



**PLANNING COMMISSION AGENDA**  
**May 25, 2016, 7:00 p.m.**  
**Multipurpose Room/Council Chamber**  
**Burien City Hall, 400 SW 152<sup>nd</sup> Street**  
**Burien, Washington 98166**

**This meeting can be watched live on Burien Cable Channel 21 or on [www.burienmedia.org](http://www.burienmedia.org)**

**1. ROLL CALL**

**2. AGENDA CONFIRMATION**

**3. APPROVAL OF MINUTES**

A. May 11, 2016

**4. PUBLIC COMMENT**

Public comment will be accepted on topics not scheduled for a public hearing.

**5. NEW BUSINESS**

A. None

**6. OLD BUSINESS**

A. Continued Discussion - Significant Tree Retention Zoning Code Amendments

**7. PLANNING COMMISSION COMMUNICATIONS**

**8. DIRECTOR'S REPORT**

**9. ADJOURNMENT**

**Future Agendas (Tentative)**

June 8, 2016

- Significant Tree Retention Discussion

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Planning Commissioners

Curtis Olsen (Chair)

Kim Davis  
Anna Markee

Amy Rosenfield (Vice-Chair)  
Kaelene Nobis

Butch Henderson  
Douglas Weber

*City of Burien*

BURIEN PLANNING COMMISSION  
May 11, 2016  
7:00 p.m.  
Multipurpose Room/Council Chambers  
MINUTES

To hear the Planning Commission's full discussion of a specific topic or the complete meeting, the following resources are available:

- Watch the video-stream available on the City website, [www.burienwa.gov](http://www.burienwa.gov)
- Check out a DVD of the Council Meeting from the Burien Library
- Order a DVD of the meeting from the City Clerk, (206) 241-4647

**CALL TO ORDER**

Chair Curtis Olsen called the May 11 2016, meeting of the Burien Planning Commission to order at 7:00 p.m.

**ROLL CALL**

Present: Kim Davis, Butch Henderson, Kaelene Nobis, Curtis Olsen, and Amy Rosenfield

Absent: Anna Markee and Douglas Weber

Administrative staff present: Brandi Eyerly, planner; David Johanson, senior planner; and Chris Craig, economic development specialist

**AGENDA CONFIRMATION**

**Direction/Action**

**Motion** was made by Vice Chair Rosenfield and seconded by Commissioner Henderson to confirm the agenda. Motion passed 5-0.

**APPROVAL OF MINUTES**

**Direction/Action**

**Motion** was made by Vice Chair Rosenfield, seconded by Commissioner Henderson, and passed 5-0 to approve the minutes of the April 27, 2016, meeting.

**PUBLIC COMMENT**

None.

**NEW BUSINESS**

**A. Mobility Study Findings**

Chris Craig, economic development specialist, gave a brief overview of the downtown mobility study begun in December 2015 to assess current conditions in the downtown study area. The study, scheduled for completion next month, will result in recommendations for future capital projects and policy changes to improve mobility and encourage economic development. He said Fehr & Peers, the firm conducting the study, is presenting its draft recommendations to the Planning Commission, Business and Economic Development Partnership and the City Council in May to receive feedback before the final study analysis is complete. Mr. Craig then introduced Kendra Breiland of Fehr & Peers.

The main focuses of the study, Ms. Breiland said, have been Burien's multi-modal connections in downtown, increasing downtown's multi-generational appeal, and elevating Burien's position in the region.

She noted that the last major parking study in downtown Burien was done in 2006. She said the new parking study revealed there are three main things to be thinking about: better leveraging of the existing supply, modification of the time limits, and restriping 152<sup>nd</sup> to back-in angled parking for increased safety and congestion relief.

Ms. Breiland said the parking study found that although use of both public and private off-street parking spaces has increased since 2006, there is still a lot of excess capacity to be used before it becomes a problem. She added that the use of on-street parking is under 60 percent, also not a problem.

The study included a two-day "storefront studio" in the Discover Burien offices, where the public stopped in to share their ideas, more than 50 of which were received and evaluated by the consultants. Ms. Breiland said accessibility, modifying parking, and public art were all "first moves" popular with participants. An online survey brought in hundreds of responses. Changing parking time limits from two hours to three hours had nearly 70 percent support from respondents and back-in angled parking had nearly 65 percent support.

Following the storefront studio, she said, the consultant team evaluated the more than 50 ideas against a variety of measures of effectiveness, including whether an action was feasible and could be done relatively quickly, the cost of the measure, and the effectiveness of the measure in meeting the goals of multimodal mobility, downtown character, economic development, and safety.

The team identified "big moves," including leveraging what parking Burien already has; making downtown walkable for everyone; creating bicycle system usable by everyone from 8 to 80 years old; transit access connecting to light rail and the airport; activating spaces in the downtown streetscape, particularly SW 153<sup>rd</sup> and SW 151<sup>st</sup> streets; and initiating good economic development actions that will precipitate more good things happening in downtown Burien.

Ms. Breiland showed the commissioners a comparison of Burien's downtown parking requirements to those of other, somewhat comparable, cities in the Puget Sound area. She reviewed the options for a potential business to provide parking in Burien: on site, obtaining a shared parking agreement with a nearby property owner, paying an in-lieu fee to support off-street parking, or revising the development proposal to reduce the number of required parking spaces. Ms. Breiland said that Burien's \$10,000 per parking space fee-in-lieu option is a very competitive rate and not an unreasonable option provided by the Burien Municipal Code. Eliminating the fee-in-lieu program would leave only three options open to an applicant. She noted that the publicly available downtown parking has only a 57 percent occupancy rate during the busiest time of the week, indicating an opportunity to potentially reduce the parking requirements.

Ms. Breiland said the recommendation is to reduce the downtown parking requirements for businesses based on downtown parking utilization, with the caveat that the City then do a parking utilization study every two years to monitor how parking utilization is increasing over time. She said this could stimulate economic development. Eventually, as use of the publicly available parking rises, the requirements would need to be stepped back to the current level.

She said additional parking recommendations include directing people to where there is parking availability; restriping to back-in angle parking; and lengthening the parking time limits.

Recommendations to improve the walking experience in downtown include being thoughtful about ADA sidewalks and crossings, and enhanced pedestrian crossings on 4<sup>th</sup> Avenue SW and SW 148<sup>th</sup> Street.

For bicycling in downtown, Ms. Breiland said the City should be looking at the entrances to downtown, at 148<sup>th</sup>, 152<sup>nd</sup> and 4<sup>th</sup>, making sure there are bicycle facilities that are comfortable for bicyclists of all

ages. She said 6<sup>th</sup> Avenue SW and SW 151<sup>st</sup> Street are great opportunities to provide biking through downtown.

Ms. Breiland said ideally there should be shuttle service between Tukwila light rail, airport and Burien Transit Center, although no funding has been identified.

She noted that SW 151<sup>st</sup> Street and SW 153<sup>rd</sup> Street offer opportunities for enhanced streetscape. Improving downtown alleys with lighting, paving and help in organizing trash collections will provide pleasant mid-block connections where people will want to walk, she said.

On the topic of economic development, Ms. Breiland advised proactive marketing of Burien's incentives, periodic evaluation of the incentives in the Zoning Code to make sure Burien is offering things that business owners want, and developing ways to entice business owners to help with the recommendations that came out of mobility study. She noted that an increase in downtown housing is vital as it provides a steady stream of customers for the downtown businesses.

She noted the recommendations aren't firm yet, and invited the commissioners to submit their ideas to Mr. Johanson or Mr. Craig, who will forward them to her for possible inclusion in the recommendations.

Commissioner Davis asked that a copy of the presentation be provided to the commissioners for further evaluation.

## **OLD BUSINESS**

### **A. Progress update – Significant Tree Retention Zoning Code**

Per the prioritized list set by the commission at its previous meeting, Brandi Eyerly, planner, reviewed Burien's existing significant tree retention regulations. Commissioner Nobis said she'd like to know what the International Society of Arboriculture (ISA) considers a significant tree. Commissioner Davis pointed out that many of the examples in the staff memo were a caliper measurement of 6 inches; there was discussion about where on the tree trunk that measurement would be taken. Mr. Johanson noted that current code about significant trees applies only to undeveloped lots; once the lot is developed there is no code requiring retention of the trees on the lot into the future, with the exception of sites containing critical areas. He said that is something the commissioners may wish to focus some attention on.

