



# CITY OF LAKE FOREST PARK

## CITY COUNCIL

### AGENDA COVER SHEET

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<b>Meeting Date</b>	April 13, 2023
<b>Originating Department</b>	Planning
<b>Contact Person</b>	Steve Bennett, Planning Director and Kim Adams Pratt, City Attorney
<b>Title</b>	Policy Discussion on Regulatory Approaches to Tree Permitting for Trees that are within the Right-of-way

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#### Legislative History

- First Presentation - April 13, 2023, Work Session
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**Attachments:** none

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#### Executive Summary

The Administration is seeking policy guidance regarding a regulatory approach to right-of-way corridor project tree permitting and right-of-way tree permitting for smaller projects that are not related to a right-of-way corridor project.

#### Background

The City's current tree regulations do not provide a permit review process for a project such as the Sound Transit Bus Rapid Transit project that includes proposed tree removal within the right-of-way and on adjacent private properties that are affected by the project construction. The current tree regulations also lack a specific process for permit review and approval of tree removal and replacement in right-of-way that is proposed by adjacent property owners. The Planning Department and the City Attorney are in the process of developing draft code provisions that would address both situations. This discussion about the draft provisions and the associated policy questions is intended to facilitate the development of full draft ordinance that will more likely be in line with the expectations of Councilmembers.

## **Draft Criteria for Right-of-way Corridor Project Permits**

### **Potential Definitions**

“Right-of-way corridor canopy replacement plan” means a plan that addresses tree replacement within the right-of-way or on private property that is within 1,000 linear feet of the subject right-of-way (the “corridor”). The plan shall be submitted by the applicant’s qualified arborist and include all trees for removal and retention, replanting in the corridor and off-site, and 3-year maintenance and monitoring for replacement trees.

“Right-of-way corridor project” means a project that is undertaken by a state agency, municipal corporation, quasi-municipal corporation, regional transit authority or other government entity which will modify transportation infrastructure in a segment of right-of-way that extends beyond the frontage of more than one parcel, and which will require tree removal within the right-of-way and/or on adjacent private property.

Policy questions:

- Is 1000 feet on either side of right-of-way an appropriate distance to allow ‘in-corridor’ replanting to occur in?
- Should an applicant be allowed to propose replanting on only public land (street trees and in parks) or can replanting on private land also count towards ‘in-corridor’ replacement?
- Should this be limited to transportation infrastructure? Include projects for utility infrastructure?

### **Potential Application Requirements**

Right-of-way corridor project permit applications shall include the following:

- a. A right-of-way corridor project plan that explains the purpose and goal of the project including a discussion of how the design prioritized healthy trees in accord with LFPMC 16.14.070(D)(3) and discussion of why lower impact design approaches to accomplish the project purpose and goal are not feasible.
- b. A timeline for tree-related activity, including tree removal, replacement, maintenance, and monitoring.
- c. A Canopy coverage study describing the projected canopy lost from the project.

d. A Right-of-way corridor canopy replacement plan to mitigate the loss of canopy. Priority must be given to replanting in the corridor where feasible before considering off-site planting. To encourage replacement in the corridor, the City's qualified arborist shall set a project-specific canopy square footage value for off-site replacement trees that is less than the standard 450 square foot off-site replacement value. The lower canopy square footage value shall be equal to the percentage of in-corridor replacement multiplied by the standard off-site replacement. For example, if the applicant provides 60% in-corridor replacement, the lower value off-site value would be 270 square feet (60% x 450 square feet).

e. Map(s) depicting the right(s)-of-way and private properties affected by the project and all significant trees (including CRZ and ICRZ) within the limits of disturbance associated with the project. Maps shall also depict significant trees (including CRZ and ICRZ) within 50 feet of the limits of the disturbance. Maps shall also clearly indicate whether trees are proposed for removal or retention.

Policy question:

- Does the approach in d. above create an appropriate incentive to prioritize replanting in the corridor?

### Potential Permit Approval Criteria

Right-of-way Corridor Project Permits. A right-of-way corridor project permit shall be granted if the application satisfies or can be conditioned to satisfy the following:

1. The right-of-way corridor design proposal adequately addresses why the project is designed as proposed rather than an alternative with less impact on tree preservation; and
2. All application requirements in 16.14.040.C.5 are adequately addressed; and
3. The approved replacement plan will result in the replacement of the canopy coverage lost due to the tree removal associated with the project; and
4. The applicant pays the city for tree replacement that cannot be accommodated in-corridor in accordance with the provisions of this chapter or through other agreement between the city and the applicant; and
5. The application addresses trenching, construction, or an alteration of grades between the critical root zone (CRZ) and the interior critical root zone (ICRZ) of a

protected tree; provided, that the tree protection plan approved by the city's qualified arborist demonstrates that the proposed activity will not adversely affect the long-term viability of the tree.

Policy questions:

- Are there other criteria for approval beyond those in 1 through 5 above that should be added?
- For 4, should the applicant be responsible for replanting and monitoring in the corridor or should it be done by the City at applicant expense? Should the applicant have to replant and monitor out-of-corridor replanting as well?

### **Draft Criteria for Right-of-way Tree Permits (smaller projects that are not ROW Corridor projects)**

#### **Potential Application Requirements**

5. Right-of-way tree permit applications shall include the following:

- a. In addition to the requirements in C.1 above, the site plan shall include the surveyed location of tree(s) proposed for removal in relationship to property lines adjacent to the right-of-way.
- b. Authorization from all lot owners where a tree, or portion thereof, is proposed for removal.

Policy question:

- Should the applicant be required to survey the location of trees to confirm that they are in the right-of-way?

#### **Potential Permit Approval Criteria**

G. Right-of-way Tree Permits. A right-of-way tree permit shall be granted if one of the following circumstances applies and the permit is conditioned on at least one tree replacing each tree removed, to provide canopy coverage equal to or greater than the tree(s) being removed.

- 1, The tree(s) is causing obvious physical damage to structures, utilities, or other infrastructure, such as building foundations, public sidewalks, or roadways, and

the city's qualified arborist has determined that mitigation action, such as pruning, would be infeasible to minimize further damage; or

2. The tree(s) is in such a condition of poor health or poor vigor that removal is justified; or

3. The tree(s) is an invasive species, as verified by the city's qualified arborists; or

4. The tree(s) cannot be successfully retained, due to unavoidable conflict with public or private construction or development.

Policy question:

- This draft language treats right-of-way tree permits like minor tree permits in that the permit '... shall be granted if conditioned on at least one tree replacing each tree removed, to provide canopy coverage equal to or greater than the tree(s) being removed.' Should there be additional criteria for tree replacement if the applicant wants to replant in the right-of-way and not on their property?

### **Fiscal & Policy Implications**

N/A

### **Alternatives**

<i><b>Options</b></i>	<i><b>Results</b></i>
<ul style="list-style-type: none"><li>• Provide policy guidance to City staff</li></ul>	Faster development of full draft ordinance is in line with the expectations of Councilmembers.
<ul style="list-style-type: none"><li>• Do not provide policy guidance to City staff</li></ul>	Ordinance will have to be reviewed at more meetings to bring it in line with the expectations of Councilmembers.

### **Staff Recommendation**

Review and discuss the draft regulatory language and policy questions included in this agenda cover sheet.