



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

June 16, 2008

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Tigard Plan Amendment
DLCD File Number 001-08



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: June 27, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Amanda Punton, DLCD Natural Resource Specialist
Darren Wyss, City of Tigard

<paa> ya/

DLCD

Notice of Adoption



THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: **City of Tigard**

Local file number: **CPA 2008-00002**

Date of Adoption: **6/3/2008**

Date Mailed: **6/6/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 2/21/2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend the Tigard Comprehensive Plan to update the goals, policies, and recommended action measures to reflect current community conditions and values pertaining to Tigard's Urban Forest.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: **Tigard City Limits**

Acres Involved: **7552**

Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. 001-08 (16718)

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Metro
ODOT

Local Contact: **Darren Wyss**

Phone: (503) 718-2442 Extension:

Address: **13125 SW Hall Blvd.**

Fax Number: **503-718-2748**

City: **Tigard, OR**

Zip: **97223**

E-mail Address: **darren@tigard-or.gov**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - **ATTENTION: PLAN AMENDMENT SPECIALIST**.

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 08- 08

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT CPA2008-00002 TO ADD GOALS, POLICIES, AND RECOMMENDED ACTION MEASURES PERTAINING TO STATEWIDE PLANNING GOAL 2: TIGARD'S URBAN FOREST, AS AMENDED

WHEREAS, the Tigard City Council directed staff to complete a full update of the Tigard Comprehensive Plan, including a process for garnering citizen input; and

WHEREAS, the Tigard visioning reports, community surveys, Tigard Tree Board meetings, and policy interest team meetings were utilized to develop draft language for the update of the Tigard Comprehensive Plan; and

WHEREAS, the City has proposed an amendment to the Tigard Comprehensive Plan Chapter by updating Goals, Policies, and Recommended Action Measures corresponding to Statewide Planning Goal 2; and

WHEREAS, the Tigard Planning Commission held a public meeting on April 21, 2008, and recommended approval of the proposed CPA2008-00002 by motion and with unanimous vote; and

WHEREAS, on May 6, 2008, the Tigard City Council held a public hearing to consider the Commission's recommendation on CPA2008-00002, hear public testimony, and apply applicable decision-making criteria; and

WHEREAS, on June 3, 2008, the Tigard City Council adopted CPA2008-00002 by motion, as amended pursuant to the public hearing and its deliberations; and

WHEREAS, Council's decision to adopt CPA2008-00002 is based on the findings and conclusions found in the City of Tigard staff report dated April 7, 2008 and the associated record, which are incorporated herein by reference and are contained in land-use file CPA2008-00002.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Comprehensive Plan is amended to include new text and to rescind existing text as shown in "**EXHIBIT A**"; and

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By unanimous vote of all Council members present after being read by number and title only, this 3rd day of June, 2008.

Catherine Wheatley
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 3rd day of June, 2008.

C. Dirksen
Craig Dirksen, Mayor

Approved as to form:

Robert Young
City Attorney

6.3.08

*Certified to be a true copy of the original document
on file at City of Tigard City Hall*

By Catherine Wheatley
Date: 6.10.08





Section 2: Tigard's Urban Forest

A defining community feature of Tigard is its trees and the urban forest they create. Unlike natural forests or managed timberland, Tigard's urban forest is a mosaic of native forest remnants and planted landscape elements interspersed with buildings, roads and other elements of the urban environment. The protection, management, and enhancement of this resource is important not only for Tigard's aesthetic identity and sense of place, but for the social, ecological, and economic services it provides to the community.

Trees and other types of vegetation are integral to the quality of Tigard's aesthetic, economic, and natural environments. Plants provide variation in color, texture, line and form that softens the hard geometry of the built environment. They also enhance the public and private realm through the provision of shade from the sun and wind, providing habitat for birds and wildlife, enhancing community attractiveness and investment, improving water quality and soil stability, and promoting human health and well-being.

Tigard's trees and native plant communities have experienced significant disruption and displacement, first by agriculture and logging in the 19th century, and by increasingly dense urban development in the 20th Century. Competition from introduced invasive species such as English ivy, reed canary grass, and Himalayan blackberries has made it difficult for remaining native plant communities to thrive. However, remnant stands of native tree and associated plant communities still remain within the City Limits. Trees are important members and contributors to natural resource systems including upland habitat areas and plant communities, and functioning riparian corridors including the Tualatin River, Fanno Creek and its tributaries, and their adjacent flood plains and wetlands.

In addition to remnants of the native forest, Tigard possesses a large number of



mature and outstanding specimens of native and non-native trees planted when the area was rural country-side in the late 19th and early 20th centuries. Aerial photos demonstrate that increasingly more trees were planted on both public and private property during a period of large lot residential subdivision development from the late 1940's through the 1970's, many of which survive to this day.

Community attitude surveys reveal that Tigard Citizens place high value on the protection of trees and are concerned about the impact of development upon existing tree resources. Community surveys conducted in 2004 and 2006 show that residents value their neighborhood as a suburban retreat, a place that allows for views of trees and other natural areas. The 2006 Community Attitudes Survey found "the protection of trees and natural resource areas" as rating the highest of all "livability" characteristics posed to the respondents, scoring 8.4 out of 10 points. Preservation of trees and other natural resources scored higher on resident's livability index than neighborhood traffic (8.2), maintaining existing lot sizes (7.8), pedestrian and bike paths (7.7), and compatibility between existing and new development (7.6). A follow-up question contained in the 2007 survey revealed that 84% of Tigard Residents supported regulations to protect existing trees, with only 6% strongly disagreeing and 9% somewhat disagreeing. In addition, 90% of Tigard residents thought the City should take the lead in preserving open space. These values are also shared by residents of adjoining jurisdictions who maintain, or have begun significant updates to, their tree protection ordinances.

The City of Tigard has been a Tree City, USA since 2001 because of aggressive programs to plant trees on public property. In partnership with Clean Water Services, the City of Tigard is in the early stages of a series of stream restoration and enhancement projects intended to improve water quality, reduce erosion, and provide shade, structure and food sources to fish and other wildlife. Projects currently underway within the City's floodplains and riparian areas will result in the planting of approximately 100,000 native trees over a 10 year period (Fiscal Years 2001-2011). Through volunteer projects, cooperative efforts with non-profits, contract services, and the labor of Public Works crews, thousands of young trees are annually planted on public property.

Not including restoration projects, the City's Public Works Department annually plants approximately 250 new or replacement trees on public lands, distributes approximately 50 street trees each year to private property owners through the Street Tree Program, and plants an addition 25 trees in celebration of arbor day.



Native species are given preference and are regularly planted along trails, riparian areas, and in new park and green space areas. The objective is to increase the total number of trees, particularly in areas where summer shade is desired such as picnic areas and next to sidewalks. Money is budgeted each year to maintain new trees being established and to remove hazard trees located on public property. As more public property is added and trees grow older, the number of hazard trees pruned or removed each year will continue to grow. The level of new tree planting is limited by the maintenance capacity of City work crews.

Conditions and circumstances have significantly changed since the adoption of Tigard's Comprehensive Plan in 1983. Rapid urban development has resulted in a general perception that the City has experienced a significant loss of tree canopy, and other vegetation essential for wildlife habitat, erosion control, slope stability, water quality, air-quality, and community aesthetics. Driving this perception are METRO land use regulations, failed annexation efforts and changing market conditions resulting in higher density development than was anticipated in 1983, further challenging the City to protect trees and canopy cover while accommodating new development. Additionally, the City does not currently have a comprehensive tree management and urban forest enhancement program to address these issues in a unified and consistent manner. As a result there is general feeling among residents, developers, and other stakeholders that the existing regulatory structure is not adequate and hinders both the strategic protection of trees and the orderly urbanization of the City.

The City has historically relied upon its Development Code to manage and protect trees on private property, particularly heritage trees and those located within steep slopes, wetlands, and other sensitive lands. Existing regulations require new development to protect and/or replace existing trees wherever possible, to pay into a mitigation fund when trees are removed, and to plant new street trees and landscape trees as part of all new construction. In addition, trees within vegetated corridors surrounding wetlands, riparian corridors, and other natural bodies of water are also protected by Clean Water Services as part of their stormwater management program. These regulatory structures do not recognize or protect existing trees outside of those areas, and offer little protection unless a development action is pending, or prior conditions of development approval designated the affected tree(s) for future protection. As a result, the existing regulatory structure does not encompass a significant number of trees across the city, which may be removed by the property owner without City consultation or permit. Additionally, because the City does not have a compre-



hensive tree removal consultation or permit system, protected trees (such as street trees) have been removed despite existing regulations or restrictions in force.

KEY FINDINGS:

- A defining community feature is Tigard's urban forest, a mosaic of native forest remnants and planted landscape elements interspersed throughout the City.
- This urban forest provides social, economic, and ecological services that create public and private value to residents, businesses, and visitors.
- Mature and well-managed trees provide the maximum public benefits.
- The City continues to allocate staff and resources to tree planting, tree maintenance, and outreach activities. Additionally, new development is required to install street trees, landscape trees, and trees for mitigation purposes.
- The existing urban forest continues to experience significant disruption and displacement through the conversion of land to more intense urban land uses and competition from invasive species.
- Existing tree regulations are dispersed throughout the code; applied by multiple divisions in a non-unified and inconsistent manner; and sometimes conflicting between different code sections.
- The City does not presently have a comprehensive and unified process to monitor tree removal and enforce existing tree protections outside of development permit review. Furthermore, landowners are not always aware of regulatory protections applicable to their property or street trees adjacent to their property.
- Community attitude surveys reveal that Tigard residents place high value on the protection of trees within the community, that they are concerned about the impact of development upon existing tree resources, and are strongly in favor of a regulatory structure that would protect additional trees.

GOAL:

- 2.2 To enlarge, improve and sustain a diverse urban forest to maximize the economic, ecological, and social benefits of trees.

POLICIES:

1. The City shall maintain and periodically update policies, regulations and standards to inventory, manage, preserve, mitigate the loss of, and



- enhance the community's tree and vegetation resources to promote their environmental, aesthetic and economic benefits.
2. The City's various codes, regulations, standards and programs relating to landscaping, site development, mitigation, and tree management shall be consistent with, and supportive of, one another; administration and enforcement shall be regulated and coordinated by the variously impacted departments.
 3. The City shall continue to regulate the removal of trees, within environmentally sensitive lands and on lands subject to natural hazards.
 4. The City shall ensure that street design and land use standards provide ample room for the planting of trees and other vegetation, including the use of flexible and incentive based development standards.
 5. The City shall require the replacement and/or installation of new street trees, unless demonstrated infeasible, on all new roads or road enhancement projects. Trees should be planted within planter strips, or at the back of sidewalks if planter strips are not feasible or would prohibit the preservation of existing trees.
 6. The City shall establish and enforce regulations to protect the public's investment in trees and vegetation located in parks, within right-of-ways, and on other public lands and easements.
 7. The City shall conduct an ongoing tree and urban forest enhancement program to improve the aesthetic experience, environmental quality, and economic value of Tigard's streets and neighborhoods.
 8. The City shall continue to maintain and periodically update approved tree lists for specific applications and site conditions, such as street trees, parking lot trees, and trees for wetland and riparian areas.
 9. The City shall discourage the use or retention of invasive trees and other plants through the development review process.
 10. The City shall require the appropriate use of trees and other vegetation as buffering and screening between incompatible uses.
 11. The City shall develop and implement a citywide Urban Forestry



Management Master Plan.

RECOMMENDED ACTION MEASURES:

- i. Develop and implement a comprehensive, coordinated update and enhancement of all tree related regulations, standards, programs, and plans.
- ii. Develop and implement an inspection and enforcement program that will ensure ongoing maintenance of trees and other vegetation required by development approval, with particular attention to challenges introduced by the change of ownership of affected properties.
- iii. Develop and implement an inspection and enforcement program that will ensure non-development related tree management and removal complies with the City's tree protection ordinances such as heritage trees, street trees, and trees on sensitive lands.
- iv. Inventory and evaluate street tree, parking lot and landscape area plantings that have failed to thrive, and determine if site conditions or management practices can be modified, and/or if trees can be planted elsewhere in order to satisfy conditions of development approval or provide the benefits expected of the original planting.
- v. Develop and maintain, as part of the City's GIS and permit systems, a publicly accessible inventory of tree plantings, permitted removals, and the state of the City's urban forest.
- vi. Develop and distribute educational materials and programs regarding City policies, regulations, and good arboricultural practices for the general public, developers and city staff regarding tree planting, maintenance, and protection. Materials should be published in both paper and electronic media and in multiple languages. Particular focus should be given to new property owners who may be unfamiliar with the City's regulations and development related restrictions affecting their property.
- vii. Encourage and promote the removal of nuisance/invasive plants,



and the installation of trees and vegetation that are low maintenance, drought tolerant, site appropriate, and require minimal chemical applications. Strategies could include the production and distribution of approved tree lists to area nurseries, landscaping companies, libraries and similar businesses and public resources.

- viii. Utilize approved tree and plant lists that emphasize long lived evergreens, broad-spreading deciduous varieties, and native species, but allow flexibility to choose a wide variety of species that are proven suitable for local climate conditions and for specific uses and locations.
- ix. Encourage efforts by community groups and neighborhoods to plant trees and undertake other projects, such as restoration of wetlands and stream corridors.
- x. Maintain a list of invasive plants, discourage the sale and propagation of these plant materials within the City, promote their removal, and prevent their reestablishment or expansion.

GOAL:

- 2.3 To balance the diverse and changing needs of the City through well-designed urban development that minimizes the loss of existing trees to create a living legacy for future generations.

POLICIES:

- 1. The City shall develop and implement standards and procedures designed to minimize the reduction of existing tree cover, with priority given to native trees and non-native varieties that are long lived and/or provide a broad canopy spread.
- 2. In prescribing the mitigation of the impacts of development, the City shall give priority to the protection of existing trees, taking into consideration the related financial impact of mitigation.
- 3. The City shall develop policies and procedures designed to protect trees, including root systems, selected for preservation during land



development.

4. The City shall address public safety concerns by ensuring ways to prevent and resolve verified tree related hazards in a timely manner.
5. The City shall develop and enforce site design and landscape requirements to reduce the aesthetic and environmental impacts of impervious surfaces through the use of trees and other vegetation.
6. The City shall, in order to preserve existing trees and ensure new trees will thrive, allow and encourage flexibility in site design through all aspects of development review.
7. The City shall require all development, including City projects, to prepare and implement a tree preservation and landscaping plan, with the chosen trees and other plant materials appropriate for site conditions.
8. The City shall continue to cooperate with property owners, businesses, other jurisdictions, agencies, utilities, and non-governmental entities to manage and preserve street trees, wetlands, stream corridors, riparian areas, tree groves, specimen and heritage trees, and other vegetation.
9. The City shall require, as appropriate, tree preservation strategies that prioritize the retention of trees in cohesive and viable stands and groves instead of isolated specimens.
10. Applications for tree removal and tree management plans shall be reviewed by a certified arborist employed or under contract to the City.
11. The City shall recognize the rights of individuals to manage their residential landscapes.

