CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: September 22, 2009 Time: 11:00 a.m. Length: ½ hour

Presentation Title: Trees Task Force Report and Draft Trees Ordinance

Department: Transportation and Development

Presenters: Eileen Eakins, Trees Task Force Chair, and Jennifer Hughes, Senior Planner

POLICY QUESTION

Does the Board of County Commissioners want the Planning Division to proceed with implementing provisions to protect the County's urban tree canopy?

ISSUE & BACKGROUND

Last fall the Board of County Commissioners appointed a Trees Task Force. The task force was charged with developing recommendations to amend the Zoning and Development Ordinance (ZDO) to ensure that the tree canopy in urban, unincorporated Clackamas County is maintained, preserved and enhanced by controlling predevelopment tree cutting without prohibiting development.

The charge also included recommending other actions designed to contribute to long-term management of the County's urban forest reserves. A copy of the Task Force charge, as revised in February 2009, is attached.

Staff would like to express its deep appreciation to the 12 task force members who met 11 times over nine months (approximately 34 hours of meetings each) and devoted countless additional hours to reading, researching and otherwise preparing for meetings. Their hard work resulted in a:

- Draft proposed ordinance to become a new section of the ZDO (attached), and
- *Parking Lot Issues* list that identifies related topics and programs (attached).

The members (see attached list) represented diverse interests and viewpoints, which resulted in many lively and in-depth discussions about many aspects of the draft ordinance and related issues. The task force developed, discussed and voted on the draft ordinance section by section and, while many of the votes were split, the sense of respect and teamwork grew throughout the process.

The major provisions of the draft ordinance are summarized by the attached *Impact of Proposed Tree-Cutting Ordinance* handout.

- Urban single-family-residential property is proposed for exemption from the new regulations, provided that such property is not divisible.

- Divisible urban single-family-residential property, as well as property specially assessed as farm- or forestland, would be exempt in exchange for a five- or 10-year moratorium on most development.
- Property that is regulated by the new provisions would be exempt from tree removal permits for certain trees (e.g. two trees in each two-year period, trees less than eight inches in diameter-at-breast-height).
- The draft ordinance includes mitigation planting for removed trees and protection for trees during construction.

The *Parking Lot Issues* list was developed throughout the series of Task Force meetings. Items were added at the request of any Task Force member, and the list subsequently was edited by staff to include only those program suggestions that appear largely separate from the regulatory program proposed by the draft ordinance. Parking lot issues that represented suggestions for the ordinance itself, but did not receive majority support from the Task Force, are available for review and consideration during any ordinance adoption process that may follow.

The Planning Division's adopted budget for the current fiscal year includes the project to adopt amendments to the ZDO to regulate tree removal; however, it does not include staffing for the additional program elements identified by the Task Force.

QUESTION(S) PRESENTED FOR CONSIDERATION

1. Does the Board want to initiate an amendment to the Zoning and Development Ordinance to adopt tree removal regulations?

2. Should the Planning Division prepare a work program, for consideration during the next budget adoption process, for one or more of the items listed on the *Parking Lot Issue*s list?

OPTIONS AVAILABLE

For Question 1: The Board may initiate the amendment to the ZDO, decline to initiate the amendment, or direct staff and/or the task force to do additional work on the draft ordinance before a decision is made on whether to initiate an amendment.

a. Initiating the amendment would begin the formal land use regulation adoption process required by Oregon law and the ZDO. This includes:

- Notice to the Department of Land Conservation and Development, Community Planning Organizations and other interested parties, and—depending on the specific proposal—individual property owners.
- Public hearings before the Planning Commission and the Board.
- In addition, an amendment of this magnitude typically includes a Planning Commission work session.

Costs would include staff time to process the amendment, and to process tree-removal permits if an amendment is adopted. Processing costs can be defrayed by permit fees, but are not likely to be fully recouped under the Planning Division's current fee structure. If individual property owner notice is required by state law (currently under review by County Counsel), the cost of the mailing is estimated to be approximately $6,000.

b. Declining to initiate the amendment would end the regulatory aspect of the urban trees project. The existing provisions of the ZDO related to trees would continue to apply, meaning that predevelopment tree removal would remain unregulated by the County except in certain riparian areas.

c. Directing staff and/or the task force to do additional work on the draft would be beneficial if the Board has specific concerns about the draft ordinance and would rather these concerns be addressed prior to beginning the formal ordinance adoption process. However, the Task Force already has devoted considerable time to this project and the members seem comfortable with moving to the next step.

For Question 2: The Board may direct staff to prepare a work program for any or all of the items on the *Parking Lot Issues* list, or may opt not to proceed with additional consideration of those items at this time. Preparing work programs has limited budgetary implications, but proceeding with items on the list would have implications in terms of the cost of implementation and in terms of ongoing maintenance.

RECOMMENDATIONS

For Question 1: Staff recommends that the Board initiate an amendment to the Zoning and Development Ordinance to adopt tree removal regulations. Grassroots support for such regulations resulted in the formation of the Trees Task Force, and staff believes that the task force product represents an excellent starting point for Planning Commission consideration.

For Question 2: Staff recommends that the Board direct us to prepare a work program to address the items on the *Parking Lot Issues* list, many of which seem to have substantial merit. However, on a cautionary note, staff is concerned that the Planning Division's budget constraints will necessitate some difficult choices about which projects—from this list and other worthy suggestions—can be funded next fiscal year.

SCHEDULE FOR STUDY SESSION

Division Director/Head Approval _____
Department Director/Head Approval _____
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Jennifer Hughes @ 503-742-4518.