



CITY OF MEDINA

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MEMORANDUM

DATE: June 27, 2022
TO: Honorable Mayor and Medina City Council
FROM: Stephanie Keyser, AICP, Planning Manager
RE: Tree Code Update: How We Got Here and Where to Go

The following memorandum is being offered to assist Council in their decision on Planning Commission's recommendation for the Tree Code Update. This topic will have a second public hearing before Council on July 11th.

Basic Tree Code 101:

- The tree code regulates land under development and land not under development separately
- For land under development, there are two main pieces of the code that are complimentary but separate
- The first piece establishes a minimum percentage of tree canopy, or a density ratio, that every lot must have; the existing ratio is 35% or .35
- The second piece assigns a number or a tree credit unit to each tree. The number assigned depends on the type of tree (coniferous vs. deciduous) and the size of the diameter breast height (DBH)
 - Please note that tree unit values are not a universal number, and every city assigns values to their trees differently
- If you do a project that triggers a tree activity permit and you don't have enough tree credits on your property or if you end up having to remove trees that will cause you to fall below that 35% density ratio, you'll be required to plant supplemental trees

Background:

- In 2020, Council received many complaints from residents regarding the number of trees that were coming down from new construction
- The general feeling was that the tree code (last updated in 2015) was not working as originally intended
- In September 2020, at their joint meeting, Council placed a review of the tree code on Planning Commission's work plan
- The scope was limited to looking at the **retention and replacement requirements for new single-family construction** and the **minimum performance standards for land under development**

- It was stressed to keep the amendments *small, surgical*, and to *not reopen the whole code*

Process and Analysis:

- Planning Commission was limited to working with what we had to do an existing conditions analysis which was:
 - Looking at the tree permits that had been approved since 2015 when the newest tree code went into effect
 - Looking at the existing code
- The following are the results of the analysis:
 - There's a conflict between two existing tree code sections (tree retention requirements and the minimum performance standards)
 - There's no guidance on where trees should be retained or replanted
 - Most properties are able to cut down a lot of trees on their properties without having to plant supplemental trees (See Tree Permit Data)
 - The \$400 fee-in-lieu for legacy tree replacement inches not accounted for in replacement trees isn't acting as a disincentive

Legacy Trees¹

- Throughout their discussion, Planning Commissioners were concerned that there wasn't enough protection for larger, Legacy trees, and that the threshold of what identifies a Legacy tree was too high (in the current code, Legacy trees have a DBH of 50" or great and are on the list of significant trees)
- The suggestion was made to lower what constitutes a Legacy tree and to create a third category of tree called Landmark
 - The original suggestion was to have Legacy be either 36" or 50" DBH up to less than 100" DBH and Landmark be 100" DBH and greater
 - The number 36" DBH is already called out in the existing code as the bookend of a new grouping of trees. In the fee-in-lieu section, the contribution rate of replacing an existing significant tree is broken into 3 categories: less than 20" DBH; 20" to less than 36" DBH; 36" DBH and greater
 - It therefore made sense for 36" DBH to be the beginning of a new Legacy tree category
 - This assumption was supported by the City's Tree Arborist
 - The City's Tree Arborist commented on this proposal and informed the Commissioners that he hadn't seen a tree that was 100" DBH in Medina; the largest tree he had seen was 65" DBH
 - It was decided that Legacy trees would be 36" to less than 50" DBH and Landmark would be 50" DBH and greater
- Once the DBH was decided, the discussion turned to the appropriate mitigation for removing one of these trees

¹ Legacy trees have to have a minimum DBH **and** be listed on the legacy tree species list

- In the current code, the required Legacy mitigation is 50% the removed DBH has to be replanted – so an owner who removed a 50” DBH tree would be required to replant 25” or 13 2” trees
- Asking an 8,000 square foot lot to replant 18” DBH or 9 2” trees if they removed a new 36” Legacy tree seemed excessive and unfair
- Groupings based on lot size that mirror the setback groups were created for mitigation: less than 10,001; from 10,001 to 13,000; from 13,001 to 15,000; 15,001 to 20,000; greater than 20,000
- Again, working with the existing code requirement of 50% mitigation, the thought was to create a sliding scale for mitigation that ranged from 10%-50% and increased as lot sizes increased
 - The rationale for this is that larger lots could accommodate more plantings than smaller lots
- **The Legacy/Landmark proposal would apply to all lots, regardless of development status and expanded Council’s direction of only focusing on lots under development**

Proposed Amendments

- **Increase the density ratio from 35% to 40%**
 - Rationale – on average this will result in one more tree being required on site
 - Increasing the density ratio by 5% was suggested by the City’s Tree Arborist as a minor tweak to the code
 - The 40% was actually the number that was going to be used as the density ratio in the 2015 update but was decreased to 35% prior to adoption. 40% is incorrectly shown as the density ratio in the existing code’s Diagram 16.52.090 which demonstrates how to calculate supplemental trees
- **Decrease each tree credit unit by .25**
 - Rationale – on average this will result in one more tree needing to be retained to meet the density ratio
 - Planning Commission looked at increasing the tree units to assign greater weight to larger trees with the thought that people would want to retain higher credited trees
 - When Staff compared the higher numbers with what the existing tree permits were, there was no difference—there were not any more trees required for supplemental planting than under the current code
 - When the tree units were decreased, that ended up requiring one or two more trees to meet the density ratio either through supplemental plantings or retention
- **Create new Legacy Tree and Landmark Tree categories**
 - Rationale – it’s currently too easy for large trees to come down
 - Trees are synonymous with Medina and there should be a policy directive that supports and protects them
- **Location requirement for supplemental trees**
 - Rationale – there’s no direction in the current code for where to replant supplemental trees
 - The proposal establishes a priority list of where supplemental trees should be replanted
- **Additional requirements for larger lots (20,000 sq. ft.) under development**

- Rationale – on average larger lots are able to cut down more trees which can create the appearance of being clear cut
- The proposal establishes criteria on where trees should be saved on larger lots larger than 20,000 so that all of the retained trees aren't along the back property line
- **Fee-in-Lieu**
 - Rationale – the option of selecting to pay a fee-in-lieu of replacement or supplemental trees should only be permitted if the city arborist determines there's insufficient area to replant on site
 - The fee should be tied to the most current council of tree and landscaper appraiser guide for plant appraisal so that the City doesn't have to periodically raise the fees

General Notes

36" DBH

During the tree discussion last year, there was a lot of confusion over what 36" DBH meant. Circumference is what you get when you take a measuring tape and wrap it around a tree trunk. Diameter is what you get when you divide the circumference by 3.14. A tree needs to be at least 113 in circumference at 4 ½ feet from the ground to have a DBH of 36" (See Proposed Tree Code Change FAQ Visual).



To assist residents and Council this time around, Staff has tagged two trees in Medina Park and one in Fairweather to show the sizes of some trees that would be considered Legacy under the new code. Most of the trees that Staff measured and was sure had 36" DBH were not, which is why the number of tagged trees is so low—36" DBH 4 ½ feet from the ground is a pretty big tree.

It might be helpful to also tag large trees that are under 36" DBH just so people can see. As of the writing of this memo, Staff has not had time to do so but will try to get some more trees tagged in the next week.

Council's Task for Planning Commission

By increasing the density ratio and lowering the tree credit unit, on average this will result in one or two additional trees either through retention or having to plant supplemental trees. It might not appear as dramatic a change as some might have wanted, but it's the cumulative impact that matters. These proposed amendments meet Council's direction to Planning Commission.

The proposed new Legacy and Landmark tree designations send a very clear policy directive that larger trees (of a certain species) are important to the City and that there are consequences if you want to remove them. Planning Commission sought to be equitable when it came to the required replanting mitigation by taking into account the different lot sizes throughout the city and creating a sliding scale for replacement.

Supporting Information

To enable Council to come to a decision, the following supported documents are offered:

Attachment A – Redlined Draft Code

Attachment B – Clean Draft Code

Attachment C – Tree Permit Data August 2015 – July 2021

Attachment D – List of Significant Trees

Attachment E – Permit Analysis from April 27, 2021, Planning Commission Packet: Status Quo vs Reducing Legacy Tree to 36" and increasing those tree units by .25 vs Reducing Legacy Tree to 36" and reducing all units by .25 plus associated tree permits

Attachment F – Proposed Tree Code Change FAQ Visual

Attachment G – Tree Map – Proposed Legacy Trees in Medina Park and Fairweather

Attachment H – Questions and Answers from Development Services Committee – May 24, 2022

Attachment I – Public Comments

Next Steps

On July 11th, Council will have a second public hearing on the tree code proposal. At the conclusion of the hearing, there are a number of options:

1. Adopt the code as presented
2. Adopt the code with specific revisions voted on during the meeting
3. Direct staff to make specific amendments to the code and bring them back to Council for consideration
4. Direct Planning Commission to review and consider other amendments