RECOMMENDED ACTION MEASURES:

- i. Develop and implement regulations, standards, and incentives to encourage developers to transfer density, seek variances and adjustments necessary to preserve trees and natural open space in a manner that optimizes tree preservation and protection.



- ii. Develop tree-mitigation regulations and standards to guide the City in assessing fees or compelling compensatory action resulting from violation of its tree protection standards and/or conditions of development approval. Consideration shall be given to off-site mitigation on both public and private lands, and the maintenance of a publicly accessible registry of mitigation sites both historical and potential.
- iii. Conduct surveys, workshops, and/or other public outreach strategies to identify and implement an appropriate strategy and form for tree protection regulations outside of the development review process.
- iv. Encourage other jurisdictions operating within and adjacent to Tigard to prepare and implement a tree preservation and landscaping plan as part of all development and infrastructure projects.
- v. Develop standards and procedures to identify and abate tree related hazards on both public and private property..

Agenda Item # _____

Meeting Date _____

June 3, 2008

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Public Hearing for Comprehensive Plan Amendment CPA2008-00002 - Urban Forest

Prepared By: John Floyd Dept Head Approval: JC City Mgr Approval: el

ISSUE BEFORE THE COUNCIL

Shall Council approve the Planning Commission's recommendation to adopt the Comprehensive Plan Amendment (CPA2008-00002) to update the goals, policies, and recommended action measures applicable to Tigard's Urban Forest?

STAFF RECOMMENDATION

Approve the Planning Commission's recommendation and adopt the proposed Comprehensive Plan Amendment to update goals, policies, and recommended action measures pertaining to Tigard's Urban Forest.

KEY FACTS AND INFORMATION SUMMARY

The proposed Urban Forest Comprehensive Plan Amendment is a result of Council's direction to staff and the Tree Board to complete a full update of the Tigard Comprehensive Plan, including goals, policies, and action measures, as it pertains to tree stewardship and the contribution of trees to Tigard's quality of life. As part of the background research, staff and the Tree Board considered relevant findings from past citizen surveys and the Tigard visioning project. This ensured that the expressed values and attitudes of the hundreds of citizens who participated in these efforts were incorporated into the update of the Comprehensive Plan.

Council's direction to update the Comprehensive Plan stressed the importance of garnering citizen input. Staff has done this through Policy Interest Teams (PITs) that met several times for each chapter. For this particular subchapter, the Tree Board acted as the host for the Policy Interest Team meetings under an interim charge statement adopted by Council under Resolution 07-30 (Attachment 5). The Tree Board held open meetings, including two joint sessions with the Planning Commission, to find consensus on draft goals, policies, and recommended action measures through consideration of technical information, previously expressed values and attitudes, and concepts presented at the meetings. Subsequently, the Planning Commission held a public workshop on March 17, 2008 and two public hearings on April 7 and April 21. The Commission recommended the Council adopt the updated chapter (Attachment 1) included in CPA2008-00002. Revisions were requested at all three meetings in response to public testimony and deliberation by the Planning Commission.

Like all updated Plan chapters that will come before Council, it is important that the Land Use Planning chapter be technically sound. Therefore, during the development of the chapter, Department Review Teams were involved to determine its technical accuracy and conformance with applicable laws and rules. In addition, the updated chapter was sent to state, federal, and regional agencies for review.

The intent of the updated chapter is to provide Tigard a much better foundation on which to prepare tree related ordinances, associated plans, development standards, and programs. This is necessary to provide the tools needed to address the appropriate development and implementation of an effective urban forest protection and enhancement program. The successful management of Tigard's urban forest is essential to a high quality of life, prosperity, and the overall health, safety, and welfare of the community.

City Council reviewed the amendment at a May 6, 2008 meeting and had a few questions and comments on the language recommended by the Planning Commission. In response to Council's questions and concerns, staff developed one additional action measure and presents alternative wording for two policies for consideration at the public hearing on June 3, 2008. This alternative language is outlined in the memo dated May 19, 2008 (Attachment 8).

At and prior to the workshop, Council received three personal communications of an informational nature regarding the proposed amendment (John Frewing, Home Builder's Association of Metropolitan Portland, and Ken Gertz). While not a part of the official record due to their receipt outside of a public hearing, they have been included as a courtesy to Council (Attachment 7).

OTHER ALTERNATIVES CONSIDERED

1. Approve the Planning Commission recommendation and adopt CPA2008-00002.
2. Modify the Planning Commission recommendation and adopt CPA2008-00002.
3. Remand to the Planning Commission to hold additional hearings and deliberations for future consideration at City Council.

CITY COUNCIL GOALS

Goal 2: Complete the update and begin the implementation of the Comprehensive Plan.

ATTACHMENT LIST

Attachment 1: Ordinance approving Comprehensive Plan Amendment 2008-00002

Exhibit A: Tigard Comprehensive Plan Amendments for Tigard's Urban Forest (Statewide Planning Goal 2)

Attachment 2: Staff Report to the Planning Commission - April 7, 2008

Attachment 3: Planning Commission Memo dated April 14, 2008 (Pertaining to 2nd public hearing on CPA2008-00001)

Attachment 4: Planning Commission Meeting Minutes – April 7, 2008

Attachment 5: Planning Commission Meeting Minutes – April 21, 2008

Attachment 6: Council Resolution 07-30 (Interim Tree Board Charge Statement)

Attachment 7: Personal Communications to Council regarding the Council Workshop of May 6, 2008

Attachment 8: Council Memo dated May 19, 2008 (Pertaining to Council workshop on CPA2008-00001)

FISCAL NOTES

Not Applicable

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 08-_____

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT CPA2008-00002 TO ADD GOALS, POLICIES, AND RECOMMENDED ACTION MEASURES PERTAINING TO STATEWIDE PLANNING GOAL 2: TIGARD'S URBAN FOREST.

WHEREAS, the Tigard City Council directed staff to complete a full update of the Tigard Comprehensive Plan, including a process for garnering citizen input; and

WHEREAS, the Tigard visioning reports, community surveys, Tigard Tree Board meetings, and policy interest team meetings were utilized to develop draft language for the update of the Tigard Comprehensive Plan; and

WHEREAS, the City has proposed an amendment to the Tigard Comprehensive Plan Chapter by updating Goals, Policies, and Recommended Action Measures corresponding to Statewide Planning Goal 2; and

WHEREAS, the Tigard Planning Commission held a public meeting on April 21, 2008, and recommended approval of the proposed CPA2008-00002 by motion and with unanimous vote; and

WHEREAS, on May 6, 2008, the Tigard City Council held a public hearing to consider the Commission's recommendation on CPA2008-00002, hear public testimony, and apply applicable decision-making criteria; and

WHEREAS, on June 3, 2008, the Tigard City Council adopted CPA2008-00002 by motion, as amended pursuant to the public hearing and its deliberations; and

WHEREAS, Council's decision to adopt CPA2008-00002 is based on the findings and conclusions found in the City of Tigard staff report dated April 7, 2008 and the associated record, which are incorporated herein by reference and are contained in land-use file CPA2008-00002.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Comprehensive Plan is amended to include new text and to rescind existing text as shown in "**EXHIBIT A**"; and

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2008.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2008.

Craig Dirksen, Mayor

Approved as to form:

City Attorney



Section 2: Tigard's Urban Forest

A defining community feature of Tigard is its trees and the urban forest they create. Unlike natural forests or managed timberland, Tigard's urban forest is a mosaic of native forest remnants and planted landscape elements interspersed with buildings, roads and other elements of the urban environment. The protection, management, and enhancement of this resource is important not only for Tigard's aesthetic identity and sense of place, but for the social, ecological, and economic services it provides to the community.

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Tigard's trees and native plant communities have experienced significant disruption and displacement, first by agriculture and logging in the 19th century, and by increasingly dense urban development in the 20th Century. Competition from introduced invasive species such as English ivy, reed canary grass, and Himalayan blackberries has made it difficult for remaining native plant communities to thrive. However, remnant stands of native tree and associated plant communities still remain within the City Limits. Trees are important members and contributors to natural resource systems including upland habitat areas and plant communities, and functioning riparian corridors including the Tualatin River, Fanno Creek and its tributaries, and their adjacent flood plains and wetlands.



In addition to remnants of the native forest, Tigard possesses a large number of mature and outstanding specimens of native and non-native trees planted when the area was rural country-side in the late 19th and early 20th centuries. Aerial photos demonstrate that increasingly more trees were planted on both public and private property during a period of large lot residential subdivision development from the late 1940's through the 1970's, many of which survive to this day.

Community attitude surveys reveal that Tigard Citizens place high value on the protection of trees and are concerned about the impact of development upon existing tree resources. Community surveys conducted in 2004 and 2006 show that residents value their neighborhood as a suburban retreat, a place that allows for views of trees and other natural areas. The 2006 Community Attitudes Survey found "the protection of trees and natural resource areas" as rating the highest of all "livability" characteristics posed to the respondents, scoring 8.4 out of 10 points. Preservation of trees and other natural resources scored higher on resident's livability index than neighborhood traffic (8.2), maintaining existing lot sizes (7.8), pedestrian and bike paths (7.7), and compatibility between existing and new development (7.6). A follow-up question contained in the 2007 survey revealed that 84% of Tigard Residents supported regulations to protect existing trees, with only 6% strongly disagreeing and 9% somewhat disagreeing. In addition, 90% of Tigard residents thought the City should take the lead in preserving open space. These values are also shared by residents of adjoining jurisdictions who maintain, or have begun significant updates to, their tree protection ordinances.

The City of Tigard has been a Tree City, USA since 2001 because of aggressive programs to plant trees on public property. In partnership with Clean Water Services, the City of Tigard is in the early stages of a series of stream restoration and enhancement projects intended to improve water quality, reduce erosion, and provide shade, structure and food sources to fish and other wildlife. Projects currently underway within the City's floodplains and riparian areas will result in the planting of approximately 100,000 native trees over a 10 year period (Fiscal Years 2001-2011). Through volunteer projects, cooperative efforts with non-profits, contract services, and the labor of Public Works crews, thousands of young trees are annually planted on public property.

Not including restoration projects, the City's Public Works Department annually plants approximately 250 new or replacement trees on public lands, distributes



approximately 50 street trees each year to private property owners through the Street Tree Program, and plants an addition 25 trees in celebration of arbor day. Native species are given preference and are regularly planted along trails, riparian areas, and in new park and green space areas. The objective is to increase the total number of trees, particularly in areas where summer shade is desired such as picnic areas and next to sidewalks. Money is budgeted each year to maintain new trees being established and to remove hazard trees located on public property. As more public property is added and trees grow older, the number of hazard trees pruned or removed each year will continue to grow. The level of new tree planting is limited by the maintenance capacity of City work crews.

Conditions and circumstances have significantly changed since the adoption of Tigard's Comprehensive Plan in 1983. Rapid urban development has resulted in a general perception that the City has experienced a significant loss of tree canopy, and other vegetation essential for wildlife habitat, erosion control, slope stability, water quality, air-quality, and community aesthetics. Driving this perception are METRO land use regulations, failed annexation efforts and changing market conditions resulting in higher density development than was anticipated in 1983, further challenging the City to protect trees and canopy cover while accommodating new development. Additionally, the City does not currently have a comprehensive tree management and urban forest enhancement program to address these issues in a unified and consistent manner. As a result there is general feeling among residents, developers, and other stakeholders that the existing regulatory structure is not adequate and hinders both the strategic protection of trees and the orderly urbanization of the City.

The City has historically relied upon its Development Code to manage and protect trees on private property, particularly heritage trees and those located within steep slopes, wetlands, and other sensitive lands. Existing regulations require new development to protect and/or replace existing trees wherever possible, to pay into a mitigation fund when trees are removed, and to plant new street trees and landscape trees as part of all new construction. In addition, trees within vegetated corridors surrounding wetlands, riparian corridors, and other natural bodies of water are also protected by Clean Water Services as part of their stormwater management program. These regulatory structures do not recognize or protect existing trees outside of those areas, and offer little protection unless a development action is pending, or prior conditions of development approval designated the affected tree(s) for future protection. As a result, the existing regulatory structure does not encompass a significant number of



trees across the city, which may be removed by the property owner without City consultation or permit. Additionally, because the City does not have a comprehensive tree removal consultation or permit system, protected trees (such as street trees) have been removed despite existing regulations or restrictions in force.

KEY FINDINGS:

- A defining community feature is Tigard's urban forest, a mosaic of native forest remnants and planted landscape elements interspersed throughout the City.
- This urban forest provides social, economic, and ecological services that create public and private value to residents, businesses, and visitors.
- Mature and well-managed trees provide the maximum public benefits.
- The City continues to allocate staff and resources to tree planting, tree maintenance, and outreach activities. Additionally, new development is required to install street trees, landscape trees, and trees for mitigation purposes.
- The existing urban forest continues to experience significant disruption and displacement through the conversion of land to more intense urban land uses and competition from invasive species.
- Existing tree regulations are dispersed throughout the code; applied by multiple divisions in a non-unified and inconsistent manner; and sometimes conflicting between different code sections.
- The City does not presently have a comprehensive and unified process to monitor tree removal and enforce existing tree protections outside of development permit review. Furthermore, landowners are not always aware of regulatory protections applicable to their property or street trees adjacent to their property.
- Community attitude surveys reveal that Tigard residents place high value on the protection of trees within the community, that they are concerned about the impact of development upon existing tree resources, and are strongly in favor of a regulatory structure that would protect additional trees.

GOAL:

- 2.2 To enlarge, improve and sustain a diverse urban forest to maximize the economic, ecological, and social benefits of trees.

POLICIES:



1. The City shall maintain and periodically update policies, regulations and standards to inventory, manage, preserve, mitigate the loss of, and enhance the community's tree and vegetation resources to promote their environmental, aesthetic and economic benefits.
2. The City's various codes, regulations, standards and programs relating to landscaping, site development, mitigation, and tree management shall be consistent with, and supportive of, one another; administration and enforcement shall be regulated and coordinated by the variously impacted departments.
3. The City shall continue to regulate the removal of trees, within environmentally sensitive lands and on lands subject to natural hazards.
4. The City shall ensure that street design and land use standards provide ample room for the planting of trees and other vegetation, including the use of flexible and incentive based development standards.
5. The City shall require the replacement and/or installation of new street trees, unless demonstrated infeasible, on all new roads or road enhancement projects. Trees should be planted within planter strips, or at the back of sidewalks if planter strips are not feasible or would prohibit the preservation of existing trees.
6. The City shall establish and enforce regulations to protect the public's investment in trees and vegetation located in parks, within right-of-ways, and on other public lands and easements.
7. The City shall conduct an ongoing tree and urban forest enhancement program to improve the aesthetic experience, environmental quality, and economic value of Tigard's streets and neighborhoods.
8. The City shall continue to maintain and periodically update approved tree lists for specific applications and site conditions, such as street trees, parking lot trees, and trees for wetland and riparian areas.
9. The City shall discourage the use or retention of invasive trees and other plants through the development review process.
10. The City shall require, as appropriate, the use of trees and other vegetation as buffering and screening between incompatible uses.



