

SEATTLE URBAN FORESTRY COMMISSION

Tom Early, Chair • Steve Zemke, Vice-Chair
Weston Brinkley • Leif Fixen • Megan Herzog • Craig Johnson
Joanna Nelson de Flores • Sarah Rehder • Andrew Zellers

The Urban Forestry Commission was established to advise the Mayor and City Council concerning the establishment of policy and regulations governing the protection, management, and conservation of trees and vegetation in the City of Seattle

November 1, 2017

Meeting Notes

Seattle Municipal Tower, Room 2750 (27th floor)
700 5th Avenue, Seattle

Attending

Commissioners

Tom Early – chair
Steve Zemke – vice-chair
Weston Brinkley
Leif Fixen
Megan Herzog
Craig Johnson
Joanna Nelson de Flores
Sarah Rehder
Andrew Zellers

Absent- Excused

None

Staff

Sandra Pinto de Bader - OSE
Maggie Glowacki - SDCI
Elizabeth Weldin - SDCI

Guest:

Nathan Torgelson – SDCI Director

Public

Jim Davis
Michael Oxman
Rebecca Watson
Kelly Wilkinson
Ruth Williams

NOTE: Meeting notes are not exhaustive. For more details, listen to the digital recording of the meeting at: <http://www.seattle.gov/urbanforestrycommission/meetingdocs.htm>

Call to order

Tom called the meeting to order.

Public comment

Jim Davis – He is a private resident in Magnolia, retired from the health sector. He is a fan of the benefits of trees. Wanted to make three points that he doesn't think have been brought up:

- An arborist that is employed by the developer or a tree service company shouldn't be making decisions about whether a tree is significant. That's a financial conflict of interest. There should be an independent arborist that reviews trees under new regulations.
- Inspectors for SDCI should have access to private property. There are examples of instances when inspectors have not been able to access private property to verify, for example, if there is a grove of trees.
- We've had many instances in which exceptional trees have been cut down in Environmentally Critical Areas and by the time the inspector arrives, the trees are gone. Since the tree has been cut down, the inspector can't prove it was exceptional, thus no violation is issued. You can't stop once the evidence is gone, otherwise there is no way to prove there is a violation.

Thank you for your work to protect trees.

Ruth Williams: wants to make several points. On the issue of DADUs, if the developers were allowed to build up it would help retain trees. We have the Green Factor system already. Whatever was done when the development took place, the tree requirements need to be attached to the property and be tracked because new owners have no idea and the required trees end up dying or being removed. The Thornton Creek Alliance supports a strong tree ordinance that will enhance the growth of Seattle's tree canopy.

Michael Oxman: He is on the board of Green spaces coalition. Their mission is to preserve surplus City land that is being sold by the City. There are recent instances when the City has sold property at market value to comply with court decisions (specifically, from a lawsuit to SCL). That argument may no longer be applicable. As an arborist he reviews building plans and permit applications. He has noticed in several instances when diameter of trees is misrepresented thus not qualifying them as exceptional. In terms of DADU's the UFC said that the on-street parking would save trees. You have to dig out a larger area to accommodate a parking spot. The dimensions used in building permit applications don't accurately reflect the final impact to our urban forest.

Adoption of October 4 meeting notes

ACTION: A motion to approve the October 4 meeting notes as written was made, seconded, and approved.

Tom mentioned that we will be re-sending the letter originally written to CM O'Brien on DADUs.

SDCI Tree Regulations Research Project briefing

Nathan Torlgelson, SDCI Director – thanks the UFC for the flexibility to schedule this briefing. Hired an excellent temporary staff to look at how we are applying tree regulations and best management practices in other cities. Something that he wants to recognize is that we know we can improve a lot in how we protect our trees. He is committed to making things better. Are already hard at work on implementation of Mayor Burgess' executive order (EO). Already working on penalty assessment requirements.

Recently updated design review process and regulations for that. CM Johnson added that a structure could be taller if it would help save an exceptional tree. Tree regulations are in several areas in the land-use code.