Chair Olsen suggested the discussion be postponed until the next meeting to give the commissioners more time to study the information presented in the staff memo. Vice Chair Rosenfield asked for confirmation that the discussion at the next meeting will be on three points: refining the definition of significant trees, determining whether certain species of trees should be excluded from significant tree status, and adjusting the ratios for tree replacement. Ms. Eyerly said those are the three areas staff has identified as problematic when trying to administer the current tree retention regulations.

## **PLANNING COMMISSION COMMUNICATIONS**

Chair Olsen welcomed the new commissioners.

## **DIRECTOR'S REPORT**

Mr. Johanson announced that the state Department of Ecology has conditionally approved the proposed amendments to Burien's Shoreline Master Program after requiring only two small changes. That will be going to the City Council for consideration on Monday, May 16.

He said site preparations for an approximately 240,000 sq. ft. cold storage facility the Northeast Redevelopment Area (NERA) will begin soon.

Lastly, Mr. Johanson said Burien will be hosting a Washington state Department of Commerce “Short Course on Local Planning” on Sept. 28<sup>th</sup>, a normally scheduled Planning Commission meeting date, and encouraged the commissioners to attend.

**ADJOURNMENT**

**Direction/Action**

Vice Chair Rosenfield moved for adjournment; Commissioner Henderson seconded. Motion carried unanimously. The meeting adjourned at 8:13 p.m.

**APPROVED:** \_\_\_\_\_

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Curtis Olsen, chair  
Planning Commission

DRAFT

**CITY OF BURIEN, WASHINGTON  
MEMORANDUM**

**DATE:** May 25, 2016

**TO:** Planning Commission

**FROM:** Brandi Eyerly, AICP, Planner

**SUBJECT:** Amending BMC 19.25.120 through 180 Significant Tree Retention, Incentives, Protection, Replacement, and Maintenance  
**Item 1: Existing Significant Tree Retention Regulations**

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**PURPOSE/REQUIRED ACTION:**

No action required.

(Please note that this memorandum is an updated version of the May 11<sup>th</sup> meeting).

**BACKGROUND:**

The following is the Commission's April 27<sup>th</sup> Priority Review List for updating BMC 19.25.12 Significant Tree Retention (see Attachment 1).

Item 1: Existing Significant Tree Retention Regulations

Item 2: Heritage/Exceptional Tree Preservation

Item 3. Incentives for Tree Retention

Item 4: Tree Canopy Inventory

At the May 11<sup>th</sup> meeting it was asked:

What is the International Society of Arboriculture (ISA) definition of a significant tree? The ISA does not have a standard measurement for defining type or maturity of a tree. They look at various facts such as DBH, canopy spread and location. See Attachment 2 for the ISA recommendations for tree protection.

What initiated the discussion of the City's tree retention codes? The major issue was when a large Sequoia tree was removed for the CVS Pharmacy development (See Attachment 3).

During Council discussions the City of Renton ordinance was referred to as a guideline for developing our tree ordinance. It has been included with this memorandum as Attachment 4.

**Item 1: Existing Significant Tree Retention Regulations (Attachment 1)**

Points for discussion at this meeting -

A) Refine the definition of significant trees. Jurisdictions with different significant tree definitions from Burien's (measurements are trunk diameters at breast height (DBH):

- Federal Way – 6” measured 1-1/2 feet above ground for both evergreen & deciduous
- Des Moines – Evergreens 6 “ measured 54 inches above ground, deciduous 8” but excluding cottonwood, native alder, native willow and European Ash
- Beau Arts Village – Any living tree > 1 inch or < 3 inches or planted for mitigation.
- Tukwila – Any tree over 4”

- Seattle – Any tree 6” or greater
- Lynnwood – Any tree 6” or greater but excluding Black locust, cottonwood, native alder, native willow, Lombardy poplar, and European ash
- Olympia – only landmark trees
- Renton - A tree 6” or greater; or an alder or cottonwood tree 8” or greater. Trees qualified as dangerous shall not be considered significant. Trees planted within the last 10 years shall qualify as significant trees, regardless of the actual caliper.

B) Should Black locust, cottonwood, native alder, native willow, Lombardy poplar, and European ash be excluded from the significant tree consideration?

- Black Locust – Invasive Plant, Long thorns. Root suckers easily arise from established root systems, sprouting new shoots and interconnecting fibrous roots to form extensive, dense groves of new plants.
- Lombardy Poplar- Prone to stem cankers that weaken the tree’s life span. Roots are considered invasive. “Messy tree”, twigs and branches easily snap during windstorms.
- European Ash- Emerald Ash Borer (Beetle) infestation that kills the trees. High intolerance to microbes, fungi and insects.
- Native Cottonwood - Planting cottonwood trees in home landscapes leads to problems. These messy trees have weak wood and are prone to disease. In addition, their massive size makes them out of scale for all but the largest landscapes.
- Native Alder – Large trees rarely seen in urban home settings.

C) Adjust the ratios for tree replacement (see BMC 19.25.160 in Attachment 1).

- The language should specify what tree caliper on the tree removal list will be used for the replacement ratio. Should this be based on an average caliper? Or should the largest caliper tree on the inventory be the basis of the ratio? The lack of specificity causes confusion for staff and applicants.
- As written, regulations do not consider lot size, site plan or the space needed for mature canopies. Staff recommends drafting language that will address this problem. It could be mature canopy spread, or a set 20 to 30 feet planting space between trees. *(If the ratio requires more trees than there is space, then the extra trees will need to be planted off-site or fees paid in lieu. This will be discussed at the next meeting.)*

## **PLANNING COMMISSION ACTION**

Discuss A through C above & draft amendments to the existing code for later recommendation to City Council.

If you have any questions before the meeting, please contact Brandi Eyerly at (206) 248-5519 or by email at [BrandiE@burienwa.gov](mailto:BrandiE@burienwa.gov).

### ATTACHMENTS:

- (1) BMC 19.25 BMC 19.25.120 through 180 Significant Tree Retention, Incentives, Protection, Replacement, and Maintenance
- (2) Defining special trees: heritage, historic, and landmark trees<sup>1</sup>
- (3) “Demolition begins at old Herr site for new pharmacy; historic Sequoia to be cut”, April 25, 2014 The B-Town Blog
- (4) City of Renton 4-4-130 Tree Retention and Land Clearing Regulations

### ON-LINE REFERENCES:

<sup>1</sup>Guide for Developing and Evaluating Tree Ordinances <http://phytosphere.com/treeord/contents.htm>

City of Renton “Approved Tree List” <https://rentonwa.gov/>

### **BMC 19.10.493 Significant tree**

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– An existing healthy tree which, when measured four feet above grade, has a minimum diameter of:

1. Eight inches for evergreen trees, or
2. Twelve inches for deciduous trees. [Ord. 293 § 1, 2000]

### **BMC 19.25.120 Significant trees – Retention required. Revised 2/16**

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Significant trees shall be retained as follows:

1. All significant trees on an undeveloped lot shall be retained.
2. Landscape category A: Thirty percent (30%) of the significant trees located on the site, excluding critical areas or their buffers.
3. Landscape category B: Ten percent of the significant trees located on the site, excluding critical areas or their buffers.
4. Landscape categories C, D and F: Five percent of the significant trees located on the site, excluding critical areas or their buffers.
5. If significant trees were previously located in a closed, forested situation, an adequate area of smaller trees shall be retained or replaced on the fringe of such significant trees;
6. A grouping of three or more existing trees with canopies that touch or overlap, may be substituted for each required significant tree, provided each tree has a diameter of at least three inches when measured four feet above grade;
7. Except as provided in BMC 19.25.120.8, significant trees to be retained shall not include significant trees that are:
  - A. Damaged or diseased; or
  - B. Safety hazards due to potential root, trunk or primary limb failure, or exposure of mature trees which have grown in a closed, forested situation.