11. The City shall develop and implement a citywide Urban Forestry Management Master Plan.

RECOMMENDED ACTION MEASURES:

- i. Develop and implement a comprehensive, coordinated update and enhancement of all tree related regulations, standards, programs, and plans.
- ii. Develop and implement an inspection and enforcement program that will ensure ongoing maintenance of trees and other vegetation required by development approval, with particular attention to challenges introduced by the change of ownership of affected properties.
- iii. Develop and implement an inspection and enforcement program that will ensure non-development related tree management and removal complies with the City's tree protection ordinances such as heritage trees, street trees, and trees on sensitive lands.
- iv. Inventory and evaluate street tree, parking lot and landscape area plantings that have failed to thrive, and determine if site conditions or management practices can be modified, and/or if trees can be planted elsewhere in order to satisfy conditions of development approval or provide the benefits expected of the original planting.
- v. Develop and maintain, as part of the City's GIS and permit systems, a publicly accessible inventory of tree plantings, permitted removals, and the state of the City's urban forest.
- vi. Develop and distribute educational materials and programs regarding City policies, regulations, and good arboricultural practices for the general public, developers and city staff regarding tree planting, maintenance, and protection. Materials should be published in both paper and electronic media and in multiple languages. Particular focus should be given to new property owners who may be unfamiliar with the City's regulations and development related restrictions affecting their property.



- vii. Encourage and promote the removal of nuisance/invasive plants, and the installation of trees and vegetation that are low maintenance, drought tolerant, site appropriate, and require minimal chemical applications. Strategies could include the production and distribution of approved tree lists to area nurseries, landscaping companies, libraries and similar businesses and public resources.
- viii. Utilize approved tree and plant lists that emphasize long lived evergreens, broad-spreading deciduous varieties, and native species, but allow flexibility to choose a wide variety of species that are proven suitable for local climate conditions and for specific uses and locations.
- ix. Encourage efforts by community groups and neighborhoods to plant trees and undertake other projects, such as restoration of wetlands and stream corridors.
- x. Maintain a list of invasive plants, discourage the sale and propagation of these plant materials within the City, promote their removal, and prevent their reestablishment or expansion.

GOAL:

- 2.3 To balance the diverse and changing needs of the City through well-designed urban development that minimizes the loss of existing trees to create a living legacy for future generations.

POLICIES:

- 1. The City shall develop and implement standards and procedures designed to minimize the reduction of existing tree cover, with priority given to native trees and non-native varieties that are long lived and/or provide a broad canopy spread.
- 2. In prescribing the mitigation of the impacts of development, the City shall give priority to the protection of existing trees, and shall consider the financial impact of mitigation.



3. The City shall develop policies and procedures designed to protect trees, including root systems, selected for preservation during land development.
4. The City shall address public safety concerns by ensuring ways to prevent and resolve verified tree related hazards in a timely manner.
5. The City shall develop and enforce site design and landscape requirements to reduce the aesthetic and environmental impacts of impervious surfaces through the use of trees and other vegetation.
6. The City shall, in order to preserve existing trees and ensure new trees will thrive, allow and encourage flexibility in site design through all aspects of development review.
7. The City shall require all development, including City projects, to prepare and implement a tree preservation and landscaping plan, with the chosen trees and other plant materials appropriate for site conditions.
8. The City shall continue to cooperate with property owners, businesses, other jurisdictions, agencies, utilities, and non-governmental entities to manage and preserve street trees, wetlands, stream corridors, riparian areas, tree groves, specimen and heritage trees, and other vegetation.
9. The City shall require, as appropriate, tree preservation strategies that prioritize the retention of trees in cohesive and viable stands and groves instead of isolated specimens.
10. Applications for tree removal and tree management plans shall be reviewed by a certified arborist employed or under contract to the City.

RECOMMENDED ACTION MEASURES:

- i. Develop and implement regulations, standards, and incentives to encourage developers to transfer density, seek variances and adjustments necessary to preserve trees and natural open space in a manner that exceeds the requirements of the Development Code.
- ii. Develop tree-mitigation regulations and standards to guide the City



in assessing fees or compelling compensatory action resulting from violation of its tree protection standards and/or conditions of development approval. Consideration shall be given to off-site mitigation on both public and private lands, and the maintenance of a publicly accessible registry of mitigation sites both historical and potential.

- iii. Conduct surveys, workshops, and/or other public outreach strategies to identify and implement an appropriate strategy and form for tree protection regulations outside of the development review process.
- iv. Encourage other jurisdictions operating within and adjacent to Tigard to prepare and implement a tree preservation and landscaping plan as part of all development and infrastructure projects.

Agenda Item: 5.2
Hearing Date: April 7, 2008 Time: 7:00 PM

**STAFF REPORT TO THE
PLANNING COMMISSION
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: COMPREHENSIVE PLAN AMENDMENT TO UPDATE GOALS, POLICIES, AND RECOMMENDED ACTION MEASURES PERTAINING TO STATEWIDE PLANNING GOAL 2: LAND USE PLANNING

FILE NO.: Comprehensive Plan Amendment (CPA) CPA2008-00002

PROPOSAL: The City is requesting approval of a Comprehensive Plan Amendment to amend the current Comprehensive Plan to include goals, policies and recommended action measures to reflect current community conditions and values relating to Tigard's Urban Forest.

APPLICANT: City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

OWNER: N/A

LOCATION: Citywide

ZONING DESIGNATION: All City zoning districts

COMP PLAN: All City comprehensive plan designations

APPLICABLE REVIEW

CRITERIA: Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Chapters Citizen Involvement, Environmental Quality, Hazards, Public Facilities and Services, and Natural Features and Open Spaces; Metro Functional Plan Titles 3 and 13; and Statewide Planning Goals 1, 2, 5, 6, and 11.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Planning Commission finds that this request meets the necessary approval criteria and that it **RECOMMENDS** that the City Council amend the Tigard Comprehensive Plan as determined through the public hearing process.

SECTION III. BACKGROUND INFORMATION

Project History

The Tigard Comprehensive Plan is the primary document that guides land use decisions within the community. It outlines goals, policies, and recommended action measures that are intended to reflect the community's values and aspirations for a broad range of matters relating to land use planning and growth management. It also aims to organize and coordinate the relationships between people, land, resources, and facilities to meet the current and future needs of Tigard.

The Tigard Comprehensive Plan is required by State law and must conform to 12 of the 19 Oregon Statewide Planning Goals. Land development and related activities, including the City's development codes, also must be consistent with adopted Comprehensive Plan goals and policies.

It is now seven years beyond the year 2000 planning horizon of the City's 1983 Comprehensive Plan. Tigard has grown dramatically since 1983, from 18,379 residents to 46,715 today. Jobs and business activity have grown just as fast. Although minor updates have taken place over the years, the 1983 Plan, in many ways, does not reflect current and projected community conditions. For this reason, it is necessary to undertake a thorough update. This is important to ensure the Plan remains a viable tool for decision-makers and citizens to use when seeking policy direction regarding land use and Tigard's future. For this reason, the Tigard City Council has made it a goal to update the Comprehensive Plan.

The first step in updating the Tigard Comprehensive Plan involved City staff developing a fact base to inform the update. The result was the *Tigard 2007* resource document completed in February 2007. Key findings from *Tigard 2007* combined with community issues and values, form the basis for Plan goals, policies, and recommended action measures. Community issues and values were identified through the community's visioning process and a number of surveys completed over the last several years.

The second step involved community volunteers and stakeholders coming together to develop draft goals, policies, and recommended action measures. These Policy Interest Teams have been meeting over the past several months to discuss Comprehensive Plan topics in which they share an interest. City Department Review Teams then review and provide comment on the work of the policy interest teams. These final draft goals, policies, and recommended action measures are then forwarded to the Planning Commission to begin the legislative process.

The final step is the legislative process. Since each of the Policy Interest Teams are moving at their own pace, Staff will be bringing a series of Comprehensive Plan Amendments (CPA) through the legislative process over the next several months. Each CPA will correspond to a Statewide Planning Goal that is applicable to Tigard. The CPA will strike the appropriate language from the existing plan and replace the language with an updated chapter that addresses that particular Statewide Planning Goal.

The document before the Planning Commission tonight are Goals, Policies, and Recommended Action Measures for the Urban Forest, to be contained in the Land Use Planning Chapter (Goal 2). The Planning Commission hosted a workshop on March 17th to discuss the background information and draft goals, policies, and recommended action measures that were formulated. At the Planning Commission workshop, the following changes were requested (also found in Exhibit A with deleted text as ~~strikeouts~~ and added text **underlined and bolded**). Please note that portions of the Background section has been removed and will be considered by the Planning

Commission as a separate amendment to the Tigard 2007 document. Also, policies and action measures have been assigned to a specific goal and have been renumbered accordingly.

Policies:

4. ~~2.3.2~~ The City shall ~~protect major~~ **require preservation, planting, and/or replacement of understory vegetation associated with protected trees is protected in order to protect existing trees** before, during, and after construction and occupancy; ~~This protection shall occur in such a manner that the following functions shall be preserved:~~ **priority shall be given to the preservation of native or existing understory vegetation that performs the following functions:**
- a. Maintenance of soil health, plant communities, and hydrologic regimes necessary for the associated trees to thrive;
 - b. Habitat for fish and wildlife;
 - c. Water quality enhancement; and
 - d. Soil and Erosion Control.
7. ~~2.3.4~~ The City shall ~~require and enforce the mitigation of the aesthetic and environmental impacts of impervious surfaces such as paved areas and rooftops through the use of trees and other vegetation.~~ **The City shall require and enforce site design and landscape requirements to reduce the aesthetic and environmental impacts of impervious surfaces through the use of trees and other vegetation.**
9. ~~2.3.5~~ The City shall allow and encourage consideration of appropriate flexibility in site design to allow tree preservation and planting in areas where survival will more likely occur **and where better tree cover and canopy will result**, particularly ~~for~~ **through the use of trees** that will grow large, including long-lived evergreens and broad spreading deciduous varieties.
16. ~~2.2.9~~ **When possible and appropriate,** the City shall prohibit the use or retention of invasive trees and other plants through the development review process.

Recommended Action Measures:

- v. 2.2.iv Inventory and evaluate street tree, parking lot and landscape area plantings that have failed to thrive, and determine if ~~street~~ **site conditions or management practices can be modified, and/or if trees can be planted elsewhere in the right of way, or on private property in order to satisfy conditions of development approval or provide the benefits expected of the original planting.**
- vi. 2.2.v Develop and maintain, as part of the City's GIS and permit systems, a publicly accessible inventory of tree plantings, ~~removals~~; and the state of the City's urban forest.

Proposal Description

The primary intent of the proposed update is to ensure the Comprehensive Plan remains a viable tool for decision-makers. By updating the Comprehensive Plan, the City will ensure it is in compliance with applicable laws, rules, regulations, plans, and programs. As importantly, the update will also ensure the Comprehensive Plan reflects current community conditions and values.

This amendment is part of a series of amendments that will update the Comprehensive Plan in its entirety. This amendment will update Statewide Planning Goal 2 with goals, policies, and recommended action measures that will serve as the “legislative foundation” in regards to the City's protection and management of the urban forest. Land use actions and amendments to the Tigard Development Code will be based on the new language included in this amendment.

Below is an explanation of the terms that create the “legislative foundation”:

Goal

Definition - A general statement indicating a desired end or the direction the City will follow to achieve that end.

Obligation - The City cannot take action which violates a goal statement unless:

1. Action is being taken which clearly supports another goal.
2. There are findings indicating the goal being supported takes precedence (in the particular case) over another.

Policy

Definition - A statement identifying Tigard's position and a definitive course of action. Policies are more specific than goals. They often identify the City's position in regard to implementing goals. However, they are not the only actions the City can take to accomplish goals.

Obligation - The City must follow relevant policy statements when amending the Comprehensive Plan, or developing other plans or ordinances which affect land use. To amend the Comprehensive Plan, the City must show consistency with the Statewide Land Use Goals. Such an amendment must take place following prescribed procedures prior to taking an action that would otherwise violate a Plan policy.

Recommended Action Measures

Definition - A statement which outlines a specific City project or standard, which if executed, would implement goals and policies. Recommended action measures also refer to specific projects, standards, or courses of action the City desires other jurisdictions to take in regard to specific issues. These statements also define the relationship the City desires to have with other jurisdictions and agencies in implementing Comprehensive Plan goals and policies.

Obligation - Completion of projects, adoption of standards, or the creation of certain relationships or agreements with other jurisdictions and agencies, will depend on a number of factors such as citizen priorities, finances, staff availability, etc.

The City should periodically review and prioritize recommended action measures based on current circumstances, community needs and the City's goal and policy obligations. These statements are suggestions to future City decision- makers as ways to implement the goals and policies. The listing of recommended action measures in the plan does not obligate the City to accomplish them. Neither do recommended action measures impose obligations on applicants who request amendments or changes to the Comprehensive Plan. The list of recommended action measures is not exclusive. It may be added to or amended as conditions warrant.

SECTION IV. SUMMARY OF REPORT

Applicable criteria, findings and conclusions

- Tigard Community Development Code
 - o Chapter 18.380
 - o Chapter 18.390
- Applicable Comprehensive Plan Policies
 - o Newly Adopted Chapters 1, 2, 5 6, and 11
 - o Old Topics 1 and 3
- Applicable Metro Standards
 - o Title 3 and 13
- Statewide Planning Goals
 - o Goals 1, 2, 5, and 11

City Department and outside agency comments

SECTION V. APPLICABLE CRITERIA AND FINDINGS

CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Chapter 18.380: Zoning Map and Text Amendments

Chapter 18.380.020 Legislative Amendments to the Title and Map

A. Legislative amendments. Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.309.060G

Findings: The proposed amendments to the Tigard Comprehensive Plan would establish policies to be applied generally throughout the City of Tigard; and therefore, the application is being processed as a Type IV procedure, Legislative Amendment, as governed by Section 18.390.060G.

Chapter 18.390: Decision-Making Procedures

Chapter 18.390.020. Description of Decision-Making Procedures

B.4. Type IV Procedure. Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy. Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

Findings: The proposed amendments to the Tigard Comprehensive Plan will be reviewed under the Type IV procedure as detailed in Section 18.390.060.G. In accordance with this section, the amendments will initially be considered by the Planning Commission with City Council making the final decision.

Chapter 18.390.060.G. Decision-making considerations. The recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;
2. Any federal or state statutes or regulations found applicable;
3. Any applicable Metro regulations;
4. Any applicable comprehensive plan policies; and
5. Any applicable provisions of the City's implementing ordinances.

