

CITYWIDE TREE REGULATIONS – TESTIMONY ON SPECIFIC AMENDMENTS ONLYIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

| NAME (print) | ADDRESS AND ZIP CODE | Email |
|--------------------------|--|-------|
| ✓ Bob Sallinger | Audbon | — |
| ✓ Meryl Pedisch | Urban Forestry Commission | — |
| Margo Barnett | 9912 SW 25th Ave Portland OR | |
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6 April,
2011

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To: Mayor Adams and City Council

Due to the change in your schedule today I am unable to be present at the time you will be discussing amendments to the tree code. You all know my long history of involvement with this process.

While I support the general direction of Commissioner Fish's amendments introduced today, I strongly protest the introduction of amendments at the last minute. It is difficult to evaluate potential unintended consequences. This project involved careful vetting of concepts and balancing of stakeholder needs which cannot be accomplished with last minute substantive changes.

Please support Commissioner Fish's changes with one additional change -

Fish Amendment Z - remove the public appeal for removal of a single "Homesite" tree 20 inches or larger

The goal of permitting is to help educate "homesite" residents/owners and ensure they are aware of options other than

6 April,
2011

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(2)

removal, and to allow the city to track the loss of canopy from tree removal. Single large tree removal can result in many emotional reactions and should not pit neighbor against neighbor.

The two new amendments generally support the policies and purposes of the City's tree code, so I urge you to pass them and include the above change.

Please consider removing amendment 2.B.2b which changed the lot size exemption in development situations from ≤ 3000 to ≤ 5000 s.f. It is important that our denser neighborhoods remain livable which includes effort to preserve trees.

Thank you for this opportunity to comment.

Sincerely,

~~Margot Barnett~~ (Margot Barnett)
9912 SW 25th Ave
Portland OR 97219

From: Fritz, Amanda
Sent: Wednesday, April 06, 2011 12:50 AM
To: City Elected Officials; City Elected Officials Exec's
Cc: Moore-Love, Karla; Jortner, Roberta (Planning)
Subject: Tree Code amendments for Wednesday

Importance: High

Dear Colleagues,

I appreciate all the work that has been done on the Tree project. I believe we are close to adopting landmark legislation that will greatly benefit all aspects and people of our community.

I implore you to uphold the tentative decision made at the last hearing, to leave the current regulations on required private outdoor space unchanged, rather than responding to the request of Audubon and others to allow this space to be located in front. The Homebuilders and Portland Metro Area Realtors agree with my firm belief that homeowners need truly private open space. We don't need to choose between private outdoor space and trees. The new code should require both. My amendment as adopted at the last hearing achieves that. It is in the part of the package proposed to be finalized without further changes, and I will be very grateful of that set passes as currently stated. It doesn't affect many trees or many lots, but it is very important to me.

I ask you to support Commissioner Fish's amendment for Item 3 b on page 4 of Exhibit F, simplifying and strengthening the regulations to set a standard tree size requiring a permit to cut at 12" on all lots. The amendments adopted last time on development sites less than 5000 square feet should stay. Keeping the Planning Commission's recommendation to require a Type B permit for cutting trees greater than 20" and/or four or more 12"+ trees in one year maintains desired protections, and preserves the measures adopted in the late 1990s at the urging of Commissioner Hales to prevent tree cutting on lots prior to applying for development permits.

I will be submitting a late technical amendment at the suggestion of the City Attorney, to handle the legal aspect of Council asking the BPS Director to amend the Portland Plant List to add the Significant Tree List.

I support the BPS revised proposed language on both the Ladd's Addition planting plan and the Urban Forestry Appeals Board membership.

I greatly appreciate all the staff, citizen, and elected officials work that has been dedicated to this project and the refinements at Council.

Amanda

Amanda Fritz
Commissioner, City of Portland

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http://www.portlandonline.com/ADA_Forms

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184522

Parsons, Susan**From:** L Robinson [lrobinsPDX@comcast.net]**Sent:** Wednesday, April 06, 2011 1:26 AM**To:** Parsons, Susan**Subject:** Fwd: Items 310 - 311 - 312 Summary Memo on agenda, 4/6/2011 (Tree Codes)

I'm forwarding this to you, since I got an auto-response that Karla Moore-Love will be out of the office all week.

