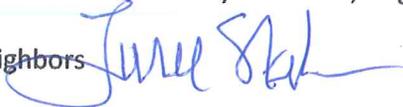


UPPER LAND PARK NEIGHBORS

March 9, 2015

TO: City of Sacramento Law and Legislation Committee: Jay Schenirer, Angelique Ashby, Jeff Harris, and Rick Jennings.

FM: Luree Stetson, Upper Land Park Neighbors



RE: March 10, 2015 Law and Legislation Committee Meeting
Agenda Item #5 - Amendments to City Ordinances relating to Trees

Upper Land Park Neighbors appreciate the opportunity to comment on the City Staff proposal to update and clarify the City's existing tree ordinance. We agree the existing ordinance needs clarification for the public and City Staff to understand the City's tree priorities and requirements. For many years, we have helped residents understand the City's tree ordinance and criteria for removal of trees. Problems with the current ordinance and its implementation include:

- A high number of city street trees (between curb and sidewalk) are being removed to accommodate high density downtown or property owners who want to remove a city street tree with consideration of the tree's importance to the City's tree canopy.
- A broken notification "posting" process which ignores the existing ordinance requirement of a 30-day notification and fails to state that an individual may appeal the removal decision.
- No clear criteria to request, or appeal, the demolition of a city street tree or Heritage trees.
- No enforcement for trees that are removed illegally by property owners and "bad actor" tree companies.

Over the last year and one-half, we have participated on the City's Tree Advisory Stakeholder Committee to: 1) combine three separate ordinances into a single ordinance; 2) ensure that the updated ordinance is clear and concise; 3) align updated state and city policies, such as high density development, complete streets, water and energy conservation programs, and air quality improvements. ***Unfortunately, the City Staff's proposed tree ordinance is confusing, lacks details and ignores creative ways to enhance a healthy urban forest to keep Sacramento a "City of Trees."*** We have the following concerns about the proposed the ordinance and offer recommended improvements:

1. PROPOSAL DOES NOT PROTECT ALL TREES

- Removes existing protection of any tree on city property and establishes different "justification" process for the removal of city trees.
- Removes existing protections for Heritage trees, ignores parking lot shade trees; and eliminates Dutch Elm Disease protection.

RECOMMENDED CHANGES:

- Retain and clarify existing Heritage Trees section, with emphasis on tree canopy.
- Add definition for a "public" tree (on city-owned properties) and require same decision-criteria for removals. (Public tree would use same permit approval process (but no fee) and require notification and appeal.
- Eliminate preference for SMUD to remove trees under SMUD utility line with only Director review. These trees should be treated the same as other trees.

2. APPLICATION AND PERMIT APPROVAL PROCESS CONVOLUTED (See Section 12.56.060)

- Proposed language is convoluted - residents, developers, and property owners **would NOT** understand the requirements for a tree permit with proposed language before this committee.

- Criteria listed is permissive - allows City Staff to decide how city street trees and public private street trees would be treated. Requires public to pay for an undefined permit process.
- No minimum criteria listed for a tree permit for public understanding of permit requirements. No verification/evidence required with application, e.g. photos showing tree size, location, etc.
- Creates a cumbersome, two-step application process: 1) to determine if tree is a private protected tree and 2) request for the regulated work. Requires costly arborist report to determine if the tree meets the definition of "private protected tree" - 12 inches in diameter or larger.
- Language unclear because it combines all types of applications, regardless of severity of work (demolishment vs. pruning) or type of project, e.g. development project (Title 17) vs. small single family property owners.

RECOMMENDED CHANGES: Other cities, such as Palo Alto, break out requirements for a tree permit by defined tree types (and list minimum permit criteria required for each) or by project type (see Attachment I, page 5).

