



CITY OF KIRKLAND
Planning and Building Department
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Deb Powers, Urban Forester
Jeremy McMahan, Planning and Building Deputy Director
Adam Weinstein, AICP, Planning and Building Director

Date: February 4, 2020

Subject: Tree Removal Allowances
Draft Code Amendments Kirkland Zoning Code Chapter 95, Tree Management and Required Landscaping, File Number CAM18-00408

Staff Recommendation

City Council should continue their review of the Planning Commission's recommendations for amendments to [Kirkland Zoning Code Chapter 95](#) (KZC 95) and provide direction for staff on remaining issues. The February 4 discussion will focus on one of the six topics introduced at the January 21, 2020 study session: Draft KZC 95.23, "Tree Removal - Not Associated with Development Activity".

Background

At the January 21, 2020 City Council study session, staff presented the Planning Commission's (PC's) recommendations on code amendments to KZC 95. At that study session, staff presented the following six key code changes reflecting the most substantive issues that resulted from the public hearing, Houghton Community Council (HCC) deliberations and PC recommendations:

1. Tree removal allowances
2. Landmark tree definition
3. Grove definition
4. Tier 2 tree definition
5. Retention requirements to retain Tier 1/Tier 2 trees
6. Eliminate phased tree retention with short plats/subdivisions (IDP)

As City Council examines each of these key code changes in detail, staff will maintain a matrix (see Attachment 1) to document progress towards a decision on each topic, as well as remaining issues/questions to address at future meetings. This matrix conveys the City Council's guidance expressed at the January 21, 2020 study session and provides additional information so that Council may deliver direction for staff on the remaining key code changes to KZC 95. The current strategy is to bring one unresolved topic to each Council meeting for focused discussion.

Key Code Change #1 – KZC 95.23: Tree Removal Allowances Not Associated with Development Activity

Tree removal allowances establish a process and standards to slow the loss of tree canopy on private property, contributing towards the City's canopy goals and a more sustainable urban forest. The basic premise is to allow homeowners the right to remove trees on their property yet spread the loss of canopy cover over time.

Although these removal allowances are focused on tree removal that is not associated with development activity, there is some overlap in the definition, applicability and protection of landmark trees. The appropriate size of landmark trees will be discussed at a future meeting under key code change #2, landmark tree definition; however, the permit requirements and time periods related to landmark tree removal where no development is involved will be discussed herein.

City Council Direction from January 21:

The City Council reviewed the presentation slide with a draft table establishing numbers of trees allowed for removal over differing property sizes within 12- (regulated tree) or 24-month (landmark tree) time periods. Council indicated support for those allowances and individual Councilmembers requested staff to:

- Revise Forest Management Plan tree replacement requirements to be consistent with tree sizes for other replacement requirements in the code
Staff response – will update accordingly
- Clarify the hedge/grove definitions (to be addressed under key code changes #2, #5)
Staff response – will update accordingly and return when items #2 and #5 are addressed
- Clarify how condition ratings apply to landmark tree removal allowances
Staff response – the intent of the condition rating was to apply to tree removal with development, in response to a desire for increased "predictability." Homeowner (non-development) removals of landmark trees would only be allowed if those trees were considered to be hazardous or a nuisance. This requires a change to the definition of landmark trees so condition ratings do not apply to homeowner tree removals (i.e., removal without development activity) can happen only if the landmark trees are hazardous or a nuisance).

Additional Background Information

Tree removal allowance-related code issues, options and the PC's ensuing recommendations in response to public feedback and HCC deliberations include the following:

Issues the Planning Commission addressed:

- Some owners of larger properties feel that the current tree removal allowance is not equitable, particularly when larger properties are heavily treed.
- Under the current code, a property owner is generally entitled to remove one or two trees per year provided there are not pending development permits for the property. Developers will commonly exercise this right (or have the seller exercise this right) immediately prior to submitting a development permit application. In many cases, the trees are not removed by felling to the ground but rather by girdling, potentially

resulting in a hazardous tree. Intern findings indicate a prevalence of preemptive tree removal.

- When hedges include trees or shrubs that are at least 6 inches in trunk diameter, property owners that wish to remove overgrown hedges and replace them with more appropriate species are restricted by the “two-per” allowance. If the trees/shrubs do not fit the hazard/nuisance criteria, only 2 could be removed every 12 months.

Options the Planning Commission considered:

- Allow 2, 4, or 6 tree removals per every 10,000 square feet of increased property size similar to Redmond, Issaquah, Sammamish, and other cities.
- Consider how other cities prohibit preemptive tree removal
- Codify the industry standards for Tree Risk Ratings for hazard tree criteria
- Establish a new landmark tree provision (Key Code Change #2) and prohibit or restrict the removal of landmark trees.

The HCC expressed concern over an outright prohibition on landmark tree removal and indicated that such a prohibition may prompt the HCC to exercise disapproval jurisdiction.

Draft Code Planning Commission Recommendations:

- Allow increased tree removals for larger properties.
- Outside of development, limit Landmark tree removal to one every 24 months through a permit process with robust replanting required.
- To disincentive preemptive removals, don't accept applications for short plats and subdivisions within one year of tree removal, with a two-year timeframe where Landmark trees are removed.
- Allow the removal of overgrown hedges comprising trees over 6 inches trunk diameter (DBH) if replacement trees of more appropriate species are replanted.