UFC question: one of the problems is people knowing whether a tree is exceptional or not. If there is a permit system, that would provide a check to confirm the tree size.

Answer: we'll cover that in the briefing. The EO covers primarily process improvements. SDCI will brief the new mayor to see how she wants to move forward. CM Johnson is anxious to move forward on that. Will hand it to Maggie for the full presentation.

Maggie was last with the Commission to brief them about Environmentally Critical Areas. Appreciates the UFC invitation to brief them on the Tree Regs research project.

This was a joint project between SDCI and OSE. Hired a temporary employee to look at a wide breadth of data. We looked at what other cities are doing (close by and similar in size). The objective of the study was to come up with recommendations. We have heard a lot that changes to current regulations were necessary. We decided to look at how things are going to inform recommendations.

It was difficult to cull the data to get at the info needed. We looked at all projects that involved trees. Multi-family Low rise and SF were the zones we concentrated efforts.

Overview of what our code protects:

- Defines exceptional trees, based on size, species, grove, or heritage.

- A grove is 8 or more trees with = or > 12 inches in diameter forming continuous canopy.
- Heritage, designated by community and City of Seattle.

Code Title 25 – removal of protected trees - exceptions

- Prevent full development potential or hazardous (if hazardous, no replacement required).
- Removed exceptional trees and >24" to be replaced, unless hazardous.

Code title 23 – Development standards

New and 100% redevelopment

Single-family – trees required. Preservation and planting options.

- Lots >3,000sqft – 2" diameter/1,000sqft.
- Lots <3,000sqft – 3" diameter/lot.

Multi-family low-rise – street trees required.

- Exceptional trees
 - o If preserved, no Design Review for tree protection required.
 - o If not preserved, Streamlined Design Review required to allow exceptions.

Project findings

Hazardous tree removal approvals: We are losing exceptional trees (and groves) in general. Most in ECAs. Majority landslide-prone areas. Hazardous = no replacement.

Type I and Type II permits

Development and Hardscape increase – tree loss.

Conifers/large species coming out. Deciduous/dwarf species coming in.

- Landscaping standards final inspection not consistently applied.
- Design review ‘process’ is not helping to preserve trees.

Hazardous tree removal approvals

- 725 hazard tree removal approvals (2008-2016).
 - o 59% in steep slopes.
- Approvals often include more than one tree.
- No replacement required.

Trees removed prior to development without approval

- Trends: tree cutting complaints resolved as “non-violation” 2008=27%, 2010=52%, 2015=75%.
- Tree cutting complaints with retroactive hazardous tree removal approval and no violation. Hazardous = no replacement.
- Perceived lack of responsiveness to tree removal complaints (public comment at UFC).

Type I and II permits

- Inconsistent application of regulations during permit review.
- Landscaping standards inconsistently inspected/enforced.
- Infrequent use of final inspection form – DR 30-2015.

Also found that hazardous trees designations were being given after the fact.

Type I permit doesn’t require public notification.

Type II are larger projects that do require notification and can be appealed to Hearing Examiner.

Tree permit research

Permit highlights – Portland, Sammamish, Lake Forest Park

- Tree permit for tree removal on private property both during and outside development.
- Tiered permit type associated with/without development.

- Categories of trees: exceptional, heritage, grove, and significant (6-12 inches).
- Allowances for tree removal based on zone and lot size per/year and over “X” years.
- Emphasize retaining with hierarchy.
- Require replacement/mitigation for hazardous tree removal.
- Replacement required when trees are allowed to be removed.

Recommendations – Three options

1. Improvements to implementation of existing regulations.
 - a. Code implementation improvements.
 - b. Process improvements.
 - c. Other opportunities.
2. Permit system and protect additional trees
 - a. All of 1 and 2.
3. Permit system “plus” and protect more trees
 - a. All of 1, 2, and 3.

UFC question: are surveys required?

Answer: In some circumstances surveys are required based on the extent of the development.