8. At the discretion of the Director, damaged or diseased or standing dead trees may be retained and counted toward the significant tree requirement if demonstrated that such trees will provide important wildlife habitat and is not classified as a dangerous tree. [Ord. 293 § 1, 2000]

9. If the formula for determining the number of significant trees to be retained results in a fraction, the number of significant trees to be retained shall be rounded up to the nearest whole number. [Ord. 620 § 1, 2016; Ord. 484 § 1, 2008]

#### **19.25.130 Significant trees – Retention plan.**

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The applicant shall submit a tree retention plan concurrent with a land use review application, grading permit application, building permit application, preliminary subdivision application or short subdivision application, whichever is reviewed and approved first. The Director shall compile and maintain a database of significant trees based upon the submitted and approved tree retention plans. The tree retention plan shall consist of:

1. A tree survey that identifies the location, size and species of all significant trees on a site. The tree survey may be conducted by a method that locates individual significant trees or by using standard timber cruising methods to reflect general locations, numbers and grouping of significant trees provided that, when using either method, the survey:

A. Shall also show the location and species of each significant tree that is intended to qualify for additional credit pursuant to BMC 19.25.140; and

B. Any tree 18 inches or greater diameter for the purpose of establishing wildlife habitat value;

2. A development plan identifying the significant trees that are proposed to be retained, transplanted or restored. [Ord. 293 § 1, 2000]

#### **19.25.140 Significant trees – Incentives for retention.**

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Each significant tree that is retained may be credited as two trees for complying with the retention requirements of BMC 19.25.120, provided it meets one or more of the following criteria:

1. The tree exceeds 60 feet in height, or 24 inches in diameter for evergreen trees or 30 inches for deciduous trees;

2. The tree is located in a grouping of at least five trees with canopies that touch or overlap;

3. The tree provides energy savings through winter wind protection or summer shading as a result of its location relative to buildings;
4. The tree belongs to a unique or unusual species;
5. The tree is located within 25 feet of any critical area or required critical area buffer; and
6. The tree is 18 inches or greater and is identified as providing valuable wildlife habitat. [Ord. 293 § 1, 2000]

#### **19.25.150 Significant trees – Protection.**

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To provide the best protection for significant trees:

1. No clearing shall be allowed on a site until approval of tree retention and landscape plans;
2. An area of prohibited disturbance, generally corresponding to the dripline of the significant tree shall be protected during construction with a temporary five-foot-high chain link or plastic net fence. The fencing shall be installed prior to issuance of development permits for the site;
3. No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the area defined by such fencing;
4. A rock well shall be constructed if the grade level around the tree is to be raised by more than one foot. The inside diameter of the well shall be equal to the diameter of the dripline of the tree;
5. The grade level shall not be lowered within the larger of the two areas defined as follows:
  - A. The dripline of the tree(s); or
  - B. An area around the tree equal to one foot diameter for each inch of tree trunk diameter measured four feet above the ground; and
6. Alternative protection methods may be used if determined by the Director to provide equal or greater tree protection. [Ord. 293 § 1, 2000]

#### **19.25.160 Significant trees – Replacement.**

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When the required number of significant trees pursuant to BMC 19.25.120 cannot be retained, the required number of significant trees that are removed shall be replaced with: [Ord. 484 § 1, 2008]

1. Transplanted significant trees; or
2. New trees measuring three-inch caliper or more, at a replacement rate of one and one-half (1.5) inches diameter for every one inch diameter of the removed significant tree; or
3. New trees measuring less than three-inch caliper at a replacement rate of two inches diameter for every one inch diameter of the removed significant tree on a space available basis in conjunction with the site plan. [Ord. 293 § 1, 2000]

#### **19.25.170 Maintenance.**

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1. All landscaping and significant trees shall be maintained for the life of the project.
2. All landscape materials and significant trees shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure;
3. With the exception of dead, diseased or damaged trees specifically retained to provide wildlife habitat, other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season; and
4. Landscape areas shall be kept free of trash. [Ord. 293 § 1, 2000]

#### **19.25.180 Bonds/security.**

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Performance bonds or other appropriate security (including letters of credit and set-aside letters) shall be required for a period of two years after the planting or transplanting of vegetation to insure proper installation, establishment and maintenance. [Ord. 293 § 1, 2000]

# Defining special trees: heritage, historic, and landmark trees

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As noted in our discussion of provision 31, individual trees may be considered important community resources because of unique or noteworthy characteristics or values. Such trees have been described in ordinances as heritage, historic, landmark, legacy, special interest, significant, or specimen trees or various permutations of these terms (e.g., heritage oak, exceptional specimen tree). In some ordinances, trees are simply labeled protected trees (i.e., trees afforded protection by the ordinance). Regardless of the term used, the concept is the same: trees with certain characteristics are singled out for special consideration in the ordinance. Most commonly, one or more of the following criteria are used to define a special status tree:

**Size** - Some component of tree size, most frequently trunk diameter, may be used to define a special status tree. Most commonly, a given diameter at 4.5 ft above grade (i.e., diameter at breast height or DBH) is used as the size standard. [Additional rules](#) are typically needed to handle trees that are multi-trunked or branch below 4.5 ft. Because the relationships between DBH and canopy spread or DBH and tree age vary by species, different tree diameter standards may be applied to different species.

Although a tree diameter standard is fairly objective, the threshold diameter is often set more or less arbitrarily. As such, management decisions based solely on a threshold diameter may not be particularly logical. For example, if the threshold diameter for protecting a tree is 24 inches DBH, a tree with a diameter of 23.9 inches would be ignored, even though it might have a greater canopy spread than a tree with a larger DBH. Furthermore, the measurement of DBH with standard equipment such as diameter tapes or calipers is subject to errors related to trunk or bark irregularities and minor shifts in the location of the measuring device. A tree with a DBH measured as 24.2 inches by one observer could be measured at 23.5 inches by another observer. These problems are minimized when small threshold diameters (e.g., 3 inches) are used.

Other components of tree size, such as maximum canopy spread or height, may also be considered independently or in conjunction with tree diameter. The National Register of Big Trees, maintained by American Forests, uses a point system to rate tree size. Points for each tree are calculated by summing trunk circumference (at 4.5 ft) in inches, tree height in feet, and one-quarter of the average crown spread in feet. This system is used to determine "champion" trees for each species. Some ordinances expressly confer special tree status on state or national champion trees. More local "champion" trees could be defined using the same methods.

**Species** - Special status may be conferred only to certain species of trees. Special status trees are often, but not always, important locally native species or trees that are associated with the character of a community. Certain species that are relatively rare in an area, whether native or not, may also be granted special status. In some cases, species is used to specifically exempt certain trees from special status regardless of size. For instance, weedy trees such as tree-of-heaven (*Ailanthus altissima*) or trees used for commercial purposes (e.g., fruit trees, plantation lumber or pulp trees) may be excluded from consideration as special status trees. Unless interspecific hybrids are present in an area or the taxonomy of a species changes, species is probably the most objective criterion used in defining special status trees.

**Age** - Especially old trees are a link to the past, so many definitions of special status trees include age as a criterion. In practice, tree age is fairly difficult to determine in standing trees unless documentation of tree age exists from historical accounts, photographs, or associations with historical structures. Tree age is sometimes inferred from tree size, especially DBH. However, the relationship between age and DBH varies with species, site quality, management history, and other factors, so DBH is usually only a crude estimator of tree age. Determining age by increment boring is theoretically possible, but is potentially damaging to the tree and is fraught with difficulties if trees are large, have very hard wood, or are decayed in the center.

**Historic significance** - A tree may be associated with a notable local or regional historical event, person, structure, or landscape. Almost every tree that has been around for a while has some historical significance, whether it is recognized or not. Determining whether the historical significance of a given tree is sufficiently notable is therefore a subjective matter. Historic tree status is typically granted by a governing (e.g., city council) or advisory body (e.g., tree commission). Some ordinances automatically confer historic status on trees designated as historical landmarks by certain other organizations (e.g., historical societies). In addition, ordinances may assign special status to trees dedicated or planted as public memorials.