Findings: As indicated pursuant to the findings and conclusions that address applicable Statewide Planning Goals and Regional Functional Plan Titles, the amendment is consistent with this criterion.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendments satisfy the applicable review criteria within the Tigard Community Development Code and recommends the Planning Commission forward these proposed amendments to the City Council with a recommendation for adoption.

CITY OF TIGARD COMPREHENSIVE PLAN POLICIES:

A review of the comprehensive plan identified the following relevant policies for the proposed amendments:

Newly Adopted Comprehensive Plan Chapters
Chapter 1: Citizen Involvement

Goal 1.1 Provide citizens, affected agencies, and other jurisdictions the opportunity to participate in all phases of the planning process.

Policy 2. The City shall define and publicize an appropriate role for citizens in each phase of the land use planning process.

Policy 3. The City shall establish special citizen advisory boards and committees to provide input to the City Council, Planning Commission, and City staff.

Findings: The proposal has complied with all notification requirements pursuant to Chapter 18.390.060 of the Tigard Community Development Code. This staff report was also available seven days in advance of the hearing pursuant to Chapter 18.390.070.E.b of the Tigard Community Development Code.

Additionally, a Public Involvement Program for the Comprehensive Plan Update was developed in March 2006. This Program was reviewed and endorsed by the Committee for Citizen Involvement and the Planning Commission. The Program outlined the information, outreach methods, and involvement opportunities available to the citizens during the process.

Information was distributed throughout the process via the project website, an interested parties listserv, Cityscape articles, press releases, articles in the local paper, and two project open houses. Outreach methods also included presentations to a number of civic organizations in the community, personal emails sent to groups and organizations, updates to City boards and commissions, presentations to high school students, and staff attendance at community events to pass out information.

Involvement opportunities included two open houses, participation on a policy interest team, submitting written comments via the website, and attending the Planning Commission workshop. The interested parties listserv and volunteers who signed up for the policy interest teams were provided notice of all meetings held regarding the Comprehensive Plan Update.

Additionally, the Tigard Tree Board met at regular meetings to provide input and develop a formal recommendation to Council, Planning Commission, and staff consistent with Council Resolution 07-30 (Interim Charge Statement for the Purpose of Developing Comprehensive Tree Protection)

and Urban Forest Enhancement Program). Meetings were open to the public and public comment received during the course of deliberation.

As part of the Comprehensive Plan Amendment process, public notice of this Planning Commission public hearing was sent to the interested parties list and published in the March 20, 2008 issue of The Times. Notice will be published again prior to the City Council public hearing. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the text changes could be viewed.

Policy 5. The opportunities for citizen involvement provided by the City shall be appropriate to the scale of the planning effort and shall involve a broad cross-section of the community.

Findings: As outlined above, the community was given multiple venues to get information and get involved. This included a number of articles in the Cityscape newsletter that is delivered to every household in Tigard. Staff also made a good faith effort to ensure a diversity of citizens and stakeholders were involved in the policy interest team meetings by not only soliciting volunteers, but by inviting organizations that share a common interest in that particular topic.

Goal 1.2 Ensure all citizens have access to:

- A. opportunities to communicate directly to the City; and
- B. information on issues in an understandable form.

Policy 1. The City shall ensure pertinent information is readily accessible to the community and presented in such a manner that even technical information is easy to understand.

Findings: Information regarding the topics included in this Comprehensive Plan Amendment was available in multiple locations in an understandable format for the duration of the process. This included paper and electronic copies that were available in the permit center and also on the website. Information was regularly sent to the project listserv and to the community volunteers who participated on the policy interest teams.

Policy 2. The City shall utilize such communication methods as mailings, posters, newsletters, the internet, and any other available media to promote citizen involvement and continue to evaluate the effectiveness of methods used.

Findings: Information was distributed throughout the process via the project website, an interested parties listserv, Cityscape articles, press releases, articles in the local paper, and two project open houses. Outreach methods also included presentations to a number of civic organizations in the community, personal emails sent to groups and organizations, updates to City boards and commissions, presentations to high school students, and staff attendance at community events to pass out information.

Policy 5. The City shall seek citizen participation and input through collaboration with community organizations, interest groups, and individuals in addition to City sponsored boards and committees.

Findings: Outreach methods included presentations to a number of civic organizations in the community, personal emails sent to groups and organizations, updates to City boards and

commissions, presentations to high school students, and staff attendance at community events to pass out information.

Involvement opportunities included two open houses, participation on a policy interest team, submitting written comments via the website, and attending the Planning Commission workshop. Additionally, the interested parties listserv and volunteers who signed up for the policy interest teams were provided notice of all meetings held regarding the Comprehensive Plan Update.

Chapter 6: Environmental Quality

Goal 6.1 Reduce air pollution and improve air quality in the community and region.

Policy 6. The City shall encourage the maintenance and improvement of open spaces, natural resources, and the City's tree canopy to sustain their positive contribution to air quality.

Findings: This policy is satisfied by the proposed amendment through Goals 2.2 and 2.3 and their associated Policies [Exhibit "A"]. Policies 2.2.1 through 2.2.4, and 2.3.4 through 2.3.6. ensure that tree removal is minimized and/or mitigated, that ample space be provided for the planting of new trees, and City regulations are periodically updated to remain effective. Policies 2.2.5 through 2.2.7 require the City to plant new trees and maintain the City's historic investment in trees. Similarly, policy 2.3.7 ensures cooperation with residents and outside entities in the preservation and management of existing tree cover. This protection and enhancement of tree cover can positively affect air quality and contribute towards meeting air quality standards.

Goal 6.2 Ensure land use activities protect and enhance the community's water quality.

Policy 1. The City shall require that all development complies with or exceeds regional, state, and federal standards for water quality.

Policy 3. The City shall encourage the use of low impact development practices that reduce stormwater impacts from new and existing development.

Findings: This policy is satisfied by the proposed amendment through Goals 2.2 and 2.3 and their associated Policies [Exhibit "A"] that require tree removal to be minimized or mitigated, that ample room be provided for the planting of new trees, and that City regulations are to be periodically updated to remain effective. Furthermore, 2.2.5 through 2.2.7 require the City to plant new trees and maintain the City's historic investment in trees, while Policy 2.3.7 ensures cooperation with residents and outside entities in the preservation and management of existing tree cover. This layered protection of tree cover can positively affect water quality and reduce stormwater impacts resulting from development.

Policy 4. The City shall protect, restore, and enhance, to the extent practical, the natural functions of stream corridors, trees, and water resources for their positive contribution to

water quality.

Policy 5. The City shall require measures to minimize erosion and storm run-off from development sites during and after construction.

Findings: This policy is satisfied by the proposed amendment through Goals 2.2 and 2.3 and their associated Policies [Exhibit "A"] which emphasize the protection of existing trees, maintenance of a compatible and healthy understory that controls erosion, and a continuing commitment to protect tree cover in sensitive areas such as stream corridors and steep slopes.

Chapter 7: Hazards

Goal 7.1 Protect people and property from flood, landslide, earthquake, wildfire, and severe weather hazards.

Policy 12. The City shall encourage pervious, and minimize impervious, surfaces to reduce storm water runoff.

Findings: This policy is satisfied by the proposed amendment through Goal 2.3 and its associated Policies 2.3.1, 2.3.2 and 2.3.4. The first two require the preservation of existing tree cover and the preservation and/or installation of a compatible understory that, amongst other things, controls soil and erosion. The latter Policy requires the City to enforce site design and landscape requirements to reduce stormwater runoff and other environmental impacts of impervious surfaces.

Policy 13. The City shall retain and restore existing vegetation with non-invasive species in areas with landslide potential to the greatest extent possible.

Findings: This policy is satisfied by the proposed amendment through Goal 2.2, and more specifically by Policies 2.2.8 and 2.2.9 which establishes an approved tree list for various applications and site conditions, and prohibits the use or retention of invasive trees and other plants through the development review process.

Policy 14. The City shall work to reduce the risk of loss of life and damage to property from severe weather events.

Findings: This policy is satisfied by Goal 2.3 and Policies 2.3.3 and 2.3.9. The first policy requires the City to ensure tree related hazards to persons and property are addressed and abated in a timely way. The latter requires all applications for tree removal and all tree management plans to be peer reviewed by a certified arborist to ensure their adequacy.

Chapter 8: Parks, recreation, Trails, and Open Space:

Goal 8.1 Provide a wide variety of high quality park and open spaces for all residents, including both:

- A. developed areas with facilities for active recreational; and**
- B. undeveloped areas for nature-oriented recreation and the protection and enhancement of valuable natural resources within the parks and open space systems.**

Policy 19. The City shall seek to establish and manage a fully-functional urban forest.

Findings: Consistency with this policy is satisfied by Goals 2.2 and 2.3 and their various related policies [Exhibit "A"] that ensure tree removal is minimized or mitigated, that ample room be provided for the planting of new trees, and City regulations are periodically updated to remain relevant and effective. This commitment to the protection and enlargement of tree cover is consistent and supportive of the establishment of a fully-functional urban forest.

Chapter 9: Economic Development

Goal 9. Develop and maintain a strong, diversified, and sustainable local economy.

Policy 3. The city's land use and other regulatory practices shall be flexible and adapt to promote economic development opportunities, provided that required infrastructure is made available.

Policy 5. The City shall promote well-designed and efficient development and redevelopment of vacant and underutilized industrial and commercial lands.

Policy 12: the City shall assure economic development promotes other community qualities, such as livability and environmental quality that are necessary for a sustainable economic future.

Findings: Stated Goals 2.2 and 2.3 and their implementing policies (Exhibit "A") satisfy this Policy as they strive for economic benefits through a combination of the enlargement and improvement of the existing urban forest, while simultaneously accommodating well-designed urban development that minimizes loss or desires planting, that is intended to result in a high quality environment that rates high for livability and as a location to conduct business.

Goal 9.3 Make Tigard a prosperous and desirable place to live and do business.

Policy 2. The City shall adopt land use regulations and standards to ensure a well-designed and attractive urban environment that supports/protects public and private sector investments.

Findings: Stated Goals 2.2 and 2.3 and their implementing policies (Exhibit "A") satisfy this Policy as they strive for economic benefits through a combination of the enlargement and improvement of the existing urban forest, while simultaneously accommodating well-designed urban development that minimizes loss or desires planting, that is intended to result in a high quality environment that rates high for livability and supports public and private sector investment that wishes to capture or leverage a high quality urban environment.

Chapter 10: Housing

Goal 10.2 Maintain a high level of residential livability.

Policy 1. The City shall adopt measures to protect and enhance the quality and integrity of its residential neighborhoods.

Findings: This policy is satisfied by Goals 2.2 and 2.3 and implementing Policies 2.3.1, 2.3.5, and 2.2.7. More specifically, the first two require all tree removal be minimized, and encourages the use of flexible development standards to maintain existing trees within neighborhoods. Similarly, Policy 2.2.7 requires the City to conduct an ongoing urban forest enhancement program to improve the aesthetic quality and economic value of existing neighborhoods.

Policy 8. The City shall require measures to mitigate the adverse impacts from differing or more intense land uses on residential living environments, such as:

- A. Orderly transitions from one residential density to another;**
- B. Protection of existing vegetation, natural resources and provision of open space areas; and**
- C. Installation of landscaping and effective buffering and screening.**

Findings: This policy is satisfied by Goals 2.2 and 2.3 and implementing Policies 2.3.1, 2.3.5, 2.3.7 and 2.2.7. More specifically, the first two require all tree removal be minimized, and encourage the use of flexible development standards to maintain existing trees within neighborhoods. Policy 2.2.7 requires the City to conduct an ongoing urban forest enhancement program to improve the aesthetic quality and economic value of existing neighborhoods, while Policy 14 requires the use of trees and other vegetation as buffering and screening between differential land uses.

Chapter 11: Public Facilities and Services

Goal 11.1 Develop and maintain a stormwater system that protects development, water resources, and wildlife habitat.

Policy 7. The City shall encourage low impact development practices and other measures that reduce the amount of, and/or treat, stormwater runoff at the source.

Findings: This policy is satisfied by the proposed amendment through Goal 2.3, and its implementing policies [Exhibit A]. Policies 2.3.1 and 2.3.2 reduce stormwater runoff by lowering the volume of impervious surface coverage through a minimization of impacts to existing tree cover, and the preservation and/or installation of a compatible understory that maintains natural hydrologic regimes controls soil and erosion. Policy 2.3.4 also requires the City to enforce site design and landscape requirements to reduce environmental impacts of impervious surfaces such as increased stormwater runoff.

Old Comprehensive Plan Topics

Topic 1: General Policies

Policy 1.1.1 THE CITY SHALL ENSURE THAT:

- a. THIS COMPREHENSIVE PLAN AND ALL FUTURE LEGISLATIVE CHANGES ARE CONSISTENT WITH THE STATEWIDE PLANNING GOALS ADOPTED BY THE LAND CONSERVATION AND DEVELOPMENT COMMISSION, THE REGIONAL PLAN ADOPTED BY THE METROPOLITAN SERVICE DISTRICT;**

- b. ANY NEIGHBORHOOD PLANNING ORGANIZATION PLANS AND IMPLEMENTATION MEASURES ADOPTED BY THE CITY OF TIGARD AFTER THE EFFECTIVE DATE OF THIS COMPREHENSIVE PLAN ARE DESIGNED TO BE CONSISTENT WITH THIS PLAN; AND
- c. THE TIGARD COMPREHENSIVE PLAN AND COMMUNITY DEVELOPMENT CODE ARE KEPT CURRENT WITH THE NEEDS OF THE COMMUNITY. IN ORDER TO DO THIS:
 - 1. THIS PLAN SHALL BE REVIEWED AND UPDATED AT LEAST EVERY FIVE YEARS.

Policy 1.1.2 THE COMPREHENSIVE PLAN AND EACH OF ITS ELEMENTS SHALL BE OPENED FOR AMENDMENTS THAT CONSIDER COMPLIANCE WITH THE PLANS OF THE METROPOLITAN SERVICE DISTRICT (MSD) OR ITS SUCCESSOR ON AN ANNUAL BASIS, AND MAY BE SO AMENDED OR REVISED IF DEEMED NECESSARY BY THE CITY COUNCIL. ANNUAL AMENDMENT AND REVISION FOR COMPLIANCE WITH THE ABOVE REGIONAL GOALS, OBJECTIVES AND PLANS SHALL BE CONSISTENT WITH ANY SCHEDULE FOR RE-OPENING OF LOCAL PLANS APPROVED BY THE LAND CONSERVATION AND DEVELOPMENT COMMISSION (LCDC).

THIS PROVISION IS NOT TO BE CONSTRUED AS WAIVING ANY LEGAL RIGHTS WHICH THE CITY MAY HAVE TO CHALLENGE THE LEGALITY OF A REGIONAL GOAL, OBJECTIVE, OR PLAN PROVISION.