Option 1: Existing Regulations with Improvements

Existing Code with – Process improvement

1. Revise definition for ‘hazard’ conditions.*
2. Require consistent documentation for permit applications that include tree code requirements and for tree removal applications. *
3. When tree replacement required = canopy for replaced tree.*
4. Add tree survivability language. **
5. Update Director’s Rule for exceptional trees. *
6. Payment in lieu and performance bond. Address potential equity concerns. *

*In Mayor’s Executive Order

** Other recommendations not included in the Executive Order

Existing with – Process Improvement

1. Record tree counts throughout development process (pre-application site visit all the way to final inspection). **
2. Require use of Hansen/Accela monitoring tools. **
 - a. Monitor tree-related site work.
 - b. Add survivability monitoring.
3. Ensure use of landscape improvement checklist at final inspection, and upload to EDMS as individual doc with that title so that it can be queried. *
4. Add dedicated urban forestry staff to oversee all tree and landscape regulations.*
5. Remove Vine Maple from ECA Revegetation List and GF Tree List to improve size class distribution.*

*In Mayor’s Executive Order

** Other recommendations not included in the Executive Order

Other

Implement training program

1. Internal
 - a. Tree protection/preservation/planting.

- b. Code enforcement.
- 2. External
 - a. Training requirement for tree service companies.
 - b. Hold them accountable for illegal removals.

Option 2. Permit System and Protect Additional Trees

All of option 1 and:

- Private property tree removal permit.
 - o Track allowance for annual removal of three trees >6".
 - o Remove allowance for unlimited tree removal in SF<5,000.
 - o Require mitigation.
- Create tree injury/removal violation penalties.*
 - o Hold tree service company accountable.
 - o Administrative appeal of penalties.

*In Mayor's Executive Order

Option 3. Permit System "Plus" and Protect more trees

All of Option 1, 2, and:

- Protect tree groves through covenants.
- Provide support to home owners.
- Explore transfer of development rights.

Mayor's Executive Order - Timeline

May – recommendations from research submitted to Mayor Murray's office.

June – Mayor Murray decides to issue an Executive Order regarding tree protection.

Executive Order to addresses the non-legislative recommendation (Option 1).

October – Mayor Burgess signs the Tree Executive Order.

- Directs implementation of recommendations that do not require code changes (Option 1, non-legislative)
- Directs Office of Planning and Community Development to work with UF Core Team to help preserve trees.

Option 1 – recommendations

1. Revise definition for 'hazard' conditions.
2. Require consistent documentation for permit applications that include tree code requirements and for tree removal applications.
3. When tree replacement required = canopy for replaced tree.
4. Update Director's Rule for exceptional trees.
5. Payment in lieu and performance bond. Address potential equity concerns.
6. Ensure use of Landscape Improvement Checklist at final inspection, and upload to EDMS as individual doc with that title so that it can be queried.
7. Add dedicated urban forestry staff to oversee all tree and landscape regulations.
8. Remove Vine Maple from ECA revegetation list and GF tree list to improve size class distribution.
9. Write new Director's Rule – establish penalties for illegal tree removal.

Next steps

- Implement Mayor's Executive Order.
- Brief new mayor.
- Work with City Council.

UFC question/comment: Is there something in the budget for additional UF support to SDCI?

Answer: That would be part of Option 2 and 3. Whenever we submit new legislation to Council we have to provide a fiscal analysis.

SANDRA WILL KEEP IN TOUCH WITH SDCI STAFF TO BRING DR'S TO UFC FOR INPUT.

UFC question/comment: Is Option 2 being put on hold because it would have to change code? Option 1 is fast implementation?

Answer: that is correct

UFC question/comment: for Option 2 and 3, are you actually recommending that those be pursued?

Answer: per the research those are options that are being recommended for the new mayor to consider. If we are to move forward with the permit, then SDCI would submit a fiscal analysis of the new legislation impacts. Nathan wants to stress this is not a formal recommendation from SDCI or OSE. These were recommendations from the temporary staff hired to do the analysis. There is a variety of options that the Mayor could decide. It could be that the Mayor thinks that this should be a Council-driven body of work.

UFC question/comment: what's the timing of a tree permit presentation to the new mayor.

