

D4. Proposed Intent and Purpose Discussion

Subcommittee met and had the old ordinance language, the discussion notes from this group. Had a deeper conversation about what liked and didn't like about the current ordinance. Tried to include general and technical. Did live drafting then circulated it to subcommittee and had two days to add comment etc. Had general consensus on language. Had a long conversation about "enhance neighborhood property values". That was the one area there was less consensus on.

The current language:

This chapter is adopted because the city has been forested by stands of oak, bay and other trees, the preservation of which is necessary for the health and welfare of the citizens of this city in order to preserve the scenic beauty and historical value of trees, prevent erosion of topsoil and sedimentation in waterways, protect against flood hazards and landslides, counteract the pollutants in the air, maintain the climatic balance and decrease wind velocities. It is the intent of this chapter to establish regulations for the removal of heritage trees within the city in order to retain as many trees as possible consistent with the purpose of this chapter and the reasonable economic enjoyment of private property.

The new proposed language:

This chapter is adopted with the intent and purpose of promoting the preservation and development of a healthy, diverse tree canopy in Menlo Park, which is highly valued by our community and is vital to the character and health of our city.

Trees are valued for their many contributions to the environment, public health and quality of life of the Menlo Park community. Examples of those benefits include:

- *provide shade*
- *enhance resilience to climate change*
- *improve air quality*
- *provide shelter from wind*
- *prevent erosion and landslides*
- *protect against flood hazards*
- *add to the city's scenic beauty and character*
- *recognize historical significance to our city*
- *create natural gathering places*
- *reduce noise pollution*
- *enhance privacy*
- *enhance neighborhood property values*
- *provide habitat for wildlife*

This chapter establishes regulations for the removal and replacement of trees, promotion of additional tree planting, and public education about the planting, maintenance and preservation of healthy trees,

consistent with the intent and purpose of this chapter and the reasonable economic enjoyment of public and private property.

Discussion:

*Add to benefits: enhance resilience to climate change **and heat islands***

Last paragraph modified to:

*This chapter establishes regulations for the removal and replacement of trees, promotion of additional tree planting, and public education about the planting, maintenance and preservation of healthy trees, **and align with the General Plan and community environmental and sustainability practices, and promote the maintenance of our trees following industry standards and best management practices, consistent with the intent and purpose of this chapter, the reasonable economic enjoyment of public and private property, and in alignment with the General Plan.***

Clarifying Questions:

Q. "Promote the maintenance of our trees following industry standards following best practices"- Could this allow the arborist to come to a property and tell residents that they need to maintain trees differently?

A. Intent isn't giving authority to anyone specifically. Will be addressed in a different portion of the ordinance.

City Attorney response after the meeting: **Maintaining trees in accordance with industry standards and best practices is of course a good thing. From a legal perspective, the City generally expects the homeowner to take on this responsibility on private property. Our office would have legal concerns if the ordinance transferred this responsibility to the City. The suggested language does not appear to do that and thus it appears fine.**

Q. What is reasonable economic enjoyment?

A. Will ask city attorney, but understanding is that it's legal language that is tied to development -that allows city to work with private property regarding

City Attorney response after the meeting: **Clarification of the term: "economic enjoyment": This term simply means economic value. As used in the existing purpose section of our heritage tree ordinance, the multiple benefits of protecting heritage trees on private property must also be balanced against a private property owner's interest in maximizing the economic value of his/her property. Sometimes maintaining heritage trees on the property makes a private property more valuable, but other times economic value is maximized by removing a tree to accommodate an addition or other property improvement. The purpose section acknowledges that an owner's economic interests should be factored into the balance.**

What do you like about the proposed "intent and purpose" of the ordinance?

- All of it

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- It's very specific and clarifies what was vague
- Still brief
- Thorough and thoughtful
- More holistic

What would you like to change?

- Prohibiting the state from taking the property and/or changing the property
- Concerned about heat island effects complicating the Ordinance
- Concerned about connecting the policy to other plans and policies: [City Attorney response-This is generally a good thing. We should examine which GP provisions you are thinking about. For instance, a GP policy that promotes native landscaping and water conservation may not serve to promote redwood tree preservation.](#)

Suggestion:

- Get community input through a survey. Ask such as, "Should we even have heritage trees?" Etc.
- Increased education and awareness about trees and the implications of

Talking Points for the Task Force when speaking on this outside of the meeting:

- We've redrafted the intent and purpose and passed it as a group.
- The purpose starts with a generalized introduction then gives specifics to identify positive aspects of the benefits of trees to Menlo Park.

Next Steps:

- Ask City attorney about the impact of the proposed intent language "promote the maintenance of our trees following industry standards following best practices" to see if this could lead to invitation for arborists to come onto the
- Ask City attorney what Economic Enjoyment Means-email to group prior to next meeting
- Ask City attorney about potential impact about tying this ordinance to the general plan

D5. Review and discuss the criteria for removal and select up to three best practices or ideas for further evaluation

Q: What should we be looking at in terms of selecting up to three best practices?

A: City would like you to come up with three options for improvements to decision-making criteria—what possible changes you would like to see/explore further

Q: What about street trees?

A: These are subject to the Heritage Tree Ordinance

Not official minutes- see [Heritage Tree Task Force minutes for official actions](#)

Q: What did we decide for definition of heritage trees?

A: Look at dealing with trees with multiple trunks; Look at replacement trees
Kept current diameters—15 inches for non-native oaks, 10 inches for native oaks

Dead trees:

The City has a process to expedite removal of dead trees but it's not in the ordinance currently. Current process requires submission of an application even if a tree is dead. Applicant needs to submit image of tree showing its dead (no living foliage) or an arborist report stating that the tree is dead. Then City can waive the fee. No inspection needed and no appeal period. Permit can often be granted the same day. Sometimes may get posted for notice so that people know the permit process was followed. There is a replacement requirement for dead trees.

- We should not ask people to spend money on a dead tree
- Concern about people submitting a photo of another tree—it's an honor system
- What about a dying tree?

Should there be language in the ordinance that provides an expedited process for the removal of undesirable trees?

- Staff would like to see the "long term value" more clearly defined in current criterion #4
- Will need criteria to determine what is undesirable—is it undesirable species or other undesirable characteristics?
- Should tree structure be listed in criteria 1? Yes, this is related to the condition of the tree. A tree may be declining that doesn't have a disease—e.g., if roots were cut
- There might be a tree that is generally undesirable, but it might be desirable in certain situations
- Should a permit still be required? Yes, it has to be monitored.
- Staff can come back with a definition of what is undesirable
- Ask (with or without appeal)
- Task Force members can email staff with ideas of any species that should be included on the list of undesirable species

What criteria should be removed?

Think about whether criteria are useful and how costly they are (it's not that they are not important)

- Christian has never used criterion #3. It is very costly to get this evidence
- Some of the criteria are reasons to remove trees and some are reasons to keep trees
- Keep it simple, not subjective
- Remove #6. We are talking about 1 tree.
- Explore something simple like Cupertino's—requires only one finding to approve a permit and is very specific.
- Would like to see more structure, more concise, more consistency. Rancho Cordova is also concise.

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- Would like staff to look at fewer criteria, simpler, clearer, and similar to Cupertino and Rancho Cordova and Los Gatos and make a proposal to the Task Force given the purpose and definition that the Task Force has already agreed to.
- Second bullet for Cupertino seems a little too subjective. Los Gatos is more specific on that point.
- Staff will work to make it more concise—provide standards while making it less verbose.