Findings: This update will ensure the City is in compliance with applicable laws, rules, regulations, plans, and programs. This update will also ensure continued compliance with Statewide Planning Goal 2 as the new goals and policies reflect current community conditions and values. The new goals and policies have been developed through a citizen involvement effort, reviewed by City staff, reviewed by affected agencies, and reviewed by the Planning Commission at a March 17, 2008 workshop.

Topic 3: Natural Features and Open Space

Policy 3.4.2 THE CITY SHALL:

- a. PROTECT FISH AND WILDLIFE HABITAT ALONG STREAM CORRIDORS BY MANAGING THE RIPARIAN HABITAT AND CONTROLLING EROSION, AND BY REQUIRING THAT AREAS OF STANDING TREES AND NATURAL VEGETATION ALONG NATURAL DRAINAGE COURSES AND WATERWAYS BE MAINTAINED TO THE MAXIMUM EXTENT POSSIBLE;
- b. REQUIRE THAT DEVELOPMENT PROPOSALS IN DESIGNATED TIMBERED OR TREE AREAS BE REVIEWED THROUGH THE PLANNED DEVELOPMENT PROCESS TO MINIMIZE THE NUMBER OF TREES REMOVED; AND
- c. REQUIRE CLUSTER TYPE DEVELOPMENT IN AREAS HAVING IMPORTANT WILDLIFE HABITAT VALUE AS DELINEATED ON THE "FISH AND WILDLIFE HABITAT MAP" ON FILE AT THE CITY.
- d. ADDRESS GOAL 5 RULE REQUIREMENTS PERTAINING TO THE PRESERVATION OF WETLANDS ONCE ADEQUATE INFORMATION ON THE LOCATION, QUALITY, AND QUANTITY OF WETLAND SITES IS OBTAINED. THIS GOAL 5 REVIEW WILL INCLUDE DETERMINING WHICH WETLAND SITES ARE ECOLOGICALLY AND SCIENTIFICALLY SIGNIFICANT. CITIZENS WILL PARTICIPATE IN MAKING POLICY RECOMMENDATIONS FOR THE PROTECTION AND PRESERVATION OF THOSE WETLAND AREAS DESIGNATED AS SIGNIFICANT. THE CITY SHALL COMPLETE ITS GOAL 5

REVIEW OF WETLAND AREAS BEFORE THE CITY'S NEXT PERIODIC
REVIEW, BUT NO LATER THAN DECEMBER 23, 1996.

Findings: This policy is satisfied by the proposed amendment through Goals 2.2, and specifically Policies 3 and 6 which implement that Goal. Policy 3 ensures the City continues to regulate the removal of trees in sensitive areas such as wetlands, stream corridors, and riparian habitat. Policy 6 specifically applies to publicly owned land and requires the City to establish and enforce tree protection regulations in parks and other public lands, many of which contain the sensitive areas addressed above.

APPLICABLE METRO REGULATIONS:

Metro Urban Growth Management Functional Plan Title 3: Water Quality, Flood Management, and Fish/Wildlife Habitat Conservation - protect beneficial uses and functional values of water quality and flood management resources by limiting uses in these areas from development activities and protecting life and property from dangers associated with flooding.

Findings: In 2002, the City of Tigard adopted Comprehensive Plan and Code Amendments to comply with Title 3 of Metro's Urban Growth Management Functional Plan, which outlines water quality and flood management requirements for the region. The adopted standards were based on a unified program developed by local governments in the Tualatin Basin and implemented through Clean Water Services (CWS) Design & Construction Standards, which provides for vegetated stream corridor buffers up to 200 feet wide and mandating restoration of corridors in marginal or degraded condition.

In addition, Clean Water Services, local cities, Washington County, Metro, and Tualatin Hills Park and Recreation District, partnered on a parallel effort to develop the CWS Healthy Streams Plan (HSP), an updated watershed plan designed to enhance the functions of the Tualatin Basin surface water system and address the Clean Water Act and Endangered Species Act (ESA).

The proposed amendment, specifically Goal 2.2 and 2.3 and their associated policies (see Exhibit A), will continue to ensure compliance with Title 3 requirements and standards. The policies also outline the City's commitment to requiring new development to protect trees, and for the City to manage and enhance the urban forest to maximize overlapping benefits such as habitat and water and air quality.

Metro Urban Growth Management Functional Plan Title 13: Nature in Neighborhoods – conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.

Findings: The multi-jurisdictional approach undertaken by Tualatin Basin jurisdictions was used to develop a program to meet Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro's Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). The *Tualatin Basin Fish and Wildlife Habitat Program* was developed to complement Clean Water Services Design and Construction Standards to protect the beneficial uses of water (including rivers, streams and creeks) within the Tualatin Basin.

The proposed amendment, specifically Goals 2.2 and 2.3 and their associated policies (see Exhibit A), will continue to ensure compliance with Title 13 requirements and standards. Policies 2.2.1 through 2.2.3 provide clear direction for the city to coordinate and enhance existing and future protections for trees across the city, including habitat areas and other sensitive lands. Similarly, Policies 2.3.1, 2.3.2, and 2.3.7 require property owners to minimize impacts to existing tree cover, to focus preservation on native trees, and to cooperate with property owners and other stakeholders involved in the management and preservation of wetlands, stream corridors, habitat areas, and similar resources.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendment satisfies the applicable Metro regulations.

THE STATEWIDE PLANNING GOALS AND GUIDELINES ADOPTED UNDER OREGON REVISED STATUTES CHAPTER 197

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

Findings: This goal was met through an extensive public involvement process. A Public Involvement Program for the Comprehensive Plan Update was developed in March 2006. This Program was reviewed and endorsed by the Committee for Citizen Involvement and the Planning Commission. The Program outlined the information, outreach methods, and involvement opportunities available to the citizens during the process.

Information was distributed throughout the process via the project website, an interested parties listserv, Cityscape articles, press releases, articles in the local paper, and two project open houses. Outreach methods also included presentations to a number of civic organizations in the community, personal emails sent to groups and organizations, updates to City boards and commissions, presentations to high school students, and staff attendance at community events to pass out information.

Involvement opportunities included two open houses, participation on a policy interest team, submitting written comments via the website, and attending the Planning Commission workshop. Additionally, the Tigard Tree Board met at regular meetings to provide input and develop a formal recommendation to Council, Planning Commission, and staff consistent with Council Resolution 07-30. Meetings were open to the public and public comment received during the course of deliberation. Additionally, the interested parties listserv and volunteers who signed up for the policy interest teams were provided notice of all meetings held regarding the Comprehensive Plan Update.

As part of the Comprehensive Plan Amendment process, public notice of this Planning Commission public hearing was sent to the interested parties list and published in the March 20, 2008 issue of The Times (in accordance with Tigard Development Code Chapter 18.390). Notice will be published again prior to the City Council public hearing. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the text changes could be viewed.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.

Findings: The proposed amendment to the Tigard Comprehensive Plan is being processed as a Type IV procedure, which requires any applicable statewide planning goals, federal or state statutes or regulations, Metro regulations, comprehensive plan policies, and City's implementing ordinances, be addressed as part of the decision-making process. Notice was provided to DLCD 45 days prior to the first scheduled public hearing as required. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

Statewide Planning Goal 5 – Natural Resources

This goal requires the inventory and protection of natural resources, open spaces, historic areas and sites.

Findings: The proposed amendment is consistent with this goal as the proposed changes direct the City to protect and enhance the quality and functions of Tigard's urban forest that can lead to improved natural resource functions. Proposed Goals 2.2 and 2.3 and their associated policies (see Exhibit A), provide clear direction that enlargement, improvement, and protection of the urban forest is an important component of the community and the City will continue in management and protection of trees and their understory vegetation. This policy direction is an enhancement to Goal 5 protections already in place in the community.

Statewide Planning Goal 6: Air, Water, and Land Resources Quality

To maintain and improve the quality of the air, water, and land resources of the state.

Findings: The proposed amendment is consistent with this goal as the proposed changes direct the City to manage the urban forest in a manner that maintains and improves the quality of the air, water, and land resources of the state.

Proposed Goals 2.2 and 2.3 and associated policies (Exhibit "A") are consistent with this goal in that they aim to minimize erosion, limit stormwater run-off impacts, improve air quality, and buffer differential land uses from one another through the maintenance and planting of trees. All of these policies have the ability to improve air and water quality in the community.

Statewide Planning Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Findings: The proposed amendment is consistent with this goal as the proposed Goals 2.2. and 2.3 and their associated policies direct the city to maintain and periodically update the various codes, regulations, standards and programs related to tree preservation, planting and management throughout the City. This update will ensure that the variously impacted departments operate in a unified manner towards the enhancement of a green infrastructure asset. This update will also ensure continued compliance with Statewide Planning Goal 11 as the new goals and policies reflect current community conditions and values. The new goals and policies have been developed through a citizen involvement effort, reviewed by City staff, reviewed by affected agencies, and reviewed by the Planning Commission at the March 17 workshop.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendment is consistent with the applicable Statewide Planning Goals.

SECTION VI. ADDITIONAL CITY STAFF COMMENTS

The City of Tigard's Building Division, Engineering Division, Current Planning Division and Public Works Department has had an opportunity to review this proposal and did not comment.

The Parks Division reviewed the proposal and provided the following comment:

"I like the word flexibility in [Policy 2.3.5] and maybe it could be used in [Policy 2.3.6] such as: Flexibility should be encouraged on projects if it will yield better tree cover and canopies."

Findings: Comment duly noted. Staff has inserted the suggested language into Policy 2.3.5 rather than 2.3.6 in order to maintain the consistency of theme within each policy.

CONCLUSION: Based on the one response from City staff, staff finds the proposed amendment does not interfere with the best interests of the City.

SECTION VII. OUTSIDE AGENCY COMMENTS

The following agencies/jurisdictions had an opportunity to review this proposal and did not respond:

Beaverton School District
City of Durham
City of Beaverton
City of King City
City of Lake Oswego
City of Portland
City of Tualatin
Washington County, Department of Land Use and Transportation
Metro Land Use and Planning
Oregon Department of Environmental Quality
Oregon Department of Fish and Wildlife
Oregon Department of Transportation, Region 1, District 2A
Oregon Public Utilities Commission
Tigard-Tualatin School District 23J
TriMet Transit Development
Tualatin Valley Fire & Rescue
Tualatin Valley Water District
Oregon Department of Land Conversation and Development
Clean Water Services

CONCLUSION: Based on the analysis above, staff finds that the comments and subsequent edits to the proposed amendment are in the best interest of the City and recommends inclusion of the changes in the language of this proposal.

SECTION VIII. CITIZEN COMMENTS

Ernie Platt, Director of Local Government Affairs for the Home Builders Association (HBA) of Metropolitan Portland, submitted the comments in response to materials distributed for, and discussion at, the March 17, 2007 Planning Commission workshop. Excerpts are below, a complete copy of these comments is attached as Exhibit "B".

"We believe [Policy 2.3.1, formerly #3], as written, will establish the mere existence of a tree as a trigger point for the Type 3 approval process...as you know, HBA appealed the Director's interpretation on the basis that the existence of a tree on land zoned for development should not trigger this type of planning step. We believe this argument holds true for this portion of Policy 3 and ask that it be removed."

Findings: The policy, as written, leaves the City with wide latitude as to how it is implemented. Specific procedures including quasi-judicial and legislative processes are not defined. As a result their concern cannot be determined at this time.

"Based on alternative language offered by [Assistant Community Development Director] Ron Bunch Policy [2.3.4, formerly #7] has improved to some extent. ...I'm not certain, but based on my notes I don't recall "enforce" in Ron's original draft. We believe the word 'enforce' should be removed"

Findings: The word enforce was recorded in the minutes and staff recommends its inclusion to ensure that the city has a solid legislative basis to enforce site design and landscape standards over the life of a development project.

"Perhaps the easiest way to deal with [mitigation] is to acknowledge or provide flexibility so that developers have an incentive to plant more trees in developments and incorporate existing trees into the landscape plans. The language below was offered by Alan DeHarpport in a set of comments to the Tree Board.

"For properties that have future development potential, regulations exist in the City Development Code that require dedication of public rights-of-way for public amenities including streets, sidewalks, planter strips, and bike lanes. In addition, regulations exist within the City Development Code that require clearing to accommodate structures on building sites on properties zoned for future development. Therefore, the City shall not require tree mitigation for right of way dedications and for the clearing of building footprints as required by the City Development Code."

Findings: This language was deliberated at prior meetings of the Tree Board and found to be overly specific for a policy statement. Specific amendments to mitigation standards are more appropriate for a coordinated and comprehensive municipal and development code review and update called for in Policies 1 and 2 and Recommended Action Measures i and ix.

[Policy 2.3.5, Formerly #9] adds to the overall theme that again raises the existence of a tree to the level of a sensitive resource, wetland, and riparian area triggering a Type 3 application.

Findings: The policy, as written, only "allows and encourages" a course of action, it does not mandate one. Additionally, the Policy leaves the City with wide latitude as to how it is implemented. Specific procedures including quasi-judicial and legislative processes are not defined. As a result their concern cannot be determined at this time.

(Policy 2.3.7, Formerly #14) is the policy inconsistency with the current mitigation policy. If the City of Tigard wants to promote and maintain the existence of street trees, than

why can't a developer count street trees as part of the mitigation plan? It makes no sense and provides little incentive to even plant street trees unless the trees count toward the overall mitigation option.

Findings: Policy 2.3.7 directs the city to "continue to cooperate" with various parties to "manage and preserve street trees, tree groves, specimen and heritage trees, and other vegetation." This policy does not conflict or prevent the City from considering amendments to mitigation requirements as they pertain to street trees.

John Frewing attended and reviewed the materials presented at the March 17, 2007 workshop. His comments are as follows:

"No policy addresses the multi-year practice of 'thinning trees, then completely removing them, then applying for site development without the burden of the preservation of trees' which has been a source of great concern by Tigard citizens over the past few years. The new comp plan policies should include working which would provide a basis for regulations on this specific matter"

Findings: This legislative basis is contained in Policies 2.2.1 and 2.3.3.

"A policy in the new Comp Plan should provide a basis for the City to use overlays to map tracts for the special protection or development of specific tree types which are historically important to Tigard."

Findings: This legislative basis is contained in Policies 2.2.1 and 2.3.3

"Wording in at least one policy should provide a basis for later development of regulations which require "alternatives" in specified situations where tree removal is to be minimized. Without some alternatives analysis, it is impossible for anyone to say that tree removal has been minimized."

Findings: This legislative basis is contained in Policies 2.2.1 and 2.3.3

"It is important that a comp plan policy express the need and the obligation of the City to retain records of tree protection plans and planting campaigns and mitigation plantings so as to evaluate the success and compliance with these approved documents after several years time. This policy statement need not impinge on legitimate privacy needs of individuals but the regulatory or publicly supported planting of trees should be publicly accessible."

Findings: This legislative basis is contained in Policies 2.2.1 and 2.3.3, if not specifically mentioned.

"The status of the proposed 'Urban Forestry Master Plan' should be clarified in a policy statement in addition to Action Measure i. Without formal adoption by City Council, this action item is without meaning."

