



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

Portland Planning and Sustainability Commission

André Baugh, Chair

Katherine Schultz, Vice Chair

Jeff Bachrach

Mike Houck

Gary Oxman

Howard Shapiro, Vice Chair

Michelle Rudd

Chris Smith

Teresa St. Martin

Margaret Tallmadge

January 20, 2016

Mayor Charles Hales and Members of Portland City Council
Portland City Hall
1221 SW Fourth Ave
Portland, OR 97204

Subject: Amendments to Title 11, Trees, Tree Preservation in Development Situations

Dear Mayor Hales and City Commissioners:

On January 12, 2016, the Planning and Sustainability Commission (PSC) held a public hearing on proposed amendments to Title 11, Trees, Tree Preservation in Development Situations. Two proposals (Proposal A – Portland Parks and Recreation 11/3/15 and Proposal B – Bureau of Development Services 12/11/15) were heard. The proposals intend to more adequately address concerns regarding tree preservation, particularly the preservation of especially large trees, in development situations. The PSC offers the following comments and recommendations.

Comments

1. The PSC found it challenging to be presented with two different proposals from two bureaus. It was also challenging to be asked to make a recommendation absent a full policy discussion and vetting of the proposals with stakeholders and the public. That said, the PSC understands that the proposals are both intended to provide a temporary, “stop-gap” approach to increase the incentive to preserve trees, particularly large trees on development sites.
2. The commission considered the proposals carefully, spending more than two hours learning about them from staff, and deliberating our options. We also received written testimony, including from the Development Review Advisory Committee, and the Tree Code Oversight Advisory Committee and heard from a number of individuals, including representatives from the Urban Forestry Commission, and the Portland Bureau of Transportation. Aside from the appointed committees and commissions, the comments from the general public supported stronger trees regulations. We also heard support for a subsequent, more comprehensive Title 11 update to improve preservation of trees on development sites, among other issues related to Title 11.
3. The PSC grappled with a number of issues, including whether to recommend a graduated fee-in-lieu of tree preservation based on the number of replacement trees or inch-for-inch replacement beginning at a designated tree size, and whether there should be a cap on the fees. Concerns were expressed about the seeming reliance on mitigation for tree removal, and frustration that the current regulations do not ensure trees on development sites are



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portlandoregon.gov/bps
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

Printed on 100% post-consumer waste recycled paper.

actually preserved. However there were also concerns about the impact of additional costs on development, including affordable housing and on homeowners that might simply want to build on a new room or a deck.

4. Ultimately, the Commission recommends a modified Proposal B. We feel that Proposal B, with our modifications, continues to balance city goals for the urban forest and development, while providing additional incentives to preserve trees on development sites.

- Like proposal B, the recommendation includes a graduated fee-in-lieu of preservation. This graduated fee approach, with a proposed cap, will increase fees not only the largest trees, but also the medium - large trees on development sites.
- We recommend lowering the threshold to 36” diameter. At this threshold, to preservation or payment in lieu of preservation is required for all trees, and public notice is required in cases of removal. Based on a data sample presented at the hearing by BDS:

| Diameter Inches | # of Trees | % of Total Trees |
|--------------------|------------|------------------|
| 12-19 | 86 | 47% |
| 20-29 | 62 | 34% |
| 30-35 | 23 | 13% |
| 36-42 | 7 | 4% |
| >42 | 6 | 3% |
| Total Trees | 184 | 100% |

- We also recommend a longer public notice period to provide more time for communication and potential negotiated solutions between developers and neighbors.
- We also recommend that the amendments apply to City and Street Trees (those on City-owned or managed property and those in the public right-of-way) as well as trees on private property. We believe this is fair and appropriate that the City be subject to at least as stringent requirements as are applied to private developments and other public projects.
- Finally, we recommend a sunset date to the new regulations as an impetus to fund and initiate a more comprehensive Tree Code update project in a timely manner.

The Commission voted 7-2 to recommend approval of a modified Proposal B, modified as described below.

Recommendation

The Portland Planning and Sustainability Commission recommends that City Council amend the Tree Code (Title 11) as shown in Proposal B (Bureau of Development Services, 12/11/15) with the following modifications:

1. Lower the proposed new threshold for large trees from 50” to 36” diameter (and greater) at 4.5 feet above ground surface. All trees this size and greater on a development site will be required to be preserved or to pay a fee in lieu of preservation, even if they are not used to meet the general 1/3 preservation standard (preservation of at least 1/3 of non-exempt trees on a site). In addition, all trees this size and greater that are not designated to be preserved are subject to the notification requirement.



2. Increase the amount of mitigation for trees that are 50 or more inches in diameter from 10 to 15 replacement trees. The recommended schedule for the fee in-lieu of preservation is as follows:

| Recommended Amendments | | |
|---|---|---|
| Size of Tree Removed (inches in diameter) | Number of 2-inch Replacement Trees That Fee is Based On | Corresponding Current Fee In-Lieu of Preservation |
| At least 12 and less than 20 | 2 | \$1,200 |
| At least 20 and less than 36 | 4 | \$2,400 |
| At least 36 and less than 50 | 6 | \$3,600 |
| 50 or more | 15 | \$9,000 |

- 3. Apply the amendments to City Trees and Street Trees, in addition to Private Trees.
- 4. The notice requirement should be increased from 14 to 30 days. It will include notification to the neighborhood association in addition to an on-site posted notice.
- 5. Adopt a sunset date of December 31, 2019.

Sincerely,

Andre' Baugh
Chair, Portland Planning and Sustainability Commission

cc: Urban Forestry Commission