-- Linda

----- Original Message -----

Subject: Items 310 - 311 - 312 Summary Memo on agenda, 4/6/2011 (Tree Codes)**Date:** Wed, 06 Apr 2011 01:22:34 -0700**From:** L Robinson <lrobinsPDX@comcast.net>

To: Mayor Sam Adams <sam@portlandoregon.gov>, Commissioner Nick Fish
<nick@portlandoregon.gov>, Commissioner Amanda Fritz
<amanda@portlandoregon.gov>, Commissioner Randy Leonard
<randy@portlandoregon.gov>, Commissioner Dan Saltzman
<dan@portlandoregon.gov>

CC: Karla Moore-Love <karla.moore-love@portlandoregon.gov>

I was pleased to learn, earlier this week, that Council will be reconsidering the following Amendment, introduced at the last hearing, with the intent to adopt Option 3.B.1 (instead of Option 3.B.3) -- and I wish to applaud this change.

3.B. Private Tree Removal Permit (Title 11, Trees)

3.B.1. Tree Permit Thresholds. [Comm. Fritz] Reduce the tree permit size threshold on single family lots from 20 inches diameter to 12 inches for greater citywide consistency.

Personally, I would like to see the elimination of the proposed exemption for small lots in residential land division as well.

-- Linda

Linda Robinson
Portland, OR 97230

4/6/2011

184522

Moore-Love, Karla

From: Janet Bebb [Janet.Bebb@oregonmetro.gov]
Sent: Wednesday, March 16, 2011 12:46 PM
To: Moore-Love, Karla; Parsons, Susan
Cc: Jortner, Roberta (Planning); Helzer, David
Subject: Tree Ordinance amendment
Attachments: Council letter.pdf

Greetings Council office,

Attached is a letter encouraging Council to include proposed new Zoning Code 33.860 in the amendments that go into effect July 1, 2011. Thank you for your assistance with this. Janet

Janet Bebb, landscape architect
Principal Regional Planner
Sustainability Center

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3/18/2011



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March 16, 2011

Mayor Sam Adams
Commissioner Nick Fish
Commissioner Randy Leonard
Commissioner Amanda Fritz
Commissioner Dan Saltzman
1221 SW 4th Avenue
Portland, Oregon 97204

Re: New Zoning Code chapter 33.860 Comprehensive Natural Resource Plans

Dear City Council members:

We continue to be supportive of your approval for new Zoning Code chapter 33.860, Comprehensive Natural Resource Plan (CNRP). This amendment to the Tree Ordinance will be immediately useful to us for our management of Smith and Bybee Wetlands. I encourage you to include this amendment in the set of code amendments that will go into effect on July 1, 2011.

Over the past year we have worked with the City of Portland and other partners on a new vision for Smith and Bybee Wetlands. The new plan will strengthen our management approach and effectiveness of the Smith Bybee Management Committee. We are prepared to move forward with a CNRP as soon as it is available. I understand other provisions would go into effect in early 2013 and we strongly support more immediate action.

Best regards,

Jim Desmond, Director
Sustainability Center

Cc: Roberta Jortner, Dave Helzer

184522

Moore-Love, Karla

From: Kathy Shearin [Kathy@emswcd.org]
Sent: Wednesday, March 09, 2011 1:36 PM
To: Moore-Love, Karla
Subject: Tree Ordinance comments
Attachments: CitywideTreeProject_EMSWCD_3-8-11.doc

Hi Karla,
Please find EMSWCD's comments attached.
Thanks!
Kathy

Kathy Shearin
Program Manager, Sustainable Urban Landscapes
East Multnomah Soil & Water Conservation District
5211 N. Williams Ave.
Portland, OR 97217
Kathy@EMSWCD.org
503-935-5365

3/15/2011



184522

March 8, 2011

Portland City Council
1221 SW Fourth Ave
Portland, OR 97204

Re: Citywide Tree Policy Review and Regulatory Improvement Project (Citywide Tree Project)

On behalf of the East Multnomah Soil and Water Conservation District, I would like to express support for the City of Portland's proposed Title 11 which consolidates, fixes, and updates the city's tree codes.