Answer: each department is putting together transition papers and trees is included but there is no clarity in terms of timing at this point.

UFC question/comment: looking forward to getting the details of the work. It will address many of the concerns expressed by the public over the years.

Seattle Children's letter of support

Tom put together a letter of support giving kudos to Seattle Children's for going the extra mile to protect trees.

ACTION: A motion to approve the letter as amended with photos was made, seconded, and approved.

Public comment

Rebecca Watson – The Seattle Nature Alliance. Thanks the UFC for their efforts. Supports strengthening tree policy. Comment focuses on policies, rules, regulations, would like to see public education effort around new regulations. How can we make other people do what Children's Hospital does?

Richard Ellison – There is a concern about changing of Single Family zoning in urban villages to eliminate it. In terms of Detached Accessory Dwelling Units, he had a discussion with Brennon Staley on how to preserve exceptional trees. Brennon said trees are incompatible with DADUs. He also said, that we can't save exceptional trees. If the City not going to be protecting exceptional trees we are going to lose our canopy cover. The land grab by the government is not addressing the need for trees.

Michael Oxman – Seattle weekly published an article on the tree regulations project on 10/28/17. Pointed out that the City study is not accurate (it doesn't use comparable cities). There is a more recent ordinance in Woodinville. Plant Amnesty uses covenants in the deed of a property to enforce the Heritage Tree component. We heard from the Director that this ordinance is not being informed. Why not? He said that the scope of the report was done by a temp. The scope of the report should have included money. SDCI enforces the penalties and yet is the lead agency to determine what the penalties are. The Auditor's Office said in its 2009 report that it should be OSE because its impartial. Michael mentioned a Seattle Weekly article about tree regulations. The article can be found here: . <http://www.seattleweekly.com/news/will-seattle-finally-protect-its-tree-canopy/>

New Business

Sandra provided an update on Position 2 recruitment process. And announced that there will be recruitment for 5 positions in Q1 2018. Green Seattle Day is this Saturday. 1,200 people already registered for the event. The Mayor, CM Johnson, CM Bagshaw, and CM Herbold will be attending. The draft EIS HALA report will be released soon. Community members are likely to comment on it.

Send a letter to the Mayor about the EO

The Urban Forestry Commission applauds your leadership on taking action to improve tree protection in Seattle through your Executive Order 27-11 - Tree Protection, which directs City Departments to improve departmental coordination, strengthen enforcement, and adopt new rules and regulations to improve and expand protections for Seattle's urban trees and canopy coverage.

The Commission also commends the effort done by SDCI and OSE for their work studying the effectiveness of current regulations and putting together the options that informed the Executive Order (EO) as well as additional recommendations.

SDCI briefed the Commission on the Tree Regulations Research Project findings and recommendations, which included Options 1, 2, and 3; and the work they are currently undertaking to implement the EO, which addresses Option 1 of the project recommendations.

The Commission recommends that the City continue the deliberative process to consider implementation of Options 2 and 3 to further support Seattle's canopy cover, tree protection, and tree preservation.

The Commission has previously recommended the benefits of a tree permit system for the city and is eager to support the City's efforts implementing these actions.

ACTION: A motion to approve the letter was made, seconded, and approved.

Adjourn

Public input:

From: Anita Shelton <anitamshel@me.com>
Sent: Sunday, October 29, 2017 2:16 PM
To: Pinto de Bader, Sandra
Subject: Tree cutting

Hi Sandra,

I am not able to attend the hearing about valuable trees being cut in our neighborhoods but I am very concerned about the loss of large established trees due to development and cutting. I live on 77th between Fremont and Linden and in the 15 years we have lived here we have lost 8 large Doug Firs on our block and several other large trees within 1 - 2 blocks. One tree was lost to disease, one to development and the others were removed because the owners just had different plans for their lot.

I am also noticing the rapidly accelerating climate change, which is happening faster in cities than rural areas because of concrete, cars, tree canopy loss and diminished carbon sequestration. We know that the two things we need to do to address climate change are 1) Stop all new fossil fuel development 2) Massive reforestation including planting 130 trees for every human on earth. We also need to stop cutting down the important established trees which sequester carbon, filter pollutants, provide shade, beauty, habitat, mental health benefits and increase property values.