Findings: Comment noted.

"Goal [2.3]. I thought the intent of the Planning Commission would be served by simply adding the word 'significant' in front of the word 'living' in the last line."

Findings: Comment noted.

"Policy [2.3.2]. I thought the intent of the Planning Commission would be served by simply adding the word 'designated' in front of the word 'protected' in the first line."

Findings: Comment noted.

"Policy [2.3.4]. Ron Bunch suggested some decent wording"

Findings: Comment noted.

“Policy [2.3.6]. There was concern whether this was a new requirement (no). However, I think reference should be made to the inclusion of mapped tree protection zones in the required plan, giving a basis for what is a current requirement.”

Findings: Comment noted.

“Policy [2.2.9]. I think the discussion concluded that, yes, it is a good policy to prohibit invasives, even in wetlands. However, I think that another verb should be added to the ‘prohibit’ action, perhaps something like ‘and use other programs for removal’ so that this policy is useful in other development applications.”

Findings: Comment noted.

“A policy should be included in the new comp plan which gives a legislative basis for regulations which allow a variety of different uses of the tree removal and mitigation funds.”

Findings: This legislative basis is contained in Policy 2.2.1, if not specifically mentioned.

SECTION IX. CONCLUSION

The proposed changes comply with the applicable Statewide Planning Goals, Metro regulations, the Tigard Comprehensive Plan, and applicable provisions of the City’s implementing ordinances.

Therefore, Staff recommends that the Planning Commission recommend approval of the Comprehensive Plan Amendment to the Tigard City Council as determined through the public hearing process.

ATTACHMENT:

EXHIBIT A: PROPOSED AMENDMENT TO THE TIGARD COMPREHENSIVE PLAN.

EXHIBIT B: WRITTEN COMMENTS SUBMITTED BY HOME BUILDERS ASSOCIATION OF METROPOLITAN PORTLAND (MARCH 21, 2008)

EXHIBIT C: WRITTEN COMMENTS SUBMITTED BY JOHN FREWING (MARCH 18)

EXHIBIT D: WRITTEN COMMENTS SUBMITTED BY JOHN FREWING (MARCH 18)

PREPARED BY: John Floyd
Associate Planner

March 31 2008
DATE

APPROVED BY: Ron Bunch
Planning Manager

March 31 2008
DATE



City of Tigard Memorandum

To: Planning Commission

From: John Floyd, Associate Planner

Re: Supplemental Memorandum regarding Urban Forest Comprehensive Plan Amendment CPA2008-00002

Date: April 14, 2008

BACKGROUND

On April 7th the Planning Commission opened a Public Hearing to consider CPA2008-00002 (Tigard's Urban Forest). Rather than take final action, the Planning Commission continued the item until April 21st to allow staff time to respond to comments and suggestions provided by the Commission. Recommended changes, as prepared by Staff, are below. For a full discussion of this item, please refer to the Staff Report presented to the Planning Commission on April 7, 2008. A copy of the packet material has been included for your reference.

REQUESTED CHANGES

Requested language changes have been made to the proposed Comprehensive Plan Amendment, attached to this memorandum as Exhibit "A", and are summarized below for quick reference. Recommended deletions are indicated with a ~~striketrough~~ and new language **bolded and underlined**. Please note that policy numbers were changed between the March 17th workshop and the April 7th public hearing due to a reformatting of the document, the text remains the same unless identified by the markings discussed above.

POLICIES AND ACTION MEASURES

- 2.2.1 The City shall maintain and periodically update policies, regulations and standards to inventory, manage, preserve, **mitigate the loss of**, and enhance the community's tree and vegetation resources to promote their environmental, aesthetic and economic benefits.

Staff Commentary: Language was inserted to specifically require the City to maintain and periodically update mitigation policies, regulations and standards as requested by the Planning Commission.

2.2.2 The City's various codes, regulations, standards and programs relating to landscaping, site development, **mitigation**, and tree management shall be consistent with, and supportive of, one another; administration and enforcement shall be regulated and coordinated by the variously impacted departments.

Staff Commentary: Language was inserted to specifically reference mitigation.

2.2.11. The City shall develop and implement a citywide Urban Forestry Management Master Plan.

Staff Commentary: This language was removed from Policy 2.2.i and incorporated into a new Policy as requested by the Planning Commission.

2.2.i. Develop and implement a comprehensive, coordinated update and enhancement of all tree and associated **understory** vegetation related regulations, standards, programs, and plans, ~~including the development of a citywide Urban Forestry Management Master Plan that will establish measurable goals, standards and guide City actions regarding the Urban Forest.~~

Staff Commentary: This language was removed and incorporated into a new Policy as requested by the Planning Commission

2.3.1 The City shall require all development and non-development related tree removal to minimize impacts on existing tree cover, with priority given to native trees and non-native varieties that are long lived and/or provide a broad canopy spread before, during and after construction and subsequent occupancy, ~~removal of trees shall be mitigated, with priority given to the preservation of existing trees over mitigation.~~

Staff Commentary: For purposes of clarification, this language was removed from Policy 2.3.1 and incorporated into a new Policy as requested by the Planning Commission.

2.3.1a The City shall require mitigation that is proportional to the impact, with priority given to the preservation of existing trees over mitigation.

Staff Commentary: For purposes of clarification, this language was removed from Policy 2.3.1 and incorporated into a new Policy as requested by the Planning Commission.

- 2.3.2 ~~The City shall protect major require preservation, planting, and/or replacement of understory vegetation associated with protected trees is protected in order to protect existing trees before, during, and after construction and occupancy; This protection shall occur in such a manner that the following functions shall be preserved: priority shall be given to the preservation of native or existing understory vegetation that performs the following functions:~~
- ~~a. Maintenance of soil health, plant communities, and hydrologic regimes necessary for the associated trees to thrive;~~
 - ~~b. Habitat for fish and wildlife;~~
 - ~~c. Water quality enhancement; and~~
 - ~~d. Soil and Erosion Control.~~

The City shall, in order to protect trees during land development and subsquent occupancy, ensure the protection or installation of compatible understory vegetation.

Staff Commentary: There was substantial debate at the April 7 hearing regarding the meaning and intent of this policy. Staff recommends the above language for it's clarity of meaning and purpose.

- 2.3.5 ~~The City shall allow and encourage consideration of appropriate flexibility in site design to allow tree preservation and planting in areas where survival will more likely occur and where better tree cover and canopy will result, particularly for through the use of trees that will grow large, including long-lived evergreens and broad spreading deciduous varieties.~~

The City shall, in order to preserve existing trees and ensure new trees will thrive, allow and encourage flexibility in site design through all aspects of development review.

Staff Commentary: This policy was restructured by staff to accomplish two purposes. The first was to clearly state the purpose of the policy. The second is to broadly include flexible in all aspects of development review as the Planning Commission requested language specifying the availability of such flexibility in both Type II and Type III procedures.

DEFINITIONS

Mitigation - A process, standard, compensatory action, or any other mechanism by which adverse impacts can be avoided, minimized, restored, or compensated at a level proportional to the impact.

Staff Commentary: This language was added at the request of the Commission. It is broadly inclusive regarding means while better defining the intent.

Understory Vegetation – Any plants trees, shrubs or groundcover growing under a tree or forest canopy.

Staff Commentary: The original and revised language is adapted from a broad spectrum of academic and scientific sources that generally demonstrate a consistent simplicity and broadness. As a result staff recommends a broadly inclusive definition or more direction from the Commission regarding their concerns or desired applicability.

ERRATA

Please note the presence of a typo on page 18 of the Staff Report for the April 7 hearing. On page 18 several responses to comments reference policies 2.2.1 and 2.3.3; this should in fact reference Draft Policies 2.2.1 and 2.3.1 instead.

PUBLIC COMMENT

Staff received an email from John Frewing on April 10, 2008 which both summarizes and supplements verbal comments made at the April 7 hearing. Excerpts of this email and staff responses are below:

“1) make development of the Urban Forestry Master Plan (action measure 2.2i) a policy rather than an action measure”

Staff Response: Exhibit “A” has been revised in a manner consistent with this comment.

“2) provide a legislative basis for regulation of trees outside the development approval process (covered by policy 2.3.1, which I did not notice until later in the meeting)”

Staff Response: Comment noted.

“3) clarify the definition of 'understory' vegetation to clearly include buffer areas around trees or tree groves where important for the protection of tree health and associated healthy soil conditions”

Staff Response: Comment noted. Research by staff has found the term understory to generally refer to plants under tree canopy, and not around it. In addition, the area under a trees canopy is that part of the root zone most sensitive to change and as a result is most critically in need of protection. Areas beyond the understory will remain subject to review under landscape plans required in Draft Policy 2.3.6

“4) include in policy 2.2.1 a mandate to create overlay zones where important tree species or tree groves currently exist which should be more stringently preserved for the beneficial development of a heritage urban forest for Tigard”

Staff Response: Staff recommends against the inclusion of such specificity as many regulatory choices are available to the City, with no one particular method evaluated for its appropriateness to Tigard.

“5) provide in policy 2.2.7 a legislative basis for broader uses of tree fines and mitigation funds to protect and develop our urban forest (an idea first put forth by Tony Tycer at most recent workshop between Tree Board and Planning Commission)”

Staff Response: See response to comment #4 above.

“6) extend policy 2.2.2 to include the concepts discussed in the City of Portland discussion draft regarding interdepartmental coordination of permitting actions necessary to protect trees.”

Staff Response: This request is generally satisfied through Policy 2.2.2 and staff's response to comment #4 above. These concepts are included in documents included in this packet as Attachment 3 to this Supplemental Memorandum.

“a) Policy 2.3.2. Modify to read 'The City shall require preservation, planting, and/or replacement of understory vegetation when it is important to protecting nearby existing trees before, during and after construction and occupancy; priority shall be given to the preservation of native or existing understory vegetation that performs the following functions: ...' This wording ('when it is important to') provides some definition for the purpose and extent of understory protections.”

Staff Response: Comment noted. Staff has provided alternative language for the Board's review, though encourages the Commission to consider the suggested language.

“b) Action Measure 2.2.v. This action measure should be raised up to the importance of a policy. It is a key part of the Urban Forest Management Plan, which would be impossible without an inventory.”

Staff Response: Comment noted. Staff recommends against such specificity at the Policy level, with the scope of the Master Plan left to future deliberation by the City.

“c) The word 'removals' should be replaced by the words 'permitted approvals'. Such an inventory simply provides in one place the already public record of tree removals, thereby not invading any person's privacy. This clarification need not include the number/name of each tree removed, but simply the Tigard permit number under which one or more trees are permitted to be removed.”

Staff Response: Comment noted. Should the Planning Commission wish to consider this alternative language, it would not change the underlying concern expressed by the Planning Commission on March 17th and April 7th as permit information is already public record.

“d) Action Measure 2.2.v. The prior comp plan included protection for 'timbered areas', which were shown on a comp plan map but never used in development approval processes. The current plan omits any reference to 'timbered areas' but should -- this inventory action measure is a good place to include this concept, perhaps as part of 'the state of the City's urban forest'.”

Staff Response: The draft Goals and Policies in Exhibit “A” do not conflict with existing policy 3.4.2.b.

“e) Policy 2.3.4 should remain as it stands. Questions were raised on April 7 as to whether this could be applied to single family residential development or whether street, sidewalk and building pad areas should be excluded. Concepts such as ecoroofs, permeable pavers, etc are among the design features which could reduce impacts in residential developments.”

Staff Response: Comment noted.

“f) General processes. As a Type IV proceeding, it seems that 390.060A requires a pre-application conference, which I do not see in the record, which includes a number of Tree Board meetings. The procedural steps of 390.060 should all be followed as well as the general requirements of 390.080.”

Staff Response: A pre-application meeting was held on February 21, 2008 as required by the Development Code. Staff has made a good faith effort to comply with procedural steps outlined in 18.390.060 and 18.390.080.

“g) Consistency Review (page 12/19 in staff report). The existing comp plan at policy 3.4.2.b requires that development proposals in designated timbered or tree areas be reviewed through the planned development process to minimize the number of trees removed. The current proposed comp plan policies do not comply with these former provisions. The exact location of designated timbered or tree areas was shown on a map as part of the old comp plan, but new areas are not updated and identified. The new comp plan provisions should at least give the same protection as the old comp plan for the (fewer) remaining treed areas in Tigard.”

Staff Response: The proposed Comprehensive Plan Goals, Policies, and Recommended Action Measures do not conflict with existing Comprehensive Plan Policy 3.4.2.b referenced above.

“h) Consistency Review (page 12/19 in staff report). The existing comp plan at policy 3.4.2.c requires that cluster type development be used in areas having important wildlife habitat value. It is widely acknowledged (eg METRO Goal 5 materials) that treed areas are important for wildlife habitat. The proposed comp plan policies do not comply with the requirement for cluster type development in these treed areas. The new comp plan provisions should at least give the same protection as the old comp plan for the (fewer) remaining treed areas in Tigard.”

Staff Response: Please refer to staff response to comment "g" above.

i) Consistency Review (page 12/19 in staff report). The existing comp plan at policy 3.4.2.a requires that trees and natural vegetation along natural drainage courses be maintained to the 'maximum extent possible'. The proposed comp plan policies do not comply with this requirement to maintain these trees and natural vegetation to the 'maximum extent possible.' In fact, some have suggested that the new comp plan should only require 'consideration' of saving such trees. "The new comp plan provisions should at least give the same protection of these trees as the old comp plan for the (fewer) remaining treed areas in Tigard."

Staff Response: The proposed language is consistent with existing policy 3.4.2 through Draft Policy 2.2.3 that supports existing regulations that enforce land use standards along natural drainage courses as required in the existing Comprehensive Plan, and Draft Policy 2.3.1 that requires all development and non-development related tree to removal to minimize impacts to tree cover.

"j) Consistency Review (page 18/19 in staff report). Staff response to Frewing's first comment re the observed practice of thinning, and waiting the required year or two before removing all trees and then applying for development with no burden of preserving trees says that the legislative basis is in policy 2.2.1 and 2.3.3. Policy 2.2.1 simply says that Tigard regulations will be periodically reviewed/updated and 2.3.3 relates to hazard trees -- neither relates to the practice Frewing referenced and which has been widely seen and dealt with by other jurisdictions in the METRO area. The findings by staff are not based on any facts. A new policy should be added which clearly states that from the date of this comp plan amendment adoption, Tigard will not tolerate the use of specified time wait periods to avoid tree protection regulations at the time of development in the city."