We have a few suggestions that we feel would strengthen this policy even further:

- 1) There will be significant personnel time required to make these new rules real on the ground. We believe that trees are among this City's greatest treasures – they define our region. **We urge the Council to fund the capacity needed to fully implement this “new code”.**
- 2) **We believe the diameter of trees to be protected is too large.** Large diameter trees, certainly those with a diameter of 12 inches or more, provide significant ecosystem services that newly planted trees won't replace for many, many years. These new trees may never provide the same quality of services if the homeowner replaces a large tree with a smaller and/or shorter-lived species.
- 3) As part of the development of the Portland Plan, Mayor Adams convened a group of governments operating within Portland's boundaries to discuss alignment of goals and opportunities to better coordinate our work. The East Multnomah Soil and Water Conservation District welcomes this approach. Currently, invasive species are the single most costly problem that EMSWCD is working on. If Portland allows invasives such as Norway Maples to be planted, we as a region will likely find ourselves paying for the consequences as some of those seeds inevitably show up in natural areas. We will be more successful if we work together on this critical environmental problem. **We ask the City to resist making any exceptions to its own invasive species policies.**
- 4) Trees perform essential ecosystem services like reducing energy costs, improve air quality by filtering toxins from the air and producing oxygen and improve water quality helping to slow and filter often-polluted stormwater before reaching our waterways. Trees also help to “soften” the built surroundings, making for a more pleasant place to live and work. **For these reasons we ask that the City not exempt industrial zones from this or other landscaping ordinance. It is these areas that need trees the most – especially when they are located so close to our waterways.**

We thank you Mayor and Councilpersons for your efforts to protect and enhance our urban canopy and appreciate the opportunity to comment on this important issue.

Kathy Shearin

Kathy Shearin,
on behalf of EMSWCD
5211 N. Williams Ave.
Portland, OR 97217

184522

Parsons, Susan

From: Deb Scott [dscottnw@comcast.net]
Sent: Tuesday, March 15, 2011 3:40 AM
To: Commissioner Fritz; Commissioner Saltzman; Commissioner Fish; Leonard, Randy; Adams, Sam
Cc: Parsons, Susan; Jortner, Roberta (Planning); BPS City Tree Project
Subject: BPS City Tree Project

Dear City Council,

I strongly urge you to change many of your recent votes on the updated Portland tree policy. It appears that in trying to simplify the codes you are taking the path of least resistance -- as far as development is concerned. This is not good long-term thinking and will have adverse impacts on our community. The concerns of BDS do need to be taken into consideration, but they should be regarded in how to effectively implement policy, not in setting it.

Today's action will affect the City of Portland more than most any other decision you will make while a council member. I urge you to accept the prior research and recommendations of the citizen stakeholder committees, the Planning Commission and the Urban Forestry Commission.

Reducing our tree canopy is a bad short and long term decision. As has others more eloquently put it: Think of what a city with few trees look like. Consider the research that says that property values go up and crime goes down in neighborhoods with more trees. Consider the impact of few trees in disadvantaged neighborhoods. Think of the lost storm-water treatment with fewer trees. The Pacific Northwest is a forested region. We need to keep and replace our trees if we want a good quality of life. Reducing canopy requirements in an effort to simplify codes is simply unwise.

1. City Council should eliminate Amendment 2.B.2.B which would exempt developers from having to preserve or mitigate for trees when they develop lots up to 5000 square fee.
2. City Council should substitute Amendment 3.B.1. for Amendment 3.B.3.
3. City Council should eliminate Amendment 2.B.1. which lowers the number of trees which must be preserved on development sites (those sites which were not already exempted by Amendment 2.B.2.B. above):Amendment 2.B.1.
4. City council should eliminate Amendment 2D which would prevent a developer from reducing backyard space in order to protect existing mature trees in a front yard.

