbery: We seem to be focusing so much on if the exemptions will go through based on the economic analysis – but there are lots of other issues going on. Climate, equity. We do need to focus more on the big picture. If the thing that is standing in the way of us moving forward, why doesn't the

City ask the State for an exemption from Goal 9? Equity concerns are huge. All bureaus are required to take trainings, but here is an example of something we can do to take apart structural racism if we look ahead. IH land is the biggest piece. If we take this out, we're not doing much for the overall tree canopy in terms of exemptions.

Commissioner Nascimento: Promoting a green economy is important – we need to be more radical. We need to remove the exemption for heavy industrial. In the long term, this can promote more climate resilience. Working with partners and reeducation work can help promote a stronger green economy.

Commissioner Bortolazzo: We are looking at balancing competing goals. Overall, I'm concerned about the aggregate affect of regulation that could possibly hurt the most vulnerable parts of our population creating less job availability. In the Goal 9 analysis, Portland residents' income has gone up – but if you disaggregate, the upper segment is better paid, and the lower segment of wages are moving out of the city because they can't afford being here. This is an underlying concern. In regards to the IH exemption, the memo made a compelling case since these areas do provide good jobs. Is it all or nothing, or can we deal with it more creatively? On the 36" versus 20", are there other ways to incentivize the preservation of trees?

Commissioner Nelson: Industrial is shown to be going down, and cargo and value-added is going up. so heavy industrial is creating fewer jobs and more gross revenue. So do they not have funds to put into environmental aspects? I would hope that the leadership of heavy industrial in Portland can show us how they can show stewardship and leadership if they don't want regulations.

Commissioner Routh: Looking at how each project is viewed through a racial justice lens isn't always visible in a project – like in the ezones work we just heard earlier. We are pitting housing and livability against conservation of trees. We are also looking outside. Regulations are important for long-term economic growth. Preservation of our environment is inextricably linked to our long-term economic standing. I would like to find a reasonable recommendation for IH zones.

Commissioner Bachrach: I would caution us to ask staff to launch into complicated analysis of IH. I think that is far better suited to be done in the EOA. I hope we can fashion an end product for this project for City Council. We've had no push-back from industrial groups – so does that mean it's not a huge cost impact? We haven't heard from them, so I'm curious if we're ringing our hands over something small for them.

Commissioner Schultz: I want to caution re: comments about industrial jobs and people who really do love their work. These are really good jobs, and a lot of people choose to be in them. About lots that perhaps are very wooded and this can become an economic burden, perhaps there is a certain threshold (\$) so you get to a point of making a lot of land developable. Maybe very-treed lots should become something like public space, but if you own the lot, then we've taken the value of the lot and would need to compensate. I'm tending to weigh in that I'm interested in an EOA analysis of course, but I'm curious if there is a middle ground here. if we can't find that, I can wait until we get the EOA done.

Chair Spevak: For the wooded lot idea, I'd support a fee cap only if the builder includes the largest trees within the 1/3 they preserve. In response to Commissioner Bachrach's comments, I suspect IH land owners have probably been quiet because they're quite happy with staff's proposal (to not apply tree protections in IH zones). Further, I suspect tree protections in those zones would be quite expensive, since this is the basis for such regulation decreasing the industrial buildable land inventory

Commissioner Houck: Staff's proposal is to not lift the exemption for IH but to remove from other lands. Would you not support that level?

- *Commissioner Schultz:* I support where staff is at currently, but I wouldn't go farther.

Emily responded to some questions and will respond in a memo as well to some of the larger questions:

- About the EOA, it will look at the changing nature of industrial jobs, which may alter the framework of what we need to accommodate and plan for.
- For a middle ground in IH, we have tried to separate if we could remove one exemption, but that didn't work. We are still willing to explore other options for IH.
- We are a bit time-constrained to get this work through Council by the end of the calendar year.
- Bob Sallinger about the analysis re: off-site mitigation – does this mean true off-site where you're actually planting trees or if it is about fee-in-lieu. This fee-in-lieu is factored in to our costs.
- Justin Wood re: quantifying the situations where you may not develop a lot – the analysis did address this. Over 20 years, we would lose 54 housing units due to the cost-prohibitive nature of these areas. We also found there was just a .11% housing cost increase over the 20-year frame, but this doesn't get to affordable housing. We do have the affordable housing exemption as Mikah noted.
- I agree about the industrial groups' push-back and not seeing it. We did have early comments from the port, but they were more concerned about the density regulation.

Adjourn

Chair Spevak adjourned the meeting at 5:27 p.m.

Submitted by Julie Ocken