Explanation of Current Tree Removal Process

Most tree removal on private property is characterized by owners of developed properties that want to remove one or two trees within a 12-month period; activity that is exempt from a permit requirement under the current code. Additional trees may be removed without a permit as described below, unless the number exceeds the allotted removal allowance per year. In the case of the latter, a permit is required to verify that the trees fit the criteria for additional removal.

No Permit Required

The owner of a developed property wants to remove up to two trees within a 12-month period, there is no pending development application, and the following conditions are met:

- At least two significant (“regulated” per draft code) trees remain
- The property is not covered by the tree retention agreement required for new development (new residence built within the last five years) *
- The trees are not in a Native Growth Protection Easement (NGPE)
- The trees are not in a critical area or its buffer (i.e., streams, steep slopes, and wetlands)
- There are not subdivision restrictions listed on the deed or plat map

- The property is not subject to the shoreline vegetation requirement
- The property is not within the Holmes Point Overlay (HPO)

Although the “two-per” tree removal does not require a permit, the City makes available a tree removal notification form that enables property owners and tree removal companies to verify code compliance and document the activity in advance of the actual removal. Tree removal notification requests are free of charge.

*Most trees that are retained on development sites are protected with a 5 Year Maintenance Agreement that, once it expires, allows the trees to be removed under the homeowner tree removal codes.

Permit Required

Tree removal or pruning requests that are not exempt from a permit as discussed above must be approved by the City prior to proceeding. These permits fall into the following two categories:

- Tree Removal Permit for removal of more than the current “two-per” tree removal allowance or for removal that does not meet the conditions noted above (for example, in a critical area buffer, in the HPO). While an arborist report is generally required with this permit, an applicant may instead submit photos for trees with obvious defects or for trees causing obvious damage to property. Arborist reports must be completed by a qualified professional.
- Public Tree Removal & Pruning Permit Application for either the pruning or removal of street (public) trees. Removal of public trees requires an arborist report by a qualified professional to verify the tree fulfills hazard or nuisance criteria. Unlike tree removal permits on private property, permits for right-of-way tree removal are reviewed by the Public Works Street Division. Public tree removal permits require a fee; pruning requests have no fees, but an ISA (International Society of Arboriculture) Certified Arborist is required to prune public trees to the ANSI A300 Standard.

Next Steps

Following the direction provided to staff at the February 4, 2020 City Council meeting, staff will return to Council for review and discussion of each of the remaining key code issues for consensus direction on changes to the draft code. Council may wish to discuss holding a special meeting in order to devote more time to a focused review of the Planning Commission recommendation. Substantive changes to the draft code may warrant additional public comments and/or hearings.

Attachments

1. Key Code Change - City Council Direction

cc: File Number CAM18-00408
Planning Commission
Houghton Community Council

Key Code Change	Consensus Tracking	Outstanding Issues/Questions	Status on Code Change
1. TREE REMOVAL ALLOWANCES			
<p>Allow increased tree removals per property size <i>Without a permit</i></p> <p>Limit landmark tree removals <i>Permit required (HCC does not support prohibiting landmark tree removal)</i></p> <p>Address preemptive tree removal issues <i>Development permit wait period, girdling language</i></p>	<p>Concur with general concept and recommended tree removals per property size</p>	<ol style="list-style-type: none"> 1. Revise Forest Management Plan tree replacement requirements to be consistent with tree sizes for other replacement requirements 2. Clarify the hedge/grove definitions (to be addressed under key code changes #2, #5) 3. Clarify how condition ratings apply to landmark tree removal allowances 4. Landmark tree size and replacement requirements (address under #2, #5 below) 	
2. LANDMARK TREE DEFINITION			
<p>Establish new criteria for large, mature tree protection on development sites</p>	<p>Concur with special protection for landmark trees, size threshold for definition of a landmark tree unresolved</p>	<ol style="list-style-type: none"> 1. Could staff provide more information/data on DBH (size) of trees found on development sites? (yes – additional data pending) 2. Should landmark trees be defined so condition rating does not apply to homeowner tree removal allowances (keep hazard/nuisance as criteria for removal)? 	
3. GROVE DEFINITION			
<p>Define groves by condition, increase size threshold to 12" DBH minimum each</p>		<ol style="list-style-type: none"> 1. Clarify the hedge/grove definitions 2. Why do groves get more protection (covenant) than landmark trees (if landmark removal is not prohibited)? 3. Why are groves important; what's their purpose? 4. What's data on grove designation (infill vs SPL/SUB)? Size of lot? Grove designation with remodel? Typical size lots? 5. Clarify the hedge/grove definitions 	
4. TIER 2 TREE DEFINITION			
<p>Establish criteria for trees on development sites other than landmark-groves <i>Previously High Retention Value trees</i> <i>HCC recommends a quota approach</i></p>			
5. RETENTION REQUIREMENTS FOR TIER 1/TIER 2 TREES			
<p>Tree retention/replacement with development</p>			
6. INTEGRATED DEVELOPMENT PLAN (IDP)			
<p>Eliminate phased review citywide</p>	<p>Concur with eliminating phased review for short plats and subdivisions citywide</p>		<p>Consensus on general concept</p>