**Ecological value** - All trees serve a variety of ecological functions. Certain trees or groups of trees may have especially high ecological value because of their location, size, species, and/or condition. For example, a given tree may be an important roost, nesting site, or food source for certain wildlife species; it may be situated in a site where it plays a critical role in stabilizing soil or providing shade needed by other plant or animal species; it may be an important genetic resource for a local tree population or the species as a whole. Input from trained biologists and ecologists may be necessary to document particular ecological values that may not be obvious to the general public.

**Aesthetics** - Since beauty is in the eye of the beholder, assigning special status on the basis of aesthetics is always highly subjective. A tree may have special aesthetic value due to its form, whether it is especially perfect and symmetrical or notably craggy and idiosyncratic. Also, the function that a tree serves in a landscape may be

Defining special trees: heritage, historic, and landmark trees

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sufficient to justify special status; for example, a landmark pair of trees that frame an entrance. In the absence of other noteworthy characteristics, it may be contentious to base special status upon aesthetics alone.

**Location** - Trees in particular locations may be accorded special status in recognition of the important aesthetic or ecological functions that they serve. Proximity to a thoroughfare can be used to classify a tree as a street tree, which may be accorded special status whether or not it is in the public right-of-way or is under public or private care. Trees located along or within a set distance from watercourses may also be give special status due to their importance in stabilizing streambanks or providing shaded riverine habitat. In some cases, the location of a tree is considered in conjunction with size or species parameters.

**Required plantings and retained trees** - If trees are have been preserved or planted as a requirement of development, the community has a vested interest to ensure that the trees are protected. The purpose of planting and tree retention is to develop mature tree canopy, and this cannot occur if the subject trees are eliminated, ruined by topping or other poor maintenance practices, or replaced frequently with young trees. By explicitly providing special status to such trees in the ordinance, a jurisdiction may be able to provide a higher level of regulatory protection to such trees and increase the penalties associated with unauthorized damage to or removal of the tree.

**Other unique characteristics** - This grab-bag term may be added to the list of criteria used to designate special status trees because it is difficult to anticipate all possible situations of significance. For example, a given tree may become a local or regional cultural icon due to an event or apparition that is associated with it. This criterion will again be subjective and typically may be invoked through the approval of a governing body.

Because each criterion above has clear limitations and difficulties, most definitions include a combination of criteria. The following definition include examples of many of the criteria discussed above.

Protected tree includes all of the following:

(1)Private protected tree means any tree with a DBH of six inches or more located on any lot within twenty feet of a street right-of-way (including an approved private street or other access easement) or a tree with a DBH of eight inches or more located within ten feet of any other property line, or a tree with a DBH of twelve inches or more located elsewhere on the lot.

(2)Public protected tree means any tree located on lands owned by the city, or other governmental agencies or authorities, or any land upon which easements are imposed for the benefit of the city, or other governmental agencies or authorities, or upon which other ownership control may be exerted by the city, or other

Defining special trees: heritage, historic, and landmark trees

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governmental agencies or authorities, including rights-of-way, parks, public areas and easements for drainage, sewer, water and other public utilities, with:

- (i) A DBH of six inches or more located within a city or other governmental right-of-way, or
- (ii) A DBH of six inches or more and located on any lot within twenty feet of a street right-of-way, or
- (iii) A DBH of eight inches or more located on any lot within ten feet of any other property line, or
- (iv) A DBH of twelve inches or more located elsewhere on the lot.

(3) Exceptional specimen tree means any tree which is determined by the City Council to be of unique and intrinsic value to the general public because of its size, age, historic association or ecological value or any tree designated a Florida State Champion, United States Champion or World Champion by the American Forestry Association. The Chief shall keep a record of all specimen trees so designated and their location. *[Jacksonville, FL: Ordinance code Title XVII, Section 656.1203bb]*

As noted in provision 31, special tree status is best targeted at individual trees, typically in areas that do not have natural stands of trees. When stands of trees or patches of forest or woodland are the topic of concern, the approach described in [provision 32](#) (forest and woodland conservation) may be more appropriate.

- The B-Town (Burien) Blog - <http://b-townblog.com> -

## **Demolition begins at old Herr site for new pharmacy; historic Sequoia to be cut**

Posted By *Scott Schaefer* On April 25, 2014 @ 12:01 pm In Burien  
News,Business,Headlines,History,Life,Politics | [Comments Disabled](#)

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**Story & Photos by [Scott Schaefer](#) <sup>[1]</sup>**

**Demolition has begun at the old Herr Lumber/King Buffet lots on SW 160th near First Ave South for a new, 16,882 square foot CVS Pharmacy.**

The main building of the new business will be located where King Buffet used to be – 137 SW 160th – with the rest of the lots set for parking.

According to a construction worker, a very old and historic Sequoia tree (on the left in the photo below) will also be cut down:

**ATTACHMENT 3**



[2]

Curious about this large, historic tree, we reached out to **Highline Historical Society**<sup>[3]</sup> Executive Director **Cyndi Upthegrove**, who shared this information with us:

"I spoke a long time ago with one of the last remaining members of the family that homesteaded that property. She told me at the time that the tree had been planted in front of the original home. The family had a sawmill on Miller Creek back behind the (King) Buffet property. They did the original logging from about where 509 is now to Sylvester Road. The mother planted two sequoias that were brought from California in the front of the house and carefully tended them.

After the logging was completed the family platted the land, and sold it in parcels. She told me that the parcel that had the home on it had a Deed restriction in it that the trees had to stay. Back in the 70's one of the trees – on the west – became diseased and was removed. The other one has had this ring of rocks around it for many many years, ostensibly to protect it. I had been told that the property had been difficult to sell because of the Deed restriction.

However, I have spoken with the city and they have told me that there is no sign of a deed restriction on the property – so perhaps an earlier owner had it removed. I am sorry to see the tree go. The City of Burien doesn't have an ordinance to protect significant trees. Truthfully, that tree is worth more to me than an out of state pharmacy, but there is nothing to be done, except vote with my checkbook. CVS didn't have to come before the Planning Commission for anything because the property was correctly zoned and they weren't requesting changes. It will be interesting to see what kind of a neighbor CVS turns out to be.

I recall being told the tree was planted in the late 1800's or very early 1900's. I cannot tell you exactly. I don't know that it is one of the largest, or oldest, but it does have a history that can be appreciated. Sequoias are not really common here and this one reflects early years of good care, though not recent good care. They live for a long time.

It's too bad they cannot put a parking lot around it, rather than remove it."

We also reached out to the City of Burien – a "Tree City USA" recipient for the last 13 years – and here's what Community Development Director **Chip Davis** told The B-Town Blog:

"The City of Burien takes the retention of healthy, significant trees very seriously and has been working with the new property owner of this site since May of last year to mitigate the impacts associated with removal of the Sequoia tree. City staff have documented the Sequoia tree and will be providing the documentation to the Highline Historical Society for inclusion in their photo archives.

A publicly noticed Type 1 Land Use Review was conducted for the CVS Pharmacy last summer and the final decision was issued on September 16, 2013. In the building plans the owner identified the Sequoia as the only significant tree of the 60 trees located on the site to be affected by construction of the pharmacy building.

The owner has satisfactorily addressed Burien's significant tree retention policies which require the retention of at least 5% of the significant trees currently located on commercially zoned project sites. All of the remaining significant trees are located on the southern portion of the site and will not be affected by construction of the pharmacy. As mitigation for the removal of the Sequoia, the owner will be planting a replacement Sequoia on the western property line and landscaping plans call for the planting of more than 60 Douglas fir, Maple, Crape Myrtle, Linden and Flower Pear trees in the new building and parking areas."



Sons William (Bill), Gordy and their father Amos Herr in a photo taken at Burien's Herr Lumber in the 1970s.

This site once housed Herr Lumber, and had previously served as a sawmill for many years prior to the family's opening of the yard in the 70's. It remained a working lumber yard until into the 1990's, then sat empty until Diane and Lisa Herr opened a nursery in 2002.

As we previously **reported** <sup>[4]</sup>, Herr Backyard and Garden Center closed in June, 2012.

The project is valued at over \$2 million.