Seattle needs to take a hard line on developers and others for unauthorized tree removal, do more to protect our existing

tree canopy, plant street trees in front of every house in every neighborhood, require homeowners and developers to replace trees that are removed and establish city wide summer tree watering programs for residential and commercial areas. With climate change we are beginning to lose trees due to drought stress. Some of this could be prevented by getting simply making residents aware of the need to water established trees through the summer drought season.

Sincerely,

Anita Shelton
729 N 77th St
Seattle, 98103

From: Andrew Kirsh [mailto:andrewkirsh@hotmail.com]
Sent: Wednesday, November 01, 2017 3:12 PM
To: Pinto de Bader, Sandra <Sandra.Pinto_de_Bader@Seattle.gov>
Subject: Comments re today's briefing on tree regs

Dear Ms. Pinto de Bader,
Please forward these comments to the UFC commissioners.
Thank you,

Andrew Kirsh
Capitol Hill

Canopy calculations and zoning:

The HALA/MHA DEIS authors used faulty calculations to assert that upzoning single-family zones to Lowrise would have a negligible effect on tree canopy coverage. They likely greatly overestimate tree canopy associated with Lowrise structures by assuming that Lowrise zones are built out (i.e., that the Lowrise zone maps comprise only Lowrise structures), whereas in fact, Lowrise zones contain many parcels with single family houses and high tree canopy coverage, and it is these parcels that contribute most of the tree canopy in Lowrise zones. For example, an analysis of five blocks in the Capitol Hill Lowrise zone revealed that 56-90% (average, 73%) of the tree canopy coverage on each block was contributed by parcels that still have single family houses, which have far higher average canopy coverage than parcels with Lowrise structures. Any tree canopy coverage figures used to assess development impacts on tree canopy coverage should reflect the actual structure types on specific parcels, not the zoning map. The map is not the territory. I support monitoring of tree loss on all developments, and long-term monitoring of the success or failure of measures taken to protect trees during development.

Neighborhood design guidelines:

In public comment on the final draft of the Capitol Hill Neighborhood Plan, the two topics that received the most comment by far were parking and tree preservation. Tree preservation measures in the original Plan were watered down by the City's consultants, and the City did not respond to calls to strengthen them. When the Capitol Hill Neighborhood Plan Stewardship Council wrote the Capitol Hill Neighborhood Design Guidelines, we included a clause that strongly discourages design departures that threaten the health and survival of existing mature street trees. Thus, the design guidelines are ahead of the City. This has been undermined by the introduction of rowhouse developments and other relaxations of front setback requirements, which effectively give away the front setback departure that can harm street trees without the developer having to request a departure. (I've been told by someone who makes a living doing rowhouse developments that he wrote the Code regulating them.) I asked then Councilmember Sally Clark, who I believe at the time headed the Land Use Committee, if she had read the various Neighborhood Design Guidelines before approving the Code changes, and she had not. The Capitol Hill guidelines are currently being revised by SDCl through the guidance of the Capitol Hill EcoDistrict, a largely developer-directed group that has shown little interest in tree preservation and canopy replacement. Regulatory capture is clearly a

problem.

Hazard trees:

Hazard trees still provide ecosystem services and aesthetic and psychological benefits, or did at one time, and there is no reason why they should not be replaced after removal. Their hazardous status is only one quality and it does not negate their other, positive qualities.

Multi-family buildings

Multi-family buildings should be required to include trees on the lot, not just street trees. Streets in rowhouse neighborhoods such as Gramercy in Manhattan and Georgetown in Washington D.C. tend to have either or both generous front setbacks that provide room for trees of significant size, or undergrounded utilities that allow for street trees of significant size. Seattle has the worst combination: setbacks too shallow for significant trees, plus above-ground utilities.

Other cities have successful, rigorous tree ordinances to maintain and increase healthy canopy. Of the options presented, I support Option 3.