Thank you for your time and attention.

Deb Scott
4731 SW Admiral Street
Portland, OR 97221

3/15/2011

184522

Moore-Love, Karla

From: JR Merrick [jrm@merrick-archplan.com]
Sent: Monday, March 14, 2011 11:17 PM
To: Moore-Love, Karla
Subject: Comment: Proposed Changes to Tree Regulations
Attachments: Tree regulations2011.pdf

Rod Merrick, AIA NCARB
Merrick Architecture Planning
Portland, OR 503.771.7762
merrick-archplan.com

3/15/2011

March 14, 2011

Subject: Proposed Changes to Tree Regulations

Dear Mayor Adams and City Councilors:



Please add my endorsement for comments expressing concern that the proposed Chapter 11 and amendments under consideration are simply inconsistent with stated purpose of clarity and ease of use. I strongly support preserving and enhancing the tree canopy that so much to the urban ecology and to the quality of the walking experience in our neighborhoods. Certainly the current codes related to tree protection and planting suggests the need for refinement. The reservations and concerns expressed by the following ring true to my experience and reading of the documents.

- Steven Able's discussion of the failure to adhere to effective code writing principals. Contrary to the stated goals and repeated assertions the regulations are not concise, simple, streamlined, or easily enforced. More than 150 pages address this single subject - far more space than devoted to any other aspect of the land use code.
- The excessively regulatory approach described by Rebecca Essau for BDS also points out the burdensome complexity of explaining, reviewing, and administrating along with the expense and contentiousness that will be costly to the City, housing costs, and businesses affected.
- BDS comments suggest that the complexity of these regulations will discourage voluntary planting and nurturing of trees. Premature removal as trees grow in size towards the proposed thresholds seems a likely outcome.
- Exemptions for industrial sites because of the complexity of compliance are requested by the Port of Portland and other industrial interests (There is a real opportunity for trees to be planted on under utilized sites and in industrial areas in general for which there could be incentives if removal was not an onerous process.)
- Guenevere Milius comments for the Design Commission that the characterization of large, medium, and small trees in the context of a dense urban environment are misapplied. Medium and large trees planted on 5,000SF city lots extend well beyond property lines and in many cases limit solar access for gardens and rooftop solar access. The standards will encourage the payment of fees to plant trees somewhere else for someone else to maintain as described in the BDS comments. And this begs the question of where.
- Sue Kiel for PBOT identifies a variety of secondary costs impacting street and sidewalk maintenance that are not addressed in the scope of this project but have ongoing budget impacts and should therefore be evaluated when increasing the density of street and front yard tree plantings.

Unlike other code revisions I have observed, this project has missed the mark to an extraordinary degree. It is time to hit the reset button, take the good ideas and intensions, and make this a usable, concise document.

Regards,

J Rod Merrick

MERRICK ARCHITECTURE PLANNING
 3627 SE COOPER STREET, PORTLAND, OR. 97202 PH (503) 771-7762
 FAX (503) 771-3143 E-MAIL: MERRICK_MAP@YAHOO.COM

184522

Moore-Love, Karla

From: Mike Gilliland [mikegla@gmail.com]
Sent: Monday, March 14, 2011 4:12 PM
To: Moore-Love, Karla
Subject: Tree Code Attachment for Gilliland Testimony 3-9-11
Attachments: Memorandum to City Council 3-14-11.doc

Karla: Please submit this attachment to the testimony I presented last week on the Tree Code Amendments.

Thank you

Mike Gilliland
Registered Landscape Architect
17 SW Taylors Fy Rd
Portland, Oregon 97219

3/15/2011

Memorandum to City Council
March 14, 2011

To:

Mayor Sam Adams
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Randy Leonard
Commissioner Dan Saltzman

Attachment to March 9th 2011 testimony to Portland City Council

From:

Mike Gilliland, Registered Landscape Architect

CC: Karla Moore-Love

Subject: Citywide Tree Policy Review and Regulatory Improvement Project
(Citywide Tree Project)

Due to the brevity of my timed spoken testimony on record, I wish to include some written testimony to react to the amendments presented, and provide some professional experience in application of these codes.