Here are some photos of the demolition work being done, taken Thursday, April 24 by Scott Schaefer:



[5]



[6]



[7]

[Facebook](#) <sup>[8]</sup> [Twitter](#) <sup>[9]</sup> [Subscribe](#) <sup>[10]</sup>

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URLs in this post:

[1] Scott Schaefer: <mailto:editor@b-townblog.com>

[2] Image: <http://b-townblog.com/wp-content/uploads/2014/04/KingBuffetDemolition042414.jpg>

[3] Highline Historical Society: <http://www.highlinehistory.org/>

[4] reported: <http://b-townblog.com/2012/05/26/herr-backyard-garden-center-owners-retiring-business-closing-june-17/>

[5] Image: [http://b-townblog.com/wp-content/uploads/2014/04/IMG\\_0205.jpg](http://b-townblog.com/wp-content/uploads/2014/04/IMG_0205.jpg)

[6] Image: [http://b-townblog.com/wp-content/uploads/2014/04/IMG\\_0209.jpg](http://b-townblog.com/wp-content/uploads/2014/04/IMG_0209.jpg)

[7] Image: [http://b-townblog.com/wp-content/uploads/2014/04/IMG\\_0206.jpg](http://b-townblog.com/wp-content/uploads/2014/04/IMG_0206.jpg)

[8] Facebook: [http://www.facebook.com/sharer.php?](http://www.facebook.com/sharer.php?u=http://b-townblog.com/2014/04/25/demolition-begins-at-old-herr-site-for-new-pharmacy-historic-sequoia-to-be-cut/)

[u=http://b-townblog.com/2014/04/25/demolition-begins-at-old-herr-site-for-new-pharmacy-historic-sequoia-to-be-cut/](http://www.facebook.com/sharer.php?u=http://b-townblog.com/2014/04/25/demolition-begins-at-old-herr-site-for-new-pharmacy-historic-sequoia-to-be-cut/)

[9] Twitter: <https://twitter.com/intent/tweet?text=Demolition%20begins%20at%20old%20Herr%20site%20for%20new%20pharmacy%3B%20historic%20Sequoia%20to%20be%20cut&url=http://b-townblog.com/2014/04/25/demolition-begins-at-old-herr-site-for-new-pharmacy-historic-sequoia-to-be-cut/&via=btownblog>

<https://twitter.com/intent/tweet?text=Demolition%20begins%20at%20old%20Herr%20site%20for%20new%20pharmacy%3B%20historic%20Sequoia%20to%20be%20cut&url=http://b-townblog.com/2014/04/25/demolition-begins-at-old-herr-site-for-new-pharmacy-historic-sequoia-to-be-cut/&via=btownblog>

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**4-4-130 TREE RETENTION AND LAND CLEARING REGULATIONS:****A. PURPOSE:**

This Section provides regulations for the clearing of land and the protection and preservation of trees, shrubs, and ground cover plants. The purposes of these regulations are to:

1. Preserve and enhance the City's physical and aesthetic character by minimizing indiscriminate removal or destruction of trees, shrubs and ground cover;
2. Implement and further the goals and policies of the City's Comprehensive Plan for the environment, open space, wildlife habitat, vegetation, resources, surface drainage, watersheds, and economics;
3. Promote land development practices that result in minimal adverse disturbance to existing vegetation and soils within the City while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;
4. Minimize surface water and groundwater runoff and diversion, and aid in the stabilization of soil, and minimize erosion and sedimentation, and minimize the need for additional storm drainage facilities caused by the destabilization of soils;
5. Retain clusters of trees for the abatement of noise and for wind protection, and reduce air pollution by producing pure oxygen from carbon dioxide;
6. Protect trees during construction activities from damage to tree roots, trunks, and branches; and
7. Recognize that trees increase real estate values.

**B. APPLICABILITY:**

The regulations of this Section apply to any developed lot, and property where land development or routine vegetation management activities are undertaken or planned.

**C. ALLOWED TREE REMOVAL ACTIVITIES:**

Tree removal and associated use of mechanical equipment is permitted as follows, except as provided in subsection D3 of this Section, Restrictions for Critical Areas – General, and in RMC [4-3-110E5b](#), Urban Separator Overlay Regulations. Except as stated in subsection C9 of this Section, no Routine Vegetation Management Permit is required for the following activities/work:

1. **Emergency Situations:** Removal of trees and/or ground cover by the City and/or public or private utility in emergency situations involving immediate danger to life or property, substantial fire hazards, or interruption of services provided by a utility.
2. **Dangerous Trees:** Removal of a dangerous tree, as defined in RMC [4-11-200](#), Definitions T, that has been certified as such by a City approved, licensed landscape architect or certified arborist.
3. **Maintenance Activities/Essential Tree Removal – Public or Private Utilities, Roads and Public Parks:** Maintenance activities including routine vegetation management and essential tree removal for public and private utilities, road rights-of-way and easements, and public parks.
4. **Installation of SEPA Exempt Public or Private Utilities:** Installation of distribution lines by public and private utilities; provided, that such activities are categorically exempt from the provisions of the State Environmental Policy Act and RMC [4-9-070](#), Environmental Review Procedures.

**ATTACHMENT 4**

**5. Existing and Ongoing Agricultural Activities:** Clearing associated with existing and ongoing agricultural activities as defined in RMC [4-11-010](#), Definitions A.

**6. Commercial Nurseries or Tree Farms:** Removal of only those trees which are planted and growing on the premises of a licensed retailer or wholesaler.

**7. Public Road Expansion:** Expansion of public roads, unless critical areas would be affected (refer to subsection C12 of this Section, Utilities, Traffic Control, Walkways, Bikeways Within Existing, Improved Right-of-Way or Easements).

**8. Site Investigative Work:** Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests, and other related activities including the use of mechanical equipment to perform site investigative work, provided the work is conducted in accordance with the following requirements:

- a. Investigative work should not disturb any more than five percent (5%) of any protected sensitive area described in subsection D3 of this Section, Restrictions for Critical Areas – General, on the subject property. In every case, impacts shall be minimized and disturbed areas restored.
- b. In every location where site investigative work is conducted, disturbed areas shall be minimized, and immediately restored.
- c. A notice shall be posted on the site by the property owner or owner’s agent indicating that site investigative work is being conducted, and that the work must minimize disturbance to the critical areas identified in subsection D3 of this Section, Restrictions for Critical Areas – General.
- d. No site investigative work shall commence without first notifying the Community and Economic Development Administrator. (Ord. 5676, 12-3-2012)

**9. Minor Tree Removal Activities:** Except as provided in subsection D3 of this Section, Restrictions for Critical Areas – General, removal of trees and associated use of mechanical equipment is permitted at the rates specified within the table below, provided subsections C9a through e of this Section are satisfied. A Routine Vegetation Management Permit is required for removal of trees in excess of the rates listed below.

Lot Size	Maximum number of significant trees* allowed to be removed in any twelve (12) month period	Maximum number of significant trees* allowed to be removed in five (5) years
Lots up to 10,000 sq. ft.	2	4
Lots 10,001 to 20,000 sq. ft.	3	6
Lots 20,001 sq. ft. or greater	6	12
*Except landmark trees (greater than a thirty inch (30") caliper) shall not be removed without a Routine Vegetation Management Permit.		

- a. There is not an active land development application for the site;
- b. The trees proposed for removal are not protected trees;
- c. The tree is not a landmark tree; and

**d. Minimum Tree Density:**

i. A minimum tree density shall be maintained on each residentially zoned lot, as specified in the table below. The tree density may consist of existing trees, replacement trees, trees required pursuant to RMC [4-4-070F1](#), Street Frontage Landscaping Required, or a combination. If the number of trees required includes a fraction of a tree, any amount equal to or greater than one-half (1/2) shall be rounded up; and

Type of Residential Development	Minimum Tree Density
Multi-family development (attached dwellings)	Four (4) significant trees <sup>1</sup> for every five thousand (5,000) sq. ft.

Type of Residential Development	Minimum Tree Density
Single family development (detached dwellings) <sup>2</sup>	Two (2) significant trees <sup>1</sup> for every five thousand (5,000) sq. ft.
<sup>1</sup> Or the gross equivalent of caliper inches provided by one or more trees.	
<sup>2</sup> Lots developed with detached dwellings in the R-10 and R-14 zones are exempt.	

ii. Property owners are responsible for maintaining these trees in a healthy condition.

