

To: Board of Clackamas County Commissioners
From: Clackamas County Urban Green
Regarding: Study Session on draft of the Tree Conservation Ordinance
Date: 9-14-09

Chair Peterson; Commissioners Lehan, Bernard, Lininger, and Austin:

You will be meeting September 22 for a study session on the Tree Conservation Ordinance. It is crucial the BCC takes action to finalize a Tree Conservation Ordinance as soon as possible. Members of the public and even an individual Task Force member have stated that they would be taking advantage of the “loophole” to remove trees prior to an ordinance going into effect on applicable land.

It is also important that you understand that the Task Force did not vote to “approve” the draft ordinance as currently written. Also, the many votes on ordinance sections and provisions were often split, or the Chair voted to break a tie.

Urban Green does not think this draft fulfills the intent of the BCC to “maintain, preserve, and enhance the urban tree canopy.” There was no baseline understanding or agreement on “underlying assumptions” (including that an ordinance was even needed) that would serve as a framework from which to establish “filters” for specific ordinance provisions. The list of crucial items in the “Parking Lot” illustrates this point.

Specifically, as written, the draft ordinance:

1. Is not a stand-alone ordinance (refer to letter of April 6, 2009 sent by this author to Commissioner Lehan, Doug McClain, and members of the Tree Task Force); as an incorporated-ZDO, it is not comprehensive and includes ambiguous language that is ubiquitous in other County’s ZDOs
2. Lacks a Values statement
3. PURPOSE section:
 - 1020.01 A, regarding “balancing” and the “reasonable” removal of trees for development, solar access, view protection, health, and safety.’ This language and intent does not pass through the filter to maintain, preserve, or enhance the tree canopy, creates potential loopholes. The word “health”, in the definition and context intended by the submitting Task Force member, is not based upon scientific evidence
 - Does not contain language regarding developing a program to educate the public regarding the ordinance, on-going issues relevant to the urban tree canopy, etc.
4. AREA OF APPLICATION section:
 - 1020.02 B 1 and B 2. This whole section is unclear. It would appear that one could still build a single-family dwelling on land that should come under the 5-10 year moratorium after illegal tree removal. The intent, as I recall, was to prohibit any development on the subject lands for 5-10 years
5. DEFINITIONS section:
 - There is no definition of “tree canopy”

5. TREE REMOVAL PERMIT APPROVAL CRITERIA section:
 - 1020.07 A (1). First sentence is awkward. Alternatives should “minimize canopy loss”
 - 1020.07 A (2): alternatives to development should be able to trump the number of developable lots and dwelling units in order to preserve canopy and historical zoning
6. 1020.08 MITIGATION FOR REMOVED TREES section:
 - Citizen Planning Organizations’ volunteer labor is a willing, viable, and cost effect way to monitor adherence to this section
7. TREE PRETECTION DURING CONSTRUCTION section:
 - Citizen Planning Organizations’ volunteer labor could be sanctioned by the BCC to provide monitoring during construction and report any violations for a speedy response by the Planning Department
 - This section needs to make it clear that any violation of the tree protection measures during construction (including the temporary removal of the protective fence to gain access) constitutes a violation of this ordinance; remedial action needs to be clear in this instance
8. VIOLATIONS section:
 - This section combines violations, remedies, and fines all in one. They need to be separate, clear, concise, easily referenced by the reader. This lends credence to the argument that the ordinance should “stand alone.” And, it is further demonstration that Urban Green’s proposed ordinance and other ordinance examples were not used for reference

Urban Green also submits the following general comments as to the Task Force’s process:

1. At no time was consensus used to reach any of the provisions laid down in the draft
2. There were no clear “underlying assumptions” presented, discussed, nor agreed upon by which the Task Force could “evaluate and maintain the tree canopy in the urban, unincorporated area of the County” (a stipulation of the BCC’s Charge to the Task Force). Crucial underlying assumptions would have served as “filters” through which the Task Force would have evaluated the potential cumulative impact of ordinance provisions. These assumptions should have included understanding as to:
 - the benefits of an urban tree canopy (air quality, water quality and quantity, erosion control, temperature moderation, energy conservation, economic development and livability, visual and aesthetic values, property values, ecosystem preservation)
 - the specific sustainability goals of the BCC and underlying principles of Natural Step
 - how tree ordinances are written, constructed, administered, and enforced throughout the United States, not only in cities but counties
 - how a tree ordinance would impact some existing ZDOs and the Heritage Tree program
 - the principles of maintaining a tree and tree canopy
 - what the current baseline canopy inventory figure is for the unincorporated area within the UGB of Clackamas County and set a target goal for “enhancement”- -i.e. “how will we know when we’ve

- enhanced the tree canopy?”
 - the role of a special citizen group outside of those administering the ordinance, to oversee and track the implementation, effects, enforcement of the existing ordinance and propose changes to the ordinance over time should any loopholes or inconsistencies with the Board’s intent become clear (aka Tree Commission, Urban Forestry Commission, Urban Forestry Advisory Board, or Tree Board of Review)
 - the Clackamas County Comprehensive Plan pertaining to Natural Resources and Energy, Forest Policy; Natural Resources and Energy; Wildlife Habitats and Distinctive Resources Areas.
 - Oregon’s Statewide Planning Goals and Guidelines: Goal 5
 - Scientific studies pertaining to benefits of trees as listing in the first bullet point, as well as to seasonal affective disorder; Vitamin D deficiency; canopy cover targets
 - cost effective models of jurisdictions having tree ordinances
 - Metro’s *Integrating Habitats* program for residential, commercial, and industrial development, sponsored by Clackamas County
 - David Bragdon’s (Chair, METRO) understanding that METRO’s density objectives were not intended to pertain to established neighborhoods
- 3 Two members on the Tree Task Force were not chosen to be specifically represent the collective views of the realty or the Citizen Planning Organization community, as was the intent of the County with the recruitment advertisement of 7-10-08. Therefore, input from these advocates does not exist in the draft ordinance, except as far as captured in the minutes during the two, five minute public comment periods at each Task Force meeting
 4. The Planning Department did not develop a draft ordinance for review by the Task Force, nor was the proposal developed by Urban Green used as a starting point, as the Scope of the Task Force, as set forth by the BCC.
 5. Only a handful of Task Force members were familiar with other tree ordinances, as examples to use for structure and content
 6. Specific reference to street trees, commercial, industrial, and publicly owned trees (e.g. parks) is not addressed in the ordinance

Urban Green members offer to remain viable, active, and supportive participants in the continued action steps necessary to realize a Tree Conservation Ordinance. We have a large reference library from which to draw information to actualize this goal and a large constituency that supports these efforts.

Sincerely,

Catherine Blosser, member Clackamas County Urban Green, Tree Ordinance Task Force,
Oak Lodge Community Council (a recognized CPO)