Staff Response: Staff recommends against such specificity, as noted in previous staff responses above. Additionally, this scenario would be prohibited under existing draft policies, if not specifically mentioned. As stated in the Staff Report prepared for the April 21st meeting, Policies 2.2.1 and 2.2.3 provide the legislative basis by which existing codes can be implemented and/or amended to prevent clearcutting prior to development. In addition, Policy 2.3.1 requires development related tree removal to minimize impacts on existing tree cover, while Policies 2.3.6 and 2.3.9 requires all developments to prepare and implement a tree preservation plan that must be reviewed and approved by a City employed arborists.. As a result of this policy, clearcutting would not be allowed until the property owner had demonstrated that tree removal had been minimized.

k) Consistency Review (page 18/19 in staff report). The same objection to staff response as noted in comment j above is made for the staff response for Frewing comment three (wording should provide basis for later development of regulations requiring alternative analyses). The findings by staff are not based on any facts and do not address the subject of the comment.

Staff Response: Comment noted. Staff recommends against such specificity, as noted in previous staff responses above and that existing policies such as 2.2.1 and 2.3.1 provide sufficient legislative basis should the City choose this regulatory option. It should be noted that to require the submission of multiple alternatives may be inconsistent with state law requiring the availability of clear and objective approval criteria, and as a result this implementation option should be carefully deliberated and crafted at the time of implementation.

ATTACHMENT:

EXHIBIT A: PROPOSED AMENDMENT TO THE TIGARD COMPREHENSIVE PLAN (REVISED APRIL 14, 2008)

EXHIBIT B: WRITTEN MATERIAL SUBMITTED BY JOHN FREWING AT THE APRIL 7, 2008 PUBLIC HEARING (2 ISSUE PAPERS AND CITY OF PORTLAND MEMORANDUM OF APRIL 3, 2008)

EXHIBIT C: WRITTEN COMMENTS SUBMITTED BY JOHN FREWING FOLLOWING THE APRIL 7 PUBLIC HEARING (APRIL 10, 2008)

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
April 7, 2008**

1. CALL TO ORDER

President Inman called the meeting to order at 7:05 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Inman, Commissioners: Anderson, Caffall, Doherty, Fishel, Hasman, and Walsh

Commissioners Absent: Commissioner Muldoon and Vermilyea

Staff Present: Ron Bunch, Assistant Community Development Director; Darren Wyss, Associate Planner; John Floyd, Associate Planner; Todd Prager, City Arborist; Doreen Laughlin, Administrative Specialist II

3. COMMUNICATIONS

None.

4. APPROVE MEETING MINUTES

There was a motion by Commissioner Caffall, seconded by Commissioner Hasman, to approve the March 17, 2008, meeting minutes as submitted. The motion carried as follows:

AYES: Anderson, Caffall, Fishel, Hasman, Inman, Walsh

NAYS: None

ABSTENTIONS: Commissioner Doherty

EXCUSED: Commissioner Muldoon, Vermilyea

5. PUBLIC HEARING

**5.1 COMPREHENSIVE PLAN AMENDMENT (CPA) 2008-00001
Tigard Comprehensive Plan Update Pertaining to Statewide Planning Goal 2: Land Use Planning**

REQUEST: Amendments to the current Comprehensive Plan Topic 1: General Policies; Topic: Special Areas of Concern; and Topic: Locational Criteria by updating the goals, policies and recommended action measures to reflect current community conditions and

values. The complete text of the proposed Amendment can be viewed on the City's website at http://www.tigard-or.gov/code_amendments. **LOCATION:** Citywide. **ZONE:** All City Zoning Districts. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Chapters Citizen Involvement, Environmental Quality, Hazards, Economy, Housing, Public Facilities and Services, General Policies, Transportation, Urbanization, and Natural Features and Open Spaces; Metro Functional Plan Titles 1, 3, 6, 12, and 13; and Statewide Planning Goals 1, 2, 5, 6, 7, 9, 10, 11, 12, and 14.

Darren Wyss, Associate Planner, presented the staff report on behalf of the City. He stated that the Comp Plan Amendment before the Commission tonight would update the goals, policies, and recommended action measures pertaining to Statewide Planning Goal 2: Land Use Planning.

Staff has found that the language included in the amendment (see Exhibit A) complies with the applicable state land use goals, the City's municipal code and comprehensive plan policies, as well as federal, state, and regional plans and regulations.

The proposed amendment went thru a review process that included two Policy Interest Team meetings hosted back in February by the Planning Commission, where policy principles were reviewed and crafted into draft language.

He noted that the Commission then held a workshop on March 17, 2008, to discuss the draft language. A very thorough analysis resulted in the request for a few changes to be made before bringing the CPA back for this public hearing. These changes (found at the beginning of the staff report) included:

Policies:

7. The City's regulatory land use maps and development code shall implement the Comprehensive Plan by providing for needed urban land uses including:
 - A. Residential;
 - B. Commercial and office employment including business parks;
 - C. Mixed use;
 - D. Industrial;
 - E. Overlay districts where natural resource protections or special planning and regulatory tools are warranted; and
 - F. Public services.

Policy 9 was added based on discussion about Policy 8 and situations where development may be required to pay for public facilities that will be constructed at some point in the future, but will not construct them prior to, or concurrent with, the development. Staff felt adding this policy was a better solution than trying to augment Policy 8 with additional language.

9. The City may, upon determining it is in the public interest, enter into development agreements to phase the provision of required public facilities and services and/or payment of impact fees and/or other arrangements that assure the integrity of the infrastructure system and public safety.

12. The City shall provide a wide range of tools, such as planned development, design standards, and conservation easements, ~~to promote~~ that encourage results such as:
- A. High quality and innovative design and construction;
 - B. Land use compatibility;
 - C. Protection of natural resources;
 - D. Preservation of open space; and
 - E. Regulatory flexibility necessary for projects to adapt to site conditions.
23. ~~The City shall require that new urban development does not diminish the quality of life in the community.~~

Recommended Action Measures:

- xii. Work with the appropriate agencies to review the ~~proposed~~ methods used in determining development impacts upon water quality, natural resources, and other land uses.
- xiv. Proactively evaluate the effectiveness and usefulness of different elements of the City's land use program, such as maps, codes, and ~~policies~~ area plans, and make changes when necessary to further community objectives.
- xvi. Review and update regulations that are intended to protect the community from transportation hazards, environmental hazards, and natural hazards associated with land use activities.

Staff's recommendation is to approve the language found in Exhibit A and forward it to the City Council for review and adoption.

The updated goals, policies, and recommended action measures will provide Tigard a much better foundation on which to prepare ordinances, associated plans, development standards, programs, and intergovernmental agreements. This is necessary to provide the tools needed to ensure the City's land use planning program contributes to a high quality of life and the health, safety, and welfare of the community.

At this point President Inman asked whether anyone had questions of staff. The following question was offered:

- o Why the addition of 9 instead of rewording 8? Assistant Community Development Director, Ron Bunch, answered. *Retaining policy 8 is important but as discussed at the last meeting, it was felt that it was important to have the option to enter into development agreements and instead of trying to wed the topics, we felt it was more clear and would provide greater flexibility to have a separate policy. Staff felt it was much easier to maintain clarity of concepts by adding 9 rather than rewording 8.*

PUBLIC TESTIMONY - IN FAVOR:

John Frewing, 7110 SW Lola Lane, Tigard, OR 97223, spoke on the matter of policy 8 and 9. He stated his concern about the Washington Square Regional Trail (the circumferential trail around Washington Square) – he noted that it hasn't happened and it relies on the City of Tigard to find staff time and money to acquire land for this. Frewing is concerned that policy #9 does not go far

enough in terms of enforceability. He said that maybe if they put in the words "legally enforceable" arrangements -- or development agreements -- maybe that would solve the problem. He would like the words to be strengthened somehow on policy 8 or 9.

PUBLIC TESTIMONY - OPPOSED:

No one spoke in opposition.

President Inman asked if anyone was present who wanted to speak either for or against but hadn't signed up. No one came forward so she closed the public testimony portion of this hearing.

DELIBERATION:

The commissioners and staff discussed enforcement of conditions of approval.

Commissioner Caffall made the following motion that was seconded by Commissioner Fishel: "I move that we accept the Comprehensive Plan Amendment CPA2008-00001 as presented and amended by staff to us this evening."

The motion carried as follows:

AYES: Anderson, Caffall, Doherty, Fishel, Hasman, Inman, Walsh

NAYS: None

ABSTENTIONS: None

EXCUSED: Commissioner Muldoon, Vermilyea

**5.2 COMPREHENSIVE PLAN AMENDMENT (CPA) 2008-00002
Tigard Comprehensive Plan Update Pertaining to Tigard's Urban Forest**

REQUEST: To amend the current Comprehensive Plan to include goals, policies, and recommended action measures to reflect current community conditions and values relating to Tigard's Urban Forest. The complete text of the proposed Amendment can be viewed on the City's website at http://www.tigard-or.gov/code_amendments.
LOCATION: Citywide. **ZONE:** All City Zoning Districts. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Chapters Citizen Involvement, Environmental Quality, Hazards, Public Facilities and Services, and Natural Features and Open Spaces; Metro Functional Plan Titles 3 and 13; and Statewide Planning Goals 1, 2, 5, 6, and 11.

John Floyd, Associate Planner, presented the staff report on behalf of the City. He noted that this was the second meeting on the Urban Forest Comp Plan Amendment. The last meeting was the March 17 workshop. He said that, due to scheduling, tree board comments weren't included in the main packet but came in later in a separate memo (Attachment 1). He noted that the recommended changes identified by the Tree Board are as follows:

- Replacement of the term "associated vegetation" with "understory vegetation" throughout the document to provide more clarity; and

- Modification of Policy 2.2.9 (formerly Policy 16) to read “discourage” instead of “prohibit”. This was preferred to staff’s proposed edits contained in the packet distributed on March 31st for tonight’s meeting.

Floyd noted that, due to the reformatting of the document, the goals have been renumbered but that the text remains the same unless identified by either a ~~strike through~~ or the new language being **bolded and underlined**. He went over all the changes and recommendations in the memo (see attachment 1).

At this point, President Inman asked if there were any questions or comments from the Planning Commission that they’d like to address. Some of the questions/comments were noted (answers or replies are in italics):

- Expressed concern about the word “minimizes” on Goal 2.3. Would like to see the goal read “To balance the diverse and changing needs of the City through well-designed urban development that ~~minimizes~~ considers the loss of existing trees ... etc.”

Commissioner Walsh (Tree Board Liaison) spoke on behalf of the tree board on this: *There was a lot of time spent on that word – a lot of input was received on this particular goal and modifications were made. I think there was a lot of discussion about having it read “to minimize” the loss of trees.*

- Feels the words “to consider” the loss of trees doesn’t have the same impact as “minimize” the loss of trees.

President Inman commented that, to her, it means you have to take it into account for the application process, not that you actually have to reduce the number of existing trees that are affected. Another Commissioner noted that the word “consider” leaves too much open as opposed to the word “minimize.”

- Policy 1 under goal 2.3 – We should at least acknowledge the City’s responsibility to make sure that we are supporting the developers wish to be able to save trees.
- Policy 2 – Expressed concern that “understory vegetation” is not defined appropriately enough. Is afraid too many trees will be taken out because of understory. It seems to focus on vegetation when that’s not entirely the intent. *The emphasis here is on protecting trees through the planting of vegetation within certain criteria. If it’s not clear, perhaps this should be rephrased..*
- Regarding the definition of “understory vegetation”... we’re really talking about “non shade tolerant flowers/vegetation that happens to be under the tree” - vegetation that supports the well being of the tree. We need to get a definition that’s closer to that – I think it might help your understanding of it if we could get a very detailed definition.
- Expressed concern about the word “require.” When the word “require” is used, we have to be able to quantify it, and therefore we have to be able to enforce. If we (in policy 2) “require” that you preserve the understory, plant, or replace – are we going to get into situations where you have to mitigate understory because you kept a tree next to a sidewalk? *I don’t see it going in that direction but we can certainly take a look at it if that’s a major concern of yours.*

7. Expressed concern about 2.3.2 “require preservation” – concerned that the language may be too strong.
8. Policy #4 (2.3.4) – Commissioner likes the rewording, but having a hard time as to how it applies to residential. Is there a way to address that? The commissioner feels it would be harder to say we have met this policy on a residential project. *There are really 4 categories of land use that this would apply to – one certainly is commercial, then there’s industrial, residential/multi-family, and then, the other kind of employment/office park and public facility type of use. For employment/commercial/public facility use, certainly, these kinds of site design landscape techniques can apply. And also for multi-family residential and for attached single-family residential. In residential – good site design, good planning would meet the criteria. This is a broad statement that could be applied across the board.*

At this point, President Inman said she realized they were getting too much into deliberations and she moved on to the public testimony portion of the hearing.

PUBLIC TESTIMONY - IN FAVOR:

Janet Gillis, Tree Board chair, 13711 SW Essex Drive, Tigard, OR 97223, said the tree board was in support of amending the update for the Tigard Urban Forest. She noted that it’s especially appropriate as this very week is “Arbor Week” and that Tigard is being honored for the 7th consecutive year as a “Tree City USA”. She referred to her memo of 4/7/08 (Attachment 2). She also addressed some of the concerns that had been brought up regarding goal 2.2, Policy 9 – they were looking at “discourage” instead of “prohibit” because the concern was how would the City actually go in to a residential property and prohibit a particular plant. Yes – we should discourage – but how could we prohibit it without a whole lot of work from the City. Another question was goal 2.3 on policy #2 – she was not liking “as appropriate” because following that is the word “require” as another part – then it would have to be quantified– so who’s going to decide what’s “appropriate” – is it the individual homeowner? Is it the Planning Commission? She thinks policy #2 should be rephrased so that it’s more appropriate. She also thinks the City should come up with another policy of addressing home mitigation in a separate policy instead of trying to blend it into 2.3, policy #1. It should be a policy that directly deals with mitigation.

John Frewing, 7110 SW Lola Lane, Tigard, OR 97223, stated concern with respect to the “7 day rule” about the material that came out on April 4 and later.

Frewing expressed concern about policy 2.2.2 of Floyd’s memo (page 1). He spoke about the City of Portland’s “Citywide Tree Project Issue Paper” (Attachment 3). He noted how succinct and informative it is and that the city of Portland has many of the same concerns as the City of Tigard. He submitted it for the record, and would like the Planning Commission to review it before the next meeting. Frewing stated that he feels policy 3 is worthless as there is no direction provided outside what is already required. He agreed that “understory vegetation” needs to be defined more clearly.

Tony Tycer 10655 SW Hall Blvd., Tigard, OR 97223, spoke on policy 2 of goal 2.3. He said the real “teeth” of this policy is required preservation of understory - it’s not just the understory (foliage) underneath the tree – it has a lot to do with how the tree is going to be preserved. He said it was important to not compromise the roots, structurally, and for the good of the tree.

Commissioner Walsh asked Mr. Tycer's opinion on the word "minimize" – whether he believed the word was too strong or not. Tycer answered that he did not feel it was too strong, but that it was appropriate. Tycer also spoke about using appropriate incentives rather than punitive measures.