**e. Rights-of-Way Unobstructed:** In conducting minor tree removal activities, rights-of-way shall not be obstructed unless a right-of-way use permit is obtained.

**10. Landscaping or Gardening Permitted:** Land clearing in conformance with the provisions of subsection C9 of this Section, Minor Tree Removal Activities, and subsection D3 of this Section, Restrictions for Critical Areas – General, is permitted for purposes of landscaping or gardening; provided, that no mechanical equipment is used.

**11. Operational Mining/Quarrying:** Land clearing and tree removal associated with previously approved operational mining and quarrying activities.

**12. Utilities, Traffic Control, Walkways, Bikeways within Existing, Improved Rights-of-Way or Easements:** Within existing improved public road rights-of-way or easements, installation, construction, replacement, operation, overbuilding, or alteration of all natural gas, cable, communication, telephone and electric facilities, lines, pipes, mains, equipment or appurtenances, traffic control devices, illumination, walkways and bikeways. If activities exceed the existing improved area or the public right-of-way, this exemption does not apply. Restoration of disturbed areas shall be completed.

**13. Land Development Permit Required:** Tree removal authorized by a Land Development Permit. (Ord. 5650, 12-12-2011)

#### D. PROHIBITED ACTIVITIES:

**1. Tree Cutting in Advance of Issuance of Land Development Permit:** There shall be no tree removal or land clearing on any site for the sake of preparing that site for future development unless a Land Development Permit, as defined in RMC [4-11-120](#), Definitions L, for the City approved site. (Ord. 5450, 3-2-2009)

**2. Tree Cutting or Vegetation Management without Required Routine Vegetation Management Permit:**

a. Tree cutting in excess of the limits established in subsection C9 of this Section, Minor Tree Removal Activities, is prohibited unless a Routine Vegetation Management Permit has been granted.

b. Routine vegetation management on an undeveloped property without a Routine Vegetation Management Permit is prohibited.

c. Use of non-exempt mechanical equipment (mechanical equipment with more than twenty seven (27) horsepower) without a Routine Vegetation Management Permit is prohibited.

**3. Restrictions for Critical Areas – General:** Unless exempted by critical areas, RMC [4-3-050C5](#) or Shoreline Master Program Regulations, RMC [4-3-090](#), no tree removal, or land clearing, or ground cover management is permitted:

a. On portions of property with:

i. Critical habitats, pursuant to RMC [4-3-050K](#), Habitat Conservation;

ii. Streams and lakes, pursuant to RMC [4-3-050L](#), Streams and Lakes;

iii. Shorelines of the State, pursuant to RMC [4-3-090](#), Shoreline Master Program Regulations; and

iv. Wetlands and wetland buffers, pursuant to RMC [4-3-050M](#), Wetlands;

b. On protected slopes except as allowed in this Section or in the Critical Areas Regulations, RMC [4-3-050](#); or

c. Areas classified as very high landslide hazards, except as allowed in this Section or in the Critical Areas Regulations, RMC [4-3-050](#).

**4. Restrictions for Native Growth Protection Areas:** Tree removal or land clearing shall not be permitted within a native growth protection area except as provided in RMC [4-3-050E4](#), Native Growth Protection Areas. (Ord. 5650, 12-12-2011)

**5. Tree Topping:** Tree topping shall be prohibited unless the City has approved the tree for removal.

**6. Removal of Landmark Tree:** The removal of a landmark tree (a tree with a caliper of thirty inches (30") or greater) is prohibited without an approved Routine Vegetation Management Permit or a Land Development Permit.

#### E. REVIEW AUTHORITY:

**1. Authority and Interpretation:** The Community and Economic Development Administrator is authorized and directed to interpret and enforce all the provisions of this Section when no other permit or approval requires Hearing Examiner review. The Administrator may require retention above the minimum standards, to require phasing of tree retention plans, or to require any other measures to meet the purpose of this Section.

**2. Independent Secondary Review:** The Administrator may require independent review of any land use application that involves tree removal and land clearing at the City's discretion. An evaluation by an independent qualified professional regarding the applicant's analysis on the effectiveness of any proposed removal, retention, or replacement measures, to include recommendations as appropriate. This review shall be paid for by the applicant and the City shall select the third-party review professional. (Ord. 5676, 12-3-2012)

#### F. PERMITS REQUIRED:

**1. Land Development Permit Required for Site Preparation:** An approved land development permit, as defined in RMC [4-11-120](#), Definitions L, is required in order to conduct tree removal or land clearing on any site for the sake of preparing that site for future development.

#### 2. Routine Vegetation Management Permit Required for the Following Activities:

**a. Routine Vegetation Management on Undeveloped Properties:** Any person who performs routine vegetation management, as defined in RMC [4-11-180](#), Definitions R, on undeveloped property in the City must obtain a Routine Vegetation Management Permit prior to performing such work.

**b. Use of Mechanical Equipment:** Except where mechanical equipment is twenty seven (27) horsepower or less, any person who uses mechanical equipment for routine vegetation management, land clearing, tree removal, landscaping, or gardening must obtain a Routine Vegetation Management Permit prior to performing such work.

**c. Tree Removal in Excess of Maximum Allowance:** A Routine Vegetation Management Permit shall be required for tree cutting in greater amounts than specified under subsection C9 of this Section, Minor Tree Removal Activities, where tree cutting is proposed without an associated Land Development Permit. Any tree cutting activities shall be the minimum necessary to accomplish the intended purpose, and shall be consistent with subsection D3 of this Section, Restrictions for Critical Areas – General. Trees removed in excess of the maximum amount allowed under subsection C9 of this Section, Minor Tree Removal Activities, shall be subject to RMC [4-4-130H1e](#), Replacement Requirements, unless determined by the Administrator to be unfeasible in the specific case.

**d. Removal of Landmark Tree:** A Land Development Permit or Routine Vegetation Management Permit, which explicitly approves the removal of a landmark tree, as defined by RMC [4-11-200](#), Definitions T, from any property. Replacement trees are required if the minimum tree density for the subject property is not maintained upon removal of the tree. Removal of a landmark tree may be granted for situations where:

i. The tree is determined to be a dangerous tree; or

ii. The tree is causing obvious physical damage to structures including but not limited to building foundations, driveways or parking lots, and for which no reasonable alternative to tree removal exists. Routine maintenance of roofs that is required due to leaf fall does not constitute obvious physical damage to structures; or

- iii. Removal of tree(s) to provide solar access to buildings incorporating active solar devices. Windows are solar devices only when they are south-facing and include special storage elements to distribute heat energy; or
- iv. The Administrator determines the removal is necessary to achieve a specific and articulable purpose or goal of this Title.

**3. Conditional Use Permit Required for Timber Stand Thinning:** While timber harvesting shall not be permitted until such time as a valid land development is approved, a request may be made for maintenance and thinning of existing timber stands to promote the overall health and growth of the stand. Permits allowing thinning beyond the limits allowed in subsection C9 of this Section, Minor Tree Removal Activities, shall be considered as a Conditional Use Permit by the Hearing Examiner according to the following criteria:

- a. Appropriate approvals have been sought and obtained with the Washington State Department of Natural Resources; and
- b. The activity shall improve the health and growth of the stand and maintain long-term alternatives for preservation of trees; and
- c. The activity shall meet the provisions of subsections H4, Applicability, Performance Standards and Alternates, and H5, General Review Criteria, of this Section; and
- d. Thinning activities shall conform to the basal area density recommendations of the Washington State Department of Natural Resources, but shall not reduce the volume of tree canopy by more than forty percent (40%); and
- e. A Tree Retention/Land Clearing (Tree Inventory) Plan, as defined in RMC [4-8-120D](#), Definitions T, shall be required. (Ord. 5650, 12-12-2011)

#### G. ROUTINE VEGETATION MANAGEMENT PERMIT REVIEW PROCESS:

Permits for routine vegetation management shall be processed consistent with RMC [4-9-195](#), Routine Vegetation Management Permits.

