



Citywide Tree Policy Review and Regulatory Improvement Project Key Issues and Initial Proposals – DRAFT January 22, 2009	
PROJECT ORIGIN	
	<i>Urban Forest Management Plan</i> – First in 1995, updated 2004 – key goals; canopy targets, etc. <i>Urban Forest Action Plan</i> – 2007 – goals; outcomes; activity categories priority/timing
	UFAP establishes dual purpose for project:: - Establish a clear, consistent cohesive regulatory framework - Preserve and enhance the urban forest through development and redevelopment Assigned project a high priority – citizens urged City to accelerate timeline during the FY'06- 07 budget process
PROJECT APPROACH AND TIMELINE	
	<ul style="list-style-type: none"> ▪ BPS initiated multi-bureau effort w/PPR, BDS, BES, PDOT (began summer 2007) ▪ Emphasis on collaborative problem analysis, and exploration of issues and options ▪ Stakeholder group – diverse interests; met to discuss issues/options (Apr-Oct. 2008) ▪ Staff met with other jurisdictions re: their tree programs ▪ PC feedback on initial proposals – February 10, 2009 ▪ Code drafting; PC and CC hearings Spring – Fall 2009 After the project – trainings, implementation, tracking/monitoring, adaptation
KEY ISSUES	
Regulatory system - structure	<u>Current system - overview</u> <ul style="list-style-type: none"> ▪ Regulations apply to trees on public and private property, in development and non development situations ▪ Functions of the various titles and bureaus
Regulatory complexity and inconsistency	<ul style="list-style-type: none"> ▪ Established in piecemeal fashion over 36 years ▪ Regulations spread across multiple titles ▪ Regulations have evolved over time; trend is toward tree preservation but rules are inconsistent ▪ Tree cutting permit system is inconsistent and inequitable, particularly relating to single family property ▪ Permitting has been responsibility of several bureaus –bureaus have different responsibilities – some overlap ▪ Many inquiries require citizens to contact multiple bureaus <ul style="list-style-type: none"> ▪ What have we heard from stakeholders (neighborhood, developers, arborists, environmental): <ul style="list-style-type: none"> - Rules hard to understand - Can't always get a clear answer to questions - Have to chase down staff at multiple bureaus - Unfair – permitting requirements treat similar situations differently, especially on single family property - Want a single point of contact

<p>Ineffective preservation and enhancement of the urban forest – summary of issues</p>	<ul style="list-style-type: none"> ▪ Trees not well integrated into site and project design, including public works projects – addressed after sites and projects are designed ▪ Tree preservation applied too narrowly and are not effective in achieving goals <ul style="list-style-type: none"> - Apply only in context of land divisions – no other land use reviews - most building permits - Rules may encourage site clearing before applying for land divisions - Numeric standards can result in preserving lower-functioning trees and loss of trees, including large trees and tree groves - Rules provide additional credit for preservation of “significant trees” (i.e., large and important tree species), are do not appear effective ▪ “Significant Trees” generally not addressed through development process – Rules address significant trees only in the context of land divisions ▪ Tree mitigation/replacement rules inadequate to compensate for lost function; many trees are “exempt” and not counted in calculations for preservation or replacement; rules do not address tree size, species diversity, function – result in replacement with smaller lower-functioning trees – cheaper to replant (or pay) than to preserve ▪ In-lieu of planting fees are out of date – do not reflect current planting costs ▪ Tree fund warrants clearer direction – clarify criteria/process for directing funding ▪ Trees protection during construction can be improved – fencing required only for trees to be preserved; no protections for on property lines and neighboring properties – results in tree damage and creation of future hazards ▪ Frequency and timing of site inspections could better address trees ▪ Enforcement system is unclear; need standard protocols. ▪ What have we heard from stakeholders: <ul style="list-style-type: none"> <u>From neighborhood and community activists we have heard:</u> <ul style="list-style-type: none"> - Concern about loss of big trees in neighborhoods and streets - Don't know when tree cutting is legal or a violation - Concern re: tree cutting at night and on weekends – need 24-hour response line - Concern about slope stability, neighborhood identity; loss of green - Large trees are replaced with small ornamental “lollipop trees” – conversion of fir to dogwood forest, big street trees replaced with small - Tree fund should be used to plant trees in tree deficient areas - Tree protection during construction not working well - Concern about level of inspection and enforcement of tree rules <u>From development community we have heard:</u> <ul style="list-style-type: none"> - Tree rules too rigid – result in preservation of unsuitable trees - Trees are an amenity but increase cost of development - Difficult to meet all city requirements for improvements, utilities, streets and sidewalks, and trees, especially on small, infill sites - Industrial/institutional development needs are different than residential, more difficult to preserve trees - Reasonable mitigation is appropriate but don't make it so costly that it makes development infeasible or unaffordable - Provide incentives and flexible standards to promote tree preservation & planting; develop a “<i>Tree Technical Manual</i>” - Provide information and time to adjust to new rules - Disparity between tree protections required of private and public projects
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CRITERIA FOR SOLUTIONS	
Regulatory framework	<p>City's tree regulatory framework should be:</p> <ul style="list-style-type: none"> ▪ Clear and transparent ▪ Customer friendly – easy to understand and work with ▪ Consistent, cohesive and comprehensive ▪ Equitable and effective ▪ Complementary and reinforcing ▪ Efficient – putting process where it's due
Regulatory effectiveness	<p>City's tree regulations should:</p> <ul style="list-style-type: none"> ▪ Promote integration of trees into the development process by designing with trees ▪ Improve tree preservation, e.g., large healthy trees, groves and important native species ▪ Ensure tree replacement fully addresses lost functions and improves the urban forest ▪ Ensure that all Portlanders have a hand in replenishing the urban forest over time ▪ Provide adequate information to neighbors re: pending tree removal ▪ Apply consistently to non-development situations, land use reviews, building permits (prevents "cut the trees then apply for the permit) ▪ Not make development infeasible or unaffordable ▪ Recognize and address the needs and constraints of different land use development types ▪ Provide incentives and flexibility to encourage and reward tree preservation and planting ▪ Enable the City to track tree removal and planting over time ▪ Allow citizens to determine whether tree preservation requirements apply to a property
Conditions and caveats	<ul style="list-style-type: none"> ▪ Regulations must be accompanied by sufficient funding and staffing for implementation and enforcement (no unfunded mandates) ▪ The City must provide education to citizens and developers re: the value, care and protection of trees; and opportunities to design with trees ▪ The City should monitor the effectiveness of the regulations and adapt over time
OVERVIEW OF INITIAL PROPOSALS	
Project charge: Establish a clear, cohesive regulatory framework	<ul style="list-style-type: none"> ▪ Establish a single point of contact for the public ▪ Pilot a 24-hour response line ▪ Create Comprehensive, Consolidated Tree/Urban Forestry Title ▪ Develop a Tree Technical Manual ▪ Create a consistent, equitable tree cutting permit system – private trees ▪ Clarify and build community understanding of the public and street tree permit system ▪ Consolidate permitting functions
Project Charge: Enhance the Urban Forest through development and redevelopment	<ul style="list-style-type: none"> ▪ Establish flexible development standards ▪ Provide advanced mitigation credit to for proactive tree planting ▪ Land Divisions and other discretionary reviews ▪ Tree Planting Standards for Building Permits ▪ Public works and capital projects ▪ Trees and solar energy systems, sign visibility, and views ▪ Update and clarify in-lieu of planting fees and tree fund ▪ Improve implementation, inspections, resolution of violations:



SPECIFIC INITIAL PROPOSALS	To meet the project charge for a clear, consistent, cohesive regulatory framework:
	<p>Establish a single point of contact for the public</p> <ul style="list-style-type: none"> ▪ One person and phone line to field public inquiries ▪ Determines if permits are needed ▪ Refers to appropriate bureau staff, documents, etc. ▪ Could also help process permits and keep databases current ▪ Could be housed at Development Services Center or elsewhere ▪ Single permit application form
	<p>Pilot a 24-hour response line</p> <ul style="list-style-type: none"> ▪ Explore use of existing BES Spill Response Line or Parks Dispatch line ▪ Collect key information from callers ▪ Determine if situation is urgent, requiring a immediate site visit (confer with Urban Forestry crews as needed) ▪ Contact police if needed ▪ Set up system for prompt call back on next business day
	<p>Create Comprehensive, Consolidated Tree/Urban Forestry Title</p> <ul style="list-style-type: none"> ▪ Would establish new comprehensive, cohesive Tree/Urban Forestry Title to elevate role of trees and the urban forest as a citywide asset , promote transparency, improve public awareness of City regulations; prevent code conflicts ▪ Would incorporate provisions authorizing the Urban Forestry Commission and Urban Forester, and specify authorities and responsibilities of different bureaus ▪ Would address trees on private and city-managed property, include tree permitting and planting standards for non-development and development situations, including development in City-managed rights of way ▪ Would incorporate tree permit requirements from Parks Title - 20.42 for trees on private property; 20.40 for public trees and street trees ; T1 and tree landscaping standards from Zoning Code (environmental zone and land division rules remain in Zoning Code), and specific provisions of Title 17 Public Improvements, 24, Building ▪ Create tiered system of standards and criteria that are generally consistent across non-development and development situations, e.g., allowances; standards, discretionary reviews -- higher bar for large trees, important species) ▪ Code and 29 Property Maintenance (<i>specific contents under discussion</i>)
	<p>Develop a Technical Tree Manual</p> <ul style="list-style-type: none"> ▪ Similar to City Erosion Control and Stormwater Management Manual ▪ Could be updated more frequently to reflect new information and technological advances ▪ Would contain information about trees, tree planting tree care, protection during construction, and various technical standards ▪ Would reduce review timelines and provide flexibility to address site specific conditions and opportunities ▪ One-time funding proposed as budget add-package

	<p>Create a consistent, equitable tree cutting permit system – private trees</p> <ul style="list-style-type: none"> ▪ Option 1: Clarify private property tree cutting requirements while continuing not to regulate tree removal on single family lots where no additional building sites can be created. Requires discretionary review for trees $\geq 12"$, SF exception allows tree removal on 25 – 30% of land in the City with no registration, permit, or replacement. ▪ Option 2: Clarify private property tree cutting requirements and apply to all properties. Apply to trees $>6"$ instead of $\geq 12"$ to comport with other city codes. Establish low-cost registration process to track removal of trees 6 – 12". Apply current discretionary process for trees $>12"$ and significant trees. <ul style="list-style-type: none"> - Clarify relationship between tree cutting permit and other codes - Update fee and tree mitigation requirements ▪ For either Option 1 or Option 2: <ul style="list-style-type: none"> - Update replacement requirements to better achieve tree canopy targets, size and species diversity goals - Update criteria to apply to sites with multiple historic lots - Update discretionary review criteria to address significant trees and groves - Provide in-lieu of mitigation payment option - Continue to post all sites where trees will be removed - Clarify enforcement procedures - Update permit fees ▪ Option 1 and Option 2 both improve the existing system ▪ Option 1 continues existing City policy to exempt most single family properties ▪ Option 2 would allow for better tracking of tree removal and replacement, and distribute the responsibility to sustain the urban forest to all property owners. ▪ Option 2 would have a larger impact on staff work load and funding.
	<p>Clarify and build community understanding of the public and street tree permit system</p> <ul style="list-style-type: none"> ▪ Establish criteria to guide city decisions relating to tree removal and replacement - consider tree health, hazards, stormwater, aesthetics, habitat, carbon; nesting migratory birds, slope stability, neighborhood character, etc.) ▪ Retain discretion to address site-specific issues – consider developing administrative rules
	<p>Consolidate permitting functions</p> <ul style="list-style-type: none"> ▪ Consider shifting the responsibility for permitting tree removal on private property (in non-development situations) from Parks to Bureau of Development Services ▪ Retain and enhance the role of Urban Forestry arborists as neutral technical experts to inform and guide the permit process. ▪ Would improve efficiency, rely on existing BDS permitting and enforcement systems; Urban Forestry arborists to serve as "neutral" expert ▪ Would be consistent with Mayor/City Council initiative

SPECIFIC PROPOSALS	Enhancing the urban forest through development and redevelopment
Creating incentives	
	<p>Establish flexible development standards:</p> <ul style="list-style-type: none"> ▪ Allow front setback to zero feet (similar to e-zone) ▪ Allow reduction in side/rear setbacks of 20% but no closer than 3 feet ▪ Waive transit street setback ▪ Waive minimum building coverage requirement in CS and CM ▪ Allow reduction in required outdoor area ▪ Allow alternative pedestrian access configurations (e.g., not a straight line) ▪ Waive minimum density (similar to e-zone) ▪ Provide amenity bonus provisions (extra points applied to density calculation in multi-family zone)
	<p>Provide advanced mitigation credit for proactive tree planting</p> <ul style="list-style-type: none"> ▪ Appropriate for larger sites, master plans, phased projects ▪ Would allow property owner to get future mitigation credit for planting trees today ▪ Tracking, monitoring, enforcement would be challenging ▪ Could be part of a site- specific urban forest plan
Designing with trees	
	<p>Land Division and other discretionary reviews</p> <ul style="list-style-type: none"> ▪ Apply tree preservation and mitigation requirements to conditional uses and design reviews, as well as to land division reviews ▪ Replace 35% tree preservation standard with variable standards by land use/zone - more consistent w/ landscaping requirements and Urban Forestry Management Plan canopy targets (e.g., 35-40% for residential; 15 – 20% commercial industrial ▪ Narrow tree exemptions - Account for watershed functions provided by nuisance trees: Include nuisance (and potentially hazard trees) in existing tree calculations. Applicants may (but would not be required to) preserve nuisance trees. Change will greatly increase total number of trees to be preserved or planted ▪ Strengthen credits and mitigation requirements to promote significant tree preservation ▪ Require initial “pre-design” tree assessment for larger projects (non limited land use decisions) to assess tree conditions, establish preservation/planting objectives and inform site design; could be used to modify tree preservation standard, or to require additional preservation ▪ Establish multi-objective criteria to guide preparation of a “tree plan” (to be submitted with application); address tree preservation and planting, address trees on-site, property lines and adjacent property within X feet of proposed development ▪ Require application submittal to include the tree plan and explanation of how the site design meets the code criteria (and initial tree assessment objectives if applicable) to maximum extent practicable ▪ Strengthen approval criteria – require findings that project design meets tree preservation and initial tree assessment objectives to the maximum extent practicable. Applicants would need to utilize flexible standards where practicable before staff could make this finding.

	<p>Land Division and other discretionary reviews (cont'd)</p> <ul style="list-style-type: none"> ▪ Require replacement trees based on area at breast height; address tree size/species ▪ Update mitigation fees; require additional mitigation for removal of significant trees
	<p>Tree Planting Standards (aka T1/Landscape Standards)</p> <p>General Recommendations:</p> <ul style="list-style-type: none"> ▪ Apply tree standards through the building permit process for all uses, instead of only to new SF permits). Existing trees used to meet T1 may be used to meet landscaping requirements. ▪ Retain option to preserve, plant or pay ▪ Establish allowances for hazard trees ▪ Establish higher bar for significant trees (e.g., require adjustment to remove healthy large trees) ▪ Identify and protect trees on property lines or on adjacent properties within X feet of development ▪ Revise tree/lot size ratio to increase trees – link to tree size and canopy using 10-year growth assumptions ▪ Establish tree size and species diversity requirements ▪ Update in-lieu of planting fees to reflect current cost <p>Option 1:</p> <ul style="list-style-type: none"> ▪ Maintain non-discretionary process w/ no adjustments ▪ Require additional planting or payment to compensate for removal of significant trees ▪ This approach will not significantly enhance tree preservation. <p>Option 2:</p> <ul style="list-style-type: none"> ▪ Proposals involving removal of significant trees would be required to go through an adjustment process to encourage revisions to site design. Would require updated adjustment criteria ▪ This option could help preserve big trees and important tree species.