I am a practicing landscape architect in the City of Portland, and am involved with interpretations and utilization of the tree regulations in both residential and commercial settings in all zones. My background in land use planning provides me an experience in writing, applying, interpolating, and maintaining city codes. It is based this background that I submit the following testimony for consideration:

I. Much of my residential work includes assessment of conditions on properties with several overlay zones including resource protection and sensitive areas.

Unique to many parts of Portland, including the west hills, are unimproved rights-of-way that include native and street trees that may not fit the normal concept of parking strip plantings. Some discussions of the amendments include designated 'street trees'. Many of these tree types in ROW's include designation of trees that create hazards to the private dwellings, or the health of the slope or erosional conditions with potential hazards, and these situations should be evaluated in new, or existing developments, as they change continually with the growth of trees.

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When considering minimum lot requirements for new development, the code should address all trees located in a adjacent rights-of-way, and not be limited by definition of a 'street tree'. The minimum standards should include any and all rights of way that directly adjoin a property line. In addition, to Commissioner Fritz's deletion (b), support is given to amending the code to read outdoor area, including adjacent rights-of-way, or public spaces adjoining subject properties. The location of such subject trees shall be fully defined.

II. I am in agreement that significant tress should not be deleted from the code.

With regard to designation of 'Significant trees', an arborist report should be required for submittal for such trees in excess of a specific minimum caliper – (say 12" ? in the case of established dogwoods, or vine maples) and ascertain the health, condition, age, growth rate, and location of tree to identify these items and provide a public documentation of such trees.

Everyone has their favorite tree, but legally defining trees is a complex task. To assure correct data, this analysis should only be undertaken by professionals who can define the correct status of a 'Significant Tree' if protection costs and efforts are to be codified.

There have been cases where such trees incurred a cost to preserve, but have proven to be poorly located, diseased, and a hazard, and are subsequently carelessly removed with all good intentions, but are not replaced in like kind/cost, with respect to the significance of the tree which may precede, or exceed our lifetime. (i.e. Heritage Tree designation)

I have been witness to this situation in public parks where no replacement activity has occurred of very significant, 250+ year old historic trees. Certified documentation of conditional elements would reinforce the designation of the city's stewardship of these resources on both public and private lands.

III. With regards to Commissioner Fish's amendment for the permit process, while I applaud the simplification of a process that hasn't proven effective or cost efficient, I would like to stress some issues that I have with this simplification.

I have experience applying the existing permit process to a number of projects, and it is somewhat confusing and frustrating to both city processors and landowners. Purvey is vague between planning and forester's office, and sometimes answers cannot be found. A certified

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letter now stands as the only requirement for permitting removal on private property, no matter of type, health, age, or size of subject trees. But, no definition of 'certification' exists in quantifying this information. Contractor's liability insurance is at stake, as well as the landowner's liability status. Unlicensed, uninsured, or inexperienced activities in a 300 foot tall tree are an example of my concern.

A system whereby the landowner can obtain permits for pruning or removal without any review places the liability for safe, legal, and ethical treatment of these trees in their hands, and even perhaps, assuming the magnitude of this risk unknowingly.

I am concerned that a simplification of this process will only create more potential for these risks, in addition to clouding the purpose of this code - to act as a steward of the presence of these trees in our environment.

A minimum standard for activity in this type of permitting has to be strictly defined. These are some issues that, if not already, need to be addressed in this amendment:

- Pruning limited 3" caliper or smaller branches fully located on property
- Proper identification of type and species (i.e. native, invasive, nuisance, ornamental)
- Verification of overhead utility line locations, contact providers
- Underground utilities locations and inspections
- Control of right-of-way passage
- Possible restrictions to emergency vehicle accesses
- Complete debris removal or clean-up, (particularly sidewalk clearance, fire hazard issues of dead material, etc.)
- Identification of legal property lines and easements
- Supervisory review and approval of completed activities

My concern lies in the conditions such as these that I have encountered in many projects, and any responsibilities for safe, legal activities unassumingly disregarded, and not to mention ill-intentioned.