#### H. PERFORMANCE STANDARDS FOR LAND DEVELOPMENT/BUILDING PERMITS:

**1. Protected Trees – Retention Required:** Significant trees required to be retained pursuant to subsection H1a of this Section, Percentage of Tree Retention Based on Zones, are considered “protected trees.” Protected trees may contribute to each residential lot’s required minimum tree density, but any trees that are in excess of an individual lot’s minimum tree density shall not contribute to the total number of trees that are required to be retained for the Land Development Permit. Protected trees that do not contribute to a lot’s required minimum tree density shall be held in perpetuity within a tree protection tract pursuant to subsection H2 of this Section, Tree Protection Tract; protected trees on an individual lot are the responsibility of the lot owner and may only be removed if in compliance with subsection C of this Section, Allowed Tree Removal Activities. Significant trees shall be retained as follows:

- a. **Percentage of Tree Retention Based on Zones:** Properties subject to an active Land Development Permit or building permit shall retain the following percentages of significant trees based on the property’s zone. Trees within critical areas and proposed public rights-of-way shall not contribute to the number of significant trees required to be retained.
  - i. **RC, R-1, R-4, R-6 and R-8 Zones:** At least thirty percent (30%) of the significant trees shall be retained in a residential or institutional development.
  - ii. **R-10, R-14, RMF and RMH:** At least twenty percent (20%) of the significant trees shall be retained in a residential or institutional development.
  - iii. **All Other Zones:** At least ten percent (10%) of the significant trees shall be considered protected and retained in commercial or industrial developments.
  - iv. **Utility Uses and Mineral Extraction Uses:** Such operations shall be exempt from the protected tree retention requirements of this Section if the applicant can justify the exemption in writing to the Administrator’s satisfaction. (Ord. 5676, 12-3-2012; Ord. 5759, 6-22-2015)

- b. **Priority of Tree Retention Requirements:** Significant trees shall be retained in the following priority order:

Priority One	i.	Landmark trees;
	ii.	Significant trees that form a continuous canopy;
	iii.	Significant trees on slopes greater than twenty percent (20%);
	iv.	Significant trees adjacent to critical areas and their associated buffers; and
	v.	Significant trees over sixty feet (60') in height or greater than eighteen inches (18") caliper.
Priority Two	i.	Healthy tree groupings whose associated undergrowth can be preserved;
	ii.	Other significant native evergreen or deciduous trees; and
	iii.	Other significant non-native trees.
Priority Three	Alders and cottonwoods shall be retained when all other trees have been evaluated for retention and are not able to be retained, unless the alders and/or cottonwoods are used as part of an approved enhancement project within a critical area or its buffer.	

**c. Calculating Tree Retention:** Tree retention standards shall be applied to the developable area of a property (i.e., land within critical areas and their buffers, public rights-of-way, private PUD streets, shared driveways, and public trails shall be excluded). If the number to be retained includes a fraction of a tree, any amount equal to or greater than one-half (1/2) tree shall be rounded up.

**d. Minimum Tree Density:** Pursuant to subsection C9e of this Section, Minimum Tree Density, each residential lot to be created by subdivision shall have retained, or newly planted, trees that satisfy the lot's minimum tree density requirement. Any protected tree, whether retained or newly planted, that is in excess of the individual lot's minimum tree density shall not contribute to the total number of trees that are required to be retained for the Land Development Permit.

**e. Replacement Requirements:** As an alternative to retaining trees, the Administrator may authorize the planting of replacement trees on the site if it can be demonstrated to the Administrator's satisfaction that an insufficient number of trees can be retained.

**i. Replacement Ratio:** When the required number of protected trees cannot be retained, replacement trees, with at least a two-inch (2") caliper or an evergreen at least six feet (6') tall, shall be planted at a rate of twelve (12) caliper inches of new trees to replace each protected tree removed. Up to fifty percent (50%) of trees required pursuant to RMC [4-4-070](#), Landscaping, may contribute to replacement trees. The City may require a surety or bond to ensure the survival of replacement trees.

**ii. Prohibited Types of Replacement Trees:** Unless replacement trees are being used as part of an approved enhancement project in a critical area or buffer, they shall not consist of the following species:

- (a) All *Populus* species including cottonwood (*Populus trichocarpa*), quaking aspen (*Populus tremuloides*), lombardy poplar (*Populus nigra* "Italica"), etc.;
- (b) All *Alnus* species, which includes red alder (*Alnus oregona*), black alder (*Alnus glutinosa*), white alder (*Alnus rhombifolia*), etc.;
- (c) *Salix* species, which includes weeping willow (*Salix babylonica*), etc.; and
- (d) All *Platanus* species, which include London plane tree (*Platanus acerifolia*), American sycamore, buttonwood (*Platanus occidentalis*), etc.

iii. **Fee in Lieu:** When the Administrator determines that it is infeasible to replace trees on the site, payment into the City's Urban Forestry Program fund may be approved in an amount of money approximating the current market value of the replacement trees and the labor to install them. The City shall determine the value of replacement trees.

**2. Tree Protection Tract:** Trees required to be retained (i.e., protected trees), and/or Administrator approved replacement trees (excluding required street trees pursuant to RMC 4-4-070F, Areas Required to be Landscaped), that are not necessary to provide the required minimum tree density for residential lots, shall be preserved by establishing a tree protection tract that encompasses the drip line of all protected trees; however, multiple tree protection tracts may be approved if it can be demonstrated, to the Administrator's satisfaction, that multiple tracts provide a better site design and/or support other adopted goals and purposes of this Title.

a. **Applicability:** Tree protection tracts shall be required for any protected trees that are not located on an individual lot. Tree protection tracts may contribute to open space requirements, if applicable.

**b. Standards:**

- i. Tree protection tracts should consist of an aggregation of trees occupying a specific area and sufficiently uniform in species composition, size, age, arrangement, and condition as to be distinguished from adjoining areas;
- ii. Trees shall be retained and maintained pursuant to the recommendations of a City approved certified arborist or licensed landscape architect, as stated within the required Tree Retention/Land Clearing (Tree Inventory) Plan;
- iii. Amenities, as approved by the Administrator, may be installed to facilitate passive recreation within the tract. Such amenities might include, but are not limited to, benches, picnic tables, and soft surface (semi-permeable) trails.

c. **Tract Creation and Deed Restriction:** The permit holder shall establish and record a permanent and irrevocable deed restriction on the property title of any tree protection tract or tracts created as a condition of a permit. Such deed restriction(s) shall prohibit development, alteration, or disturbance within the tract except for purposes of installing Administrator approved amenities, or habitat enhancement activities as part of an enhancement project, which has received prior written approval from the City. A covenant shall be placed on the tract restricting its separate sale.

d. **Fencing:** The City shall require permanent fencing of the tree protection tract. This shall be accomplished by installing a wood, split-rail fence with applicable signage. The Administrator may approve pedestrian-sized openings for the purpose of facilitating passive recreation within the tract for the benefit of the community. The Administrator may authorize alternate styles and/or materials for the required fencing.

e. **Signage Required:** The common boundary between a tree protection tract and the abutting land must be permanently identified. This identification shall include permanent wood or metal signs on treated wood, or metal posts. Sign locations and size specifications are subject to City review for approval. Suggested wording is as follows: "Protection of these trees is in your care. Alteration or disturbance is prohibited by law."

f. **Responsibility for Ownership and Maintenance:** The relevant homeowners' association, abutting lot owners, the permit applicant or designee, or other City approved entity shall have ownership and responsibility for maintaining the tree protection tract(s) and protected trees.

g. **Maintenance Covenant and Note Required:** The following note shall appear on the face of all plats, short plats, PUDs, or other approved site plans containing at least one tree protection tract, and shall also be recorded as a covenant running with the land on the title of record for all affected lots on the title: "MAINTENANCE RESPONSIBILITY:

All owners of lots created by or benefiting from this City action are responsible for maintenance and protection of the tree protection tract. Maintenance includes ensuring that no alterations occur within the tract and that all vegetation remains undisturbed unless the express written authorization of the City has been received.”