PUBLIC TESTIMONY - IN OPPOSITION:

Alan DeHarpport, 5740 SW Arrowhead Lane, Portland, OR 97225 spoke on behalf of the Homebuilders Association (HBS). He said he agrees with Mr. Frewing on notice. He said he knew of several people who wanted to testify who weren't properly "noticed" and he hoped this hearing would continue in two weeks. DeHarpport spoke on mitigation fees being very high. He commented about street trees. He would like to see street trees being counted towards mitigation incorporated into the policies. He said he fears if mitigation fees increase it will, in effect, shut down development because if type II procedures are all that's going to be allowed – as he believes that's how this could be interpreted at the code level - it would effectively shut down development, particularly in type II procedures which restricts subdivisions. He said that if the priority is to preserve trees, you'd have to preserve the trees in a tract. If that's the case, the lot sizes will be reduced on the remaining portion of the property to the point where you'll have to do a planned development, which will result in dense development in one corner of the property with preservation of the tract in the rest of the property.

Regarding specific concerns: On Goal 2.2 Policy 5, (scratched out 11), they'd like to add a sentence to the bottom of that communicating, "Street trees shall count towards tree mitigation when possible."

Regarding Action Measure i – he believes an individual has the right to landscape their yard the way they see fit, whether it's underneath a tree or not. Regarding Action Measure iii under the same goal – he said street trees are actually the responsibility of the city after the developer is done with their "winter maintenance period".

On Goal 2.3 – he said he'd support "consideration" versus "minimizes." On the first policy, he asked whether the intent is to restrict removal for individual property owners and if so then every resident in the city who has a tree on their property should be noticed.

DeHarpport agreed that many of the policies were written at the tree board level. He said there's a lot of weight given the tree board; however, his concern is that there is no builder/developer on the tree board so he believes their [builders/developers] comments and concerns aren't weighed as heavily as they would like them to be. He said in the future there should be a builder/developer member on the tree board and he's sure that one of them would be glad to take on that task so their positions are weighed in as heavily as they'd like them to be.

On Policy 2 – he noted that one way to enforce that would be deed restrictions on properties. He can see that being interpreted as requiring anyone who had understory on his or her property, or large trees on their property, to put deed restrictions on properties. He's concerned that that's the way that could be interpreted down the road.

On Policy 4 – He said this is "the meat" of everything from the homeowners standpoint. He believes an appropriate way to word this particular policy is to acknowledge that properties zoned for development are allowed to remove trees and that rights of ways (ROW) and building paths

should be exempted from the mitigation standards because you have to put in a ROW – you have to put in a road. The state engineering requires that. At this point DeHarpport used the white board to illustrate his point. He believes the trees in the ROW should be exempt from mitigation because there is no choice for the developer. He said they believe it's important to acknowledge property zoned for development. He noted that would be a good addition for goal 2.3. He gave some examples from the City of Beaverton (where he served as a former Planning Commissioner). He wanted to make sure the policies and action measures are flexible enough so that when it's time to get down to the code writing itself, that other ideas can at least be considered. He believes goal 2.3 policy 4 has that possibility.

One of the commissioners asked the question – how are the mitigation funds structured and used? Todd Prager, the City Arborist, explained their use.

Another commissioner commented that the general perception is developers don't care about aesthetics and she would like DeHarpport to bring that back to his clients.

President Inman asked DeHarpport "Why do you feel that specifics need to be elevated into the policy?" He answered - *Those roads have to be built and to require mitigation for impervious services that are required is a punitive measure. It's not a fair and balanced measure and that's why I believe it should be included in the policy.*

Sue Bielke, 11755 SW 114, Tigard, OR 97223, commented. Her comments are in the form of a letter dated April 7 (Attachment 4).

At this point, President Inman asked if there was anyone else present in the audience who wished to speak. No one came forward.

PUBLIC TESTIMONY CLOSED

DELIBERATION:

The question was brought up; do we need to write a policy to allow the City to choose to buy land using the tree mitigation fund? Ron Bunch said the City could administratively, through adoption of a resolution or an ordinance, do that so it's not necessary to write a policy for that. He said an action measure might be more appropriate if you wish to go that way.

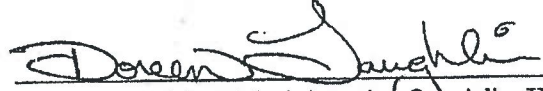
President Inman said she feels it is very important that they get this correct so she proposed that they have some other deliberations to give the staff a little more direction on some of the comments that they've heard. She said she would like to continue the public hearing to the next Planning Commission and potentially open up public testimony again then. Commissioner Walsh stated that he would like it moved along to closure as quickly as possible but is okay with it continuing.

At this point, President Inman and the other commissioners went over a list of things one at a time that they would like staff to address at the next meeting.

6. OTHER BUSINESS: The Public Hearing on CPA2008-00002 Tigard Comp Plan Update pertaining to Tigard's Urban Forest will be continued to April 21.

7. ADJOURNMENT

President Inman adjourned the meeting at 9:30 p.m.



Doreen Laughlin, Administrative Specialist II



ATTEST: President Jodie Inman

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
April 21, 2008**

1. CALL TO ORDER

President Inman called the meeting to order at 7:05p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Inman, Commissioners: Caffall, Doherty, Fishel, Hasman, Muldoon, Vermilyea, and Walsh

Commissioners Absent: Anderson

Staff Present: Ron Bunch, Assistant Community Development Director; Darren Wyss, Associate Planner; John Floyd, Associate Planner; Todd Prager, City Arborist; Doreen Laughlin, Administrative Specialist II

3. COMMUNICATIONS

Commissioner Caffall reported that he'd attended the CCI [Committee for Citizen Involvement] meeting earlier in the month and that the City now has four neighborhoods up and running with their "neighborhood website." He said the City webpage has details on these neighborhood websites and that more are to come. He encouraged people to check out the website to see if their neighborhood has a webpage.

4. APPROVE MEETING MINUTES

There was a motion by Commissioner Caffall, seconded by Commissioner Doherty, to approve the April 7, 2008 meeting minutes as submitted. The motion carried as follows:

AYES: Caffall, Doherty, Fishel, Hasman, Inman, Walsh

NAYS: None

ABSTENTIONS: Muldoon, Vermilyea

EXCUSED: Anderson

5. PUBLIC HEARING

**5.1 COMPREHENSIVE PLAN AMENDMENT (CPA) 2008-00002
Tigard Comprehensive Plan Update Pertaining to Tigard's Urban Forest**

REQUEST: To amend the current Comprehensive Plan to include goals, policies, and recommended action measures to reflect current community conditions and values relating to Tigard's Urban Forest. The complete text of the proposed Amendment can be viewed on the City's website at http://www.tigard-or.gov/code_amendments.
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President Inman opened the public hearing, explained that this meeting was a continuation from the last hearing, and went on to explain the process. She noted that public testimony would be reopened and that there is a 3 minute limit for individuals and a 20 minute limit for people speaking on behalf of a group.

John Floyd, Assistant Planner, gave his report on behalf of the City. He went over changes that had been made by staff since the April 7 meeting. He noted that there were basically four changes and that his PowerPoint presentation would cover these changes.

Following are those changes (in brief):

1. Eight (8) policies and recommended action measures were amended, rewritten, or recreated as a result of direction from the Planning Commission at the last meeting;
2. Two definitions were changed – one is new, one is substantially rewritten;
3. Staff wanted greater clarification as to Planning Commission's preference in policy 2.2.9 (which he would explain in more detail later in his presentation); and
4. Two pieces of public comment had been received by staff since the last hearing [Attachments 1 & 2] for the Planning Commission's consideration.

Floyd explained these changes in detail in his PowerPoint presentation (Attachment 3).

After Floyd's report, President Inman asked the commissioners if they had any questions of staff regarding this. There were none.

At this point, President Inman opened up the meeting for public testimony.

PUBLIC TESTIMONY - IN FAVOR:

Janet Gillis, 13711 SW Essex Drive, Tigard, OR 97223 (Chair of the Tree Board) said the Tree Board had met again since the last Planning Commission meeting and went over the issues that they considered particularly important [Listed in attachment 2].

John Frewing, 7110 SW Lola Lane, Tigard, OR 97223, spoke in support of the policies and action items also - specifically, recommended action measure 2.2.v (page 5 of Floyd's memo of 4/14) where the word "removals" is replaced by the words "permitted removals."

He also spoke about the definition of “understory” – that it should say “immediately under or immediately adjacent to trees or canopies.”

Kandace Horlings, 14525 SW Chesterfield Ln., Tigard, OR 97224, identified herself as a Tree Board member. She said that committees can never make everyone happy. She said she works as a landscaper and she spoke about rules. She said as a landscaper she has to get permits at times. She doesn't believe the Tree Board is working against developers. She said what's in place is not going to work 30 or 40 years from now. She noted that this is a broad document. She wants the HBA members and public citizens to sit down with the Tree Board. She reiterated that this is a starting point. They are willing to listen.

Tony Tycer, 10655 SW Hall Blvd., Tigard, OR 97223, spoke about understory vegetation. He said his concern is more aimed towards the soil as he believes that's more relevant. He said these policies are very broad – deliberately.

PUBLIC TESTIMONY - IN OPPOSITION:

Alan Deharpport, 5740 SW Arrowwood Lane, Beaverton, OR 97225, was concerned about the wording. He wants to add to the following language as a recommendation on 2.3.4: “...while minimizing the financial impact to the property owner.” He said there are hundreds of thousands of dollars in tree mitigation fees that the underlying property owner typically pays. He said that's a straightforward addition to the language that would allow the writers of the code to come up with a mitigation standard that would not be onerous to the underlying property owner. Also, he was concerned that the definition of mitigation came within a week's notice of the vote – he thought that was too fast for everyone affected by this to make a judgment. He requested another continuance to take into account the people who would be affected by these policies. He expressed concern about mitigation fees. He noted his concern that citizens were not notified. He also noted that the wording “proportional to the loss” is nebulous. He wondered what proportional means... does it mean tree for tree? Inch for inch?” He expressed concern about the wording of the document. He said the code writers should have leeway.

Bill McMonagle, 8740 SW Scoffins St., Tigard, OR 97223, gave a scenario where a property was devalued simply because it had trees on it. He believes that's wrong. He said trees are going to be the dictator of the functional use of land. He was concerned about the understory issue. He believes the City should not be “in their backyard.”

Kevin Luby, 16497 SW 103rd, Tigard, OR 97223, said there is a dichotomy between developers and subsequent occupancy. He discussed the developer's side. He agreed with previous testimony that the mitigation fee schedule is unfair. It doesn't take into account the realistic life expectancy of trees. As far as “subsequent occupancy” – he said his ability to decide when the useful life of his own trees is done and when he wants to replace those trees should be his own decision. He was further concerned about requiring permits to take down trees, he said the City would have the right to deny that permit and he has a problem with

that. Among other things, he expressed concern over the vagueness of the definition “understory vegetation” and also was concerned about the idea of mitigation fees on private property. The question was asked if he had any suggestions on how to improve on the idea of “understory.” He said “Delete it.”

Walt Knapp, 7615 SW Dunsmuir, Beaverton, OR 97007, identified himself as an arborist & forester of 47 years. He spoke specifically to the question of “understory”. He encouraged the City to drop all references to it because it has no “handles” that can be scientifically supported.

Ken Gerts, 19200 SW 46th Tualatin OR, introduced himself as a long-time Oregonian. The written form of his comments is Attachment 4.

James McCauley, 15555 Barley Rd., Lake Oswego, OR 97035, of the HBA (Homebuilders Association) stated that he believes a major error regarding the Tree Board is that there does not appear to be a broad range of interests represented. He said he believes policy 2.3.1 is a horrible piece of language from a private landowner’s point of view. He spoke to the issue of “understory” – he agreed that there is no scientific evidence regarding this. On policy 2.3.4 – he believes “balance” is a better word than “minimize.”

Craig Brown, 16074 SW 103rd, Tigard, OR 97224 expressed concern over policy 2.2.4 – he said the intent wasn’t clear. In recommended action measure 1.1.iv – he wonders whether the City will be doing our landscaping now. He doesn’t understand what the provision implies. 2.3.1 – believes it’s overreaching. 2.3.1a – he wonders whose standard this is going to be. What is proportional impact? It’s very subjective and he’s concerned how that will be applied. 2.3.2 with regard to “subsequent occupancy”.. he’s concerned about the city going into people’s yards changing things. He questioned the definition of mitigation. He questioned the term “understory vegetation”. He said if property is zoned residential... it’s residential. If you add penalties and punitive policies, that keeps it from being developed that way, and you are not providing for reasonable development.

Jeff Caines, 8196 SW Hall Blvd., #232, Beaverton, OR 97008, identified himself as a land-use planner and said he was speaking in support of the changes of the builders. He encouraged the City to be very careful in adopting policies and to pay attention to the fact that these policies have a great effect on the citizens. When you adopt policies be very careful – it may start to infringe on private property owners rights.

Roger Anderson, 10120 SW Kable, Tigard, OR 97223, said he’d only heard a week or so ago that the City was working on this tree thing and that it would affect every citizen in Tigard who own houses and trees. He was especially concerned about “non-development trees” and “subsequent policies”. He suggested the City take these two phrases completely out of the policy wording. He said he believes this is overkill. He wondered why the City cares about private homeowners trees. He believes the ordinance is ridiculous. He thinks it would actually cause people to hate trees since they’ll have no control over them. And then

they'd have to pay for a permit to take trees down on their own property. He believes if the city wants to control his property then they should buy it.

Steve Roper, 196 SW Hall Blvd. #232, Beaverton, OR 97008, said the others who had spoken in opposition had pretty much said what he believes as well. He spoke about affordable housing. He said adding tree mitigation adds to the price. He spoke about the lack of developer input into the Tree Board. He felt the Tree Board wasn't really interested in his take.

PUBLIC TESTIMONY CLOSED

There was a 5 minute break.

DELIBERATION: 9:53PM

President Inman explained that the deliberation time is a time for the Planning Commissioners to deliberate and that they would not be taking any questions or comments from the audience. The public testimony time had officially closed.

After much deliberation, the Planning Commission came up with the following revisions (not in order of the text) to be taken into consideration of the motion that follows:

1. Strike all reference to the term "understory vegetation" throughout the document and remove the definition.
2. 2.3.1 – strike reference to "all development and non-development related tree removal" and substitute the language "The City shall develop and implement standards and procedures designed to minimize impacts on existing tree cover, with priority given to native trees and non-native varieties that are long lived and/or provide a broad canopy spread."
3. 2.3.1a – "In prescribing the mitigation of the impacts of development, the City shall give priority to preservation of existing trees and shall consider the financial impacts of mitigation."
4. Changed definition of mitigation. Everything is the same except after the word compensated – strike everything – and put "as appropriate".
5. 2.3.2 changed to "The City shall develop policies and procedures designed to protect trees, including root systems, selected for preservation during land development."
6. 2.3.4 – remove the word "require" and substitute "develop."
7. 2.2.9 – use the word "discourage."
8. 2.2.v – The word "removals" was struck but will be reinstated as "permitