



# CITY OF MEDINA

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**Date:** February 12, 2024  
**To:** Honorable Mayor and City Council  
**Via:** Stephen R. Burns, City Manager  
**From:** Steven R. Wilcox, Development Services Department Director  
**Subject:** Development Services Department Monthly Report

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## **Permit Activity and Budgeting**

Please see the permits issued and permits received reports.

Similar to last year at this time we have had few permit pre-application meetings. January 2023 and 2024 are different in that the first quarter of the year would normally be busy. Traditionally builders like to get their permit applications early in preparation for spring start of construction. Last year permit activity started late, so maybe this year will as well.

The January 2024 permits issued report is skewed high with permits issued that were accepted in 2023.

## **Planning Consultant**

We have completed a professional services agreement with a new planning consultant. LDC Inc. is located in Woodinville and comes to us with excellent recommendations.

We are now transitioning from our previous planning consultant and will have LDC working closely with our Planner, Jonathan Kesler, in our Comprehensive Plan Update.

At least initially, LDC will be assisting us with most of our zoning reviews of permit application, planning permits including variances and other decisions.

## **Tree Management Code**

Please see our Arborists January 2024 report provided.

### Tree Removal Decision

A hearing was conducted on January 9<sup>th</sup> regarding a non-administrative tree removal permit. The permit application was to remove a 50.2" Coast Redwood on private property. This tree is designated by our Municipal Code as a Landmark Tree.

The decision is that the Hearing Examiner found that our Tree Management Code does allow the tree removal under conditions of a Medina issued permit.

The City Arborist argued that the Landmark Tree should not be removed due to the associated contradictions this would have with our Comprehensive Plan, and our Municipal Code.

A short summary of the reasoning behind the decision is the aspirations written in the Municipal Code and within Comprehensive Plan vs. what is actually allowed by the Tree Management Code. A copy of the Hearing Examiners' decision is provided with this report. Please contact me if you would like to further discuss this.

#### Our Current Tree Management Code

From my understanding of the intent of the Medina Tree Management Code from those staff involved in drafting the current edition we use, the code is working as intended. The concept behind the current tree code as described to me, is that it was known that tree canopy would be lost, but that over time the canopy would be slowly restored through supplemental planting. This new tree code was in essence designed to facilitate a long-term fundamental change in the location of Medina's private property tree canopy. As trees are removed on a property to make room for a new (re)development project, small supplemental trees are re-planted in new locations.

To change the rate of permitted private property tree removal we have been seeing in recent years under our Tree Management Code, we would need to revise our ordinance such that what is allowed matches aspirations. Our Comprehensive Plan, and our Tree Management Code Purpose and Intent each describe a desire to preserve trees.

The 2025 Development Services budget will include a request to fund a new city canopy study. This study will follow a previous one conducted in 2014 by the DCG Watershed company in Kirkland. A 10-year cycle of reviewing city tree canopy will aid in understanding what the Tree Management Code is producing and provide information necessary to make amendments. We are currently evaluating a scope of work in order to get a cost for a budget request.

#### Development Project Tree Removal

A property at 2539 82<sup>nd</sup> Ave. NE will be redeveloped. Permits are under review for code compliance. Provided in this report is a focused portion of the site plan which identifies trees to be removed (pink) and those that will remain (yellow).

There are 13-trees existing on this property with diameters up to 29". 11-trees will be removed, and 2-trees will remain. Under our Tree Management Code, there are 6-supplemental trees required to be planted.

Supplemental trees are to be 2" minimum in diameter, and 6'-0 tall if coniferous.

This permit has been reviewed by our Arborist and found to be in compliance with our Municipal Code. This development project illustrates the function of the Tree Management Code. Trees are being removed in order to construct a building and structures in compliance with our zoning code. Supplemental trees are being planted in locations according to the maximized use of the allowed zoning envelope.

Essentially, private property trees in Medina are in general being moved towards the property perimeter as development projects maximize the allowed building envelope.

### Tree Management Code Violations Section

A proposal for a new tree violations section for our Tree Management Code was drafted this past Fall. The proposal was initially brought to Council for discussion in September 2023.

The draft text amendment which was last seen by Council on October 9th, will be on the March 11th, agenda. Council had given me input in October regarding the need for clarification of certain aspects of the draft.

I apologize for the delay in returning this proposed amendment to Council.

### **WSDOT 520 Bridge Maintenance Project**

The Washington State Department of Transportation (WSDOT) notified us several months ago that they will be maintaining the 520 bridge and approaches in 2024. The maintenance involves application of a sealant to the concrete driving surface and soffits. The work requires an administrative noise variance from Medina due to night work involved. This administrative variance has been approved with conditions intended to protect Medina residents.

WSDOT staff recently approached me to revise the construction methods approved in the non-administrative noise variance. WSDOT has been advised of options and they are considering these.

### **Development Services Fund**

The idea of a “fee study” has been brought up from time to time over the past 4-years. There hasn’t been a recent need for a comprehensive review of Development Services permit fees.

During the past several months as we have renewed consultant professional services contracts, we have seen a dramatic increase in fees charged to us for permit reviews and field work. This year we will need to assess our increasing consultant costs and how they will continue to be balanced.

We have been keeping costs of consultant services fully paid by permit applicants through fees and cash deposits. The fees have been stagnant for many years and the use of cash deposits to cover the difference has increased. Development does pay for itself in Medina.

A look at our consultant fees and cash deposit system is good practice at the least, and a first step in a review of all permit expenses and revenues. We may need a complete review of our fees, but it can be done in parts. It is possible that an outside consultant may be needed under budget at some point to assist with portions of a permit fee review.

### **2021 Washington State Building Code Adoption**

Medina currently uses the 2018 edition of the Washington State Building Code. We are required to implement the 2021 version of the building code on March 15, 2024. Between the 2018 and 2021 building codes there many hundreds of changes.

My agenda bill along with our discussion will cover this topic in the level of detail you would prefer. There have been two parts to the 2021 “State Code” adoption which have drawn most controversy and those are described below.

### Energy Code

The new Energy Code has limitations on the ability to construct new buildings with natural gas included. The gas appliance matter is not finished although the new energy code is to be implemented as part of the 2021 building code. The following is an excerpt from the State Building Code Council website regarding the energy code. The full text may be found at [sbcc.wa.gov](http://sbcc.wa.gov).

*“The Council is also entering rulemaking to modify sections in the commercial and residential energy codes to address legal uncertainty stemming from the decision in California Restaurant Association v. City of Berkeley recently issued by the Ninth Circuit Court of Appeals.”*

Although we are adopting the 2021 Washington State Energy Code, it appears that amendments may come later.

### Wildland-Urban Interface Code

How this new code will be implemented seems to be somewhat of a mystery to many regulators. This code is already approved by the state, and we are required to adopt it. However, on Friday February 9<sup>th</sup> the State Building Code Council is holding a public hearing regarding a controversial “defensible space” requirement. I will be attending this hearing and hope to have better answers about the state’s expectations.

The fundamental purpose of this new code is protection of wildlands from adverse impacts of habitable buildings, and protection of habitable buildings from impacts of wildlands. “Impacts” seems to primarily surround fire safety.

Medina is impacted by this code. Much of the property west of Evergreen Point Road and other locations are within a mapped area designated “Wildland-Urban Intermix”. The map was created by the Department of Natural Resources and covers all of Washington State. Wildland-Urban Intermix essentially means that there are habitable buildings surrounded by vegetation.

There will be more on this as the state clarifies this new code. Until the state gives us more information, we will not be developing the administration process, which seems to be common with other local jurisdictions. As the state operates, we can expect that this code’s purpose will be expanded in the future.

A portion of the Washington State Wildland Urban Interface map showing Medina and the other Points Communities is provided with this report.

I can provide you as much written information from the state as you would like on this new code.