**3. Plan Required:** When a Land Development Permit, as defined in RMC [4-11-120](#), is submitted to the City it shall be accompanied by a Tree Retention/Land Clearing (Tree Inventory) Plan as defined in RMC [4-8-120D20](#), Submittal Requirements – Specific to Application Type.

**4. Applicability, Performance Standards and Alternates:** All land clearing and tree removal activities shall conform to the criteria and performance standards set forth in this Section unless otherwise recommended in an approved soil engineering, engineering geology, hydrology, or forest management plan and where the alternate procedures will be equal to or superior in achieving the purposes of this Section. All land clearing and tree removal activities may be conditioned to ensure that the standards, criteria, and purposes of this Section are met.

**5. General Review Criteria:** All land clearing and tree removal activities shall comply with RMC [4-4-060](#), Grading, Excavation, and Mining Regulations, and shall meet the following criteria:

- a. The land clearing and tree removal will not create or contribute to landslides, accelerated soil creep, settlement and subsidence or hazards associated with strong ground motion and soil liquefaction.
- b. The land clearing and tree removal will not create or contribute to flooding, erosion, or increased turbidity, siltation or other form of pollution in a watercourse.
- c. Land clearing and tree removal will be conducted to maintain or provide visual screening and buffering between land uses of differing intensity, consistent with applicable landscaping and setback provisions of the Renton Municipal Code.
- d. Land clearing and tree removal shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with an approved build-out schedule and including any necessary erosion control measures.
- e. Land clearing and tree removal shall be consistent with subsection D3 of this Section, Restrictions for Critical Areas – General, and RMC [4-3-050](#), Critical Areas Regulations.
- f. Retained trees will not create or contribute to a hazardous condition as the result of blowdown, insect or pest infestation, disease, or other problems that may be created as a result of selectively removing trees and other vegetation from a lot.
- g. Land clearing and tree removal shall be conducted to maximize the preservation of any tree in good health that is an outstanding specimen because of its size, form, shape, age, color, rarity, or other distinction as a community landmark.

**6. Timing:** The City may restrict the timing of the land clearing and tree removal activities to specific dates and/or seasons when such restrictions are necessary for the public health, safety and welfare, or for the protection of the environment.

**7. Restrictions for Critical Areas:** See subsection D3 of this Section, Restrictions for Critical Areas – General, and RMC [4-3-050](#), Critical Areas Regulations.

**8. Tree/Ground Cover Retention:** The following measures may be used in conditioning a land development permit or building permit proposal, to comply with the general review criteria of subsection H5 of this Section, General Review Criteria:

- a. Trees shall be maintained to the maximum extent feasible on the property where they are growing. Modification of the tree retention and land clearing plan, or the associated Land Development Permit, may be required to ensure the retention of the maximum number of trees.
- b. The applicant may be required to replace trees, provide interim erosion control, hydroseed exposed soils, or other similar conditions which would implement the intent of this Section.
- c. Trees that shelter interior trees or trees on abutting properties from strong winds that could otherwise cause them to blow down should be retained. (Ord. 5676, 12-3-2012)

**9. Protection Measures During Construction:** Protection measures in this subsection shall apply for all trees that are to be retained. All of the following tree protection measures shall apply:

**a. Construction Storage Prohibited:** The applicant may not fill, excavate, stack or store any equipment, dispose of any materials, supplies or fluids, operate any equipment, install impervious surfaces, or compact the earth in any way within the area defined by the drip line of any tree to be retained.

**b. Fenced Protection Area Required:** Prior to development activities, the applicant shall erect and maintain six-foot (6') high chain link temporary construction fencing around the drip lines of all retained trees or at a distance surrounding the tree equal to one and one-quarter feet (1.25') for every one inch (1") of trunk caliper, whichever is greater, or along the perimeter of a tree protection tract. Placards shall be placed on fencing every fifty feet (50') indicating the words, "NO TRESPASSING – Protected Trees," or on each side of the fencing if less than fifty feet (50'). Site access to individually protected trees or groups of trees shall be fenced and signed. Individual trees shall be fenced on four (4) sides. In addition, the applicant shall provide supervision whenever equipment or trucks are moving near trees.

**c. Protection from Grade Changes:** If the grade level adjoining to a tree to be retained is to be raised, the applicant shall construct a dry rock wall or rock well around the tree. The diameter of this wall or well must be equal to the tree's drip line.

**d. Impervious Surfaces Prohibited within the Drip Line:** The applicant may not install impervious surface material within the area defined by the drip line of any tree to be retained.

**e. Restrictions on Grading within the Drip Lines of Retained Trees:** The grade level around any tree to be retained may not be lowered within the greater of the following areas: (i) the area defined by the drip line of the tree, or (ii) an area around the tree equal to one and one-half feet (1-1/2') in diameter for each one inch (1") of tree caliper. A larger tree protection zone based on tree size, species, soil, or other conditions may be required. (Ord. 5676, 12-3-2012)

**f. Mulch Layer Required:** All areas within the required fencing shall be covered completely and evenly with a minimum of three inches (3") of bark mulch prior to installation of the protective fencing. Exceptions may be approved if the mulch will adversely affect protected ground cover plants. (Ord. 5676, 12-3-2012)

**g. Monitoring Required during Construction:** The applicant shall retain a certified arborist or licensed landscape architect to ensure trees are protected from development activities and/or to prune branches and roots, fertilize, and water as appropriate for any trees and ground cover that are to be retained.

**h. Alternative Protection:** Alternative safeguards may be used if determined to provide equal or greater tree protection. (Ord. 5676, 12-3-2012)

#### **10. Maintenance:**

a. All retained and replacement trees, including protected trees, shall be maintained in perpetuity from the date of the final Land Development Permit issued for the project, unless tree removal is authorized pursuant to this Section;

b. All retained trees and vegetation shall be pruned and trimmed to maintain a healthy growing condition or to prevent limb failure;

c. With the exception of dangerous trees specifically retained to provide wildlife habitat, any protected tree that becomes a dangerous tree, as defined in RMC [4-11-200](#), or any protected or replacement tree that is stolen, shall be replaced within three (3) months or during the next planting season if the loss does not occur in a planting season.

#### **I. MODIFICATIONS:**

The Administrator shall have the authority to grant modifications from the provisions of this Section pursuant to RMC [4-9-250D](#), Modification Procedures, when no other permit or approval requires Hearing Examiner review. (Ord. 5519, 12-14-2009; Ord. 5676, 12-3-2012)

#### **J. VIOLATIONS AND PENALTIES:**

**1. Penalties:** Penalties for any violation of any of the provisions of this Section shall be in accordance with RMC 1-3-2, Code Enforcement and Penalties. In a prosecution under this Section, each tree removed, damaged or destroyed will constitute a separate violation, and the monetary penalty for each violation shall be no less than the minimum penalty, and no greater than the maximum penalty of RMC 1-3-2P, Penalties.

**2. Additional Liability for Damage:** In addition, any person who violates any provision of this Section or of a permit shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.

**3. Restoration Required:** The City may require replacement of all improperly removed ground cover with species similar to those which were removed or other approved species such that the biological and habitat values will be replaced. Restoration shall include installation and maintenance of interim and emergency erosion control measures that shall be required as determined by the City.

**4. Replacement Required:** The City may require, for each tree that was improperly cut and/or removed in violation of, or without, an approved Land Development Permit and associated tree retention and land clearing plan, replacement planting of a tree of equal size, quality and species or replacement trees at a rate of one-to-one (1:1) caliper inches. The replacement trees will be of sufficient caliper to adequately replace the lost tree(s), and at a minimum of two inches (2") in caliper. The City may require a bond to ensure the survival of replacement trees.

**5. Stop Work:** For any parcel on which trees and/or ground cover are improperly removed and subject to penalties under this Section, the City shall stop work on any existing permits and halt the issuance of any or all future permits or approvals until the property is fully restored in compliance with this Section and all penalties are paid. (Ord. 4219, 6-5-1989; Amd. Ord. 4835, 3-27-2000; Ord. 4851, 8-27-2000; Ord. 4963, 5-13-2002; Ord. 5132, 4-4-2005; Ord. 5137, 4-25-2005; Ord. 5304, 9-17-2007; Ord. 5748, 1-12-2015)

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