I am not advocating more work for certified professionals. I am only stating that it is hard to implement, and represent owners for their own good when the code is vague, ineffective, or unenforceable, and causes liability to be

Page 4

taken to the point where professionals are restricted to watching from the sideline when dangerous situations are at risk to occur.

I appreciate City Council's attention to this very complicated issue, and your time to hear my testimony fully. I am available to speak to these conditions in my profession if there are any questions:

Mike Gilliland
17 SW Taylors Ferry Rd
Portland, Oregon 97219
mikegla@gmail.com

From: Curtis French [kacufrench@gmail.com]
Sent: Wednesday, March 09, 2011 9:07 PM
To: Moore-Love, Karla
Subject: tree ordinance

I find it a challenge to enumerate all the objections to the proposed ordinance changes, but will try to briefly summarize:

1. It is entirely too intrusive into the property rights of owners, establishing needlessly complex rules that those who administer them will be hard-pressed to apply, with ridiculously expensive penalties and done for the purpose of forcing all property owners to fit a single model of property use.

2. Full application would excessively limit the use of one's property to have a substantial urban vegetable garden by creating too much of a shade canopy. Think of it, if 40% of a standard lot is tree canopy, surrounded by other lots with the same, all of them with houses and perhaps garages, then street trees, then the question of orientation to the path of the sun becomes very problematic and will have a huge negative impact on gardening and solar panel use, for example. Such uses are also great goods for individuals and the public that the Council should be supporting, not just the unquestionable good of having a substantial tree canopy in the city. Do you think everyone wants, or should be made, to live in a neighborhood like Laurelhurst or Ladd's? Though beautiful, I would never choose to do so because I want to grow more than ferns and moss. We live on a 7200s.f. lot and have about 1/3 in garden that supplies the majority of our vegetables. To create this, I took down trees (years ago) that this ordinance would either not allow or charge me a huge amount of \$ to do.

If I had my druthers, this entire proposal would be set aside, with the planners who drafted it chastised and sent back to re-draft a proposal that respects the diversity of models of use of private property for the benefit of all the community.

As I imagine the inertial forces behind this proposal are too strong to be overturned, then I advocate for the least restrictive decisions in the questions that face Council, for example: 20" as the threshold for City intrusion on developed private lots, street trees counting towards density for lots of 5,00 s.f. or less.

Finally, take a look at the page following discussion of this proposal in BDS' Plans Examiner publication and ask yourself if you think that the photo of a sunny garden and a house with solar panels could exist be a reality should this proposal be implemented.

Thank you

184522

Parsons, Susan

From: Parsons, Susan
Sent: Friday, March 11, 2011 8:22 AM
To: Jortner, Roberta (Planning); Ansary, Raihana; Beaumont, Kathryn; Auerbach, Harry; Adams, Sam; Commissioner Fish; Commissioner Fritz; Leonard, Randy; Saltzman, Dan
Subject: FW: Testimony-Citywide Tree re tree planting

Sue Parsons

Assistant Council Clerk
City of Portland
503.823.4085
Susan.Parsons@portlandoregon.gov

From: kathryn31@comcast.net [mailto:kathryn31@comcast.net]
Sent: Thursday, March 10, 2011 7:18 PM
To: Parsons, Susan
Subject: Current Council Agenda

To Whom It May Concern,

I am writing about Agenda item #241 regarding tree planting etc. I recommend that the city encourage property owners, construction owners, and environmental groups to consider planting more female tree species. I was told by some that male tree species are mostly chosen for planting (reason unknown why). My understanding is that the male trees give off the highest amount of pollen. Planting more female tree species could help in lowering the high pollen counts and would benefit the allergy sufferers.

Thank you

3/11/2011