- Clarify types of permits and specific minimum requirements for each. (See attachment # 1). Clarify permits from the applicant's perspective for the public to understand what is required. For example: 1) city projects; 2) development projects; 3) city- owned properties (park land, open space); 3) private property owners, residential single family. Another option is to break out by tree type, e.g. city street tree, public tree, private protected tree.
- Include factual criteria for permit application, e.g. use "structural condition" vs. "good condition." Other factual criteria includes "present and future shade potential."
- Include permit approval criteria in the ordinance for City staff to use when determining whether or not a tree should be retained or demolished. Factual criteria should be used by the City to determine tree removals and/or appeals, including tree canopy loss.
- Require consideration of public comments, if any, in the decision-making process. As proposed, the Director is not required to consider public comments before making a decision.

3. APPEAL PROCESS ONEROUS, UNCLEAR AND EXISTING PROBLEMS NOT ADDRESSED

- No one can appeal the demolition of "public" trees on city property (parks or city property), unless part of a city project.)
- Shortens existing requirement of a 30-day notification to 10-days. The notification "clock" starts with the decision date, not with posting date; which results in even less time to respond.
- Notification (one page posted on tree) doesn't state that a person can appeal the decision.
- Unnecessarily removes Parks and Recreation Commission (PRC) from hearing tree appeals for non-development (Title 17) tree removals. All tree appeals would go directly to the City Council.

RECOMMENDED CHANGES:

- Require website listing of all requested tree removals permits being considered - dates, decision, justification for removal. (Similar to Planning Department's listing of projects.)
- Add definition of a "public tree" to ordinance, and require notification if proposed for removal.
- Continue Parks and Recreation Commission responsibility to hear non-development (Title 17) tree removals. The PRC has expertise on trees in City parks and is the logical place to appeal these appeals.

4. SHIFTS MAINTENANCE COSTS AND LIABILITY TO PROPERTY OWNERS

- Requires a tree permit for any "private protected tree" (larger than 12 inches in diameter). This size requirement is unworkable; appears to be method to increase revenues for the City. Appears to also require permit for property owner to maintain a city street tree.
- Requires property owner' permit fees to pay for a new tree permit process that is undefined and unlimited. Presumably all revenues would be used for permit process - not working with new partners to add more trees and/or manage existing tree canopy.
- Shifts maintenance costs to property owners, who already pay a Citywide Landscape and Lighting Assessment Fee. In 2013, this fee generated \$4,842,351 which pays for Urban Forestry staff and tree maintenance.
- Shifts maintenance of city tree trees and trees within a utility easements to an adjacent property owners and makes him or her liable for any damage from these trees. (Section 12.56.080 (A).)

RECOMMENDED CHANGES:

- Increase permit requirement to 25 inches.
- Implement simplified permit process for minor maintenance on private protected trees and no cost for maintenance on city street trees. Retain City maintenance of trees within the City's right of way (part of the Landscaping and Lighting Assessment.)
- Eliminate fee for tree permits. Property owners are already paying a fee - which rises over time - to pay for trees.

4. ADOPT NEW WAYS TO PRESERVE AND ENHANCE TREES THROUGHOUT THE CITY.

- No consideration of tree canopy in permit process decision-making.
- No mention of the recently adopted General Plan Tree Assessment (General Plan 2035).
- No Urban Forestry focus on educating and partnering with citizens to enhance City trees.

RECOMMENDED ADDS:

GENERAL PLAN 2035 TREE ASSESSMENT (to measure improvements to City's tree canopy

The City Council just approved language which requires the Urban Forestry Division to conduct an assessment of its tree canopy. Several cities are doing this to document benefits from trees: better air quality, etc. An assessment will also help identify sites for new tree plantings throughout the City.

- "The Urban Forester shall conduct a tree assessment, in partnership with the public and other governmental entities if appropriate, to ascertain the status of the City's tree canopy and ways to improve the City's tree canopy. The assessment shall include, but is not be limited to, the number of existing trees, number of additional sites for new tree plantings, and the existing and future urban tree canopy. An assessment shall be conducted at least every four years or more frequently, and be presented publicly before the appropriate advisory body and/or City Council."

CITY TREE "REGISTRY" FOR ARBORISTS AND TREE COMPANIES (for better services)

The City formerly required "registration" of those who worked on trees within the City. The City can't enforce all illegal activities; however, the City can provide information to help direct the public to

arborists and tree maintenance companies who voluntarily "register" and commit to: 1) understanding and abiding by the City's tree ordinance and procedures; 2) utilize ANSI A 300 standards for tree maintenance. The list would be posted on line to direct the public to operators that do not mutilate trees on private property. Some state agencies use this technique, without incurring liability.

- "The City shall require arborists and tree maintenance companies that work within the City of Sacramento to register with Public Works Department. Registration shall include, at a minimum, proof showing that they meet the definition of arborist and agreement to abide by the City Tree Ordinance and any rules and regulations established by the City. An Arborist Registration List and a Tree Maintenance Companies List shall be posted on the City's website listing registered arborists and their commitment to follow the City Tree Ordinance. If the City determines that an arborist or company is not abiding by the City's Tree Ordinance, he or she shall be deleted from the City's Register. "

TREE PRESERVATION AND EDUCATION FUND (ensure services and tree planting throughout the City)

When the Landscape and Lighting Assessment fee was adopted, the City said it would help property owners plant trees in the suburban areas. These efforts were eliminated in the mid-2000s. There is a need to educate and provide services to expand the number of City trees and its tree canopy and protect Heritage trees.

- "A Tree Preservation Fund is established for the City of Sacramento for the purpose of protecting Heritage trees and expanding the number of trees throughout the City. A portion of the monies received from the Lighting and Landscape Assessment Fee and any and any fines for illegally removing private protected trees, public trees, Heritage trees or city street trees shall be used. Except as provided in this section, under no circumstances shall the funds identified by the City Treasurer for the Tree Preservation Fund be directed to any other purpose other than for tree planting and public education programs regarding trees, and maintenance for Heritage Trees on private property. Tree Preservation Fund monies may be directed to local neighborhood organizations and other non-profit organizations for these purposes. "

TREE TECHNICAL MANUAL (for better public access)

"The Department of Public Works, shall issue regulations necessary for the implementation of this chapter, which shall be known as the Tree Technical Manual. The Manual will be made readily available to the public for a better understanding of the importance of trees and tree requirements. The manual shall include, but not limited to, standards and specifications regarding: a) protection of trees, e.g. during construction; b) appropriate replacement trees for the removal of trees; c) maintenance of protected trees, including pruning, irrigation, and protection from disease; d) the tree application and permit process. The manual shall be reviewed by the Planning Commission and the Parks and Recreation Commission in order to provide public input before issuance."

EXPAND RESPONSIBILITY FOR ENFORCEMENT (for better enforcement)

The following designated employee positions shall enforce the provisions of this chapter by the issuance of citations: chief building official or designees, code enforcement officers, Public Works Director or designees.

ATTACHMENT I - EXAMPLES

BREAK OUT BY PERMIT TYPES [Davis (37.02)]

General. A permit shall be required before any person shall plant, transplant, move, separate XXXX.....

A. Permit Types and required criteria listed under each type

City Street Tree

Public Tree

Private Protected Tree

with no association to building permit or discretionary permit

with association to a building permit or discretionary permit

Parking Lot Trees

with no association to building permit or discretionary permit

with association to a building permit or discretionary permit

Heritage Trees

with no association with building permit or discretionary permit

with association to a building permit or discretionary permit.

Benefits from Heritage Tree classification

Free consultation

Discounted arborist services

BREAKOUT BY PROJECT TYPES

1. Sacramento County: "Discretionary Projects" as used in this ordinance shall include, but not be limited to, a special development permit, a parcel map, and parking reduction permit, a rezone, a site plan approval permit, a subdivision map, a variance, or a conditional use permit. In addition, a discretionary project is a project that must be approved by one of the following approving bodies: City Council, City Planning Commission, Parks and Recreation Commission, or Director of Public Works, or zoning administrator.

2. City of Palo Alto: "Development" means any work upon any property in the city which requires a subdivision, planned community zone, variance, use permit, building permit, demolition permit, or other city approval or which involves excavation, landscaping or construction within the drip line area of a protected tree.