	<p>Public works and capital projects</p> <ul style="list-style-type: none"> ▪ Clarify intent to address trees in public works/capital projects ▪ Conduct initial tree assessment - include maps and tree inventory (including trees on property lines and adjacent sites with initial site design ▪ Consult with Urban Forestry staff early in the process
	<p>Trees and Solar Energy Systems, Sign Visibility and Views</p> <ul style="list-style-type: none"> ▪ Seek opportunities to meet multiple objectives where possible
<p>Leveraging resources</p>	<p>Updating tree fund</p> <ul style="list-style-type: none"> ▪ Clarify criteria and procedures for collecting and expending funds
<p>Implementation</p>	<p>Improve implementation, inspections, resolution of violations:</p> <ul style="list-style-type: none"> - site positing - streamlined remedies for violations - updated penalties ▪ BDS Tree Regulatory Implementation Study; Zoning Inspections Program, etc.

<p>Portland Plan considerations</p>	
	<ul style="list-style-type: none"> ▪ Integrate UF goals and targets into the Comprehensive Plan ▪ Shift from “trees as constraint” to “Trees as Public Asset” and “Trees as Green Infrastructure.” ▪ Recognize and plan for trees as critical elements of site design, neighborhood character and the City’s cultural landscape. ▪ Recognize the full array of tree-related benefits and services (e.g., public health, economic, stormwater, habitat, property value) ▪ Develop community design policies to optimize tree canopy, solar access, other goals ▪ Establish and maintain space for trees/addressing cumulative impacts of growth on the urban forest – integrating trees into future growth scenarios ▪ Determine if base densities or allowed development types should be modified to help meet urban forest and other goals (e.g., address single family development in multi-family zones) ▪ Enhance the urban forest through design (e.g., establishing green spaces within the interior of blocks). ▪ Partner with the community to develop “neighborhood tree plans” and integrate with planning and development. ▪ Allow development fees to be pooled for comprehensive design and construction of neighborhood amenities – less incremental impact on trees.
<p>Next Steps</p>	<ul style="list-style-type: none"> ▪ Continue collaboration with bureau partners ▪ Decide on code structure option ▪ Begin drafting code and policy recommendations ▪ Analyze fiscal impacts of proposal ▪ Continue consultation with key community stakeholders ▪ Complete discussion draft proposal – June 2009 ▪ Complete Planning Commission and City Council Hearings - fall 2009
<p>KEY QUESTIONS</p>	<ol style="list-style-type: none"> 1. Is the Citywide Tree Project generally on the right track? Are any potential solutions missing? Which of the initial proposals seem most promising or troubling? 2. Should the City create a new comprehensive Tree/Urban Forestry Code Title to improve regulatory cohesiveness and highlight the urban forest as a citywide asset? That addresses trees on public and private property? That authorizes the Urban Forestry Commission and/or Urban Forester? 3. Should the City update its tree cutting permit system to apply to all trees of a certain size or greater, or keep the current exemption for trees on most single family property? 4. Should the City apply tree standards to all development types through the building permit process? Should tree preservation and planting standards vary by land use? 5. How can the regulations be more effective in promoting preservation of significant trees? In non-development and development situations? By establishing strong credit incentives and mitigation disincentives? 6. How can the City ensure replenishment of the urban forest without unduly burdening sites with a lot of trees or sites with few or no trees? (e.g., requiring full mitigation places burden on sites with more trees) 7. What additional information is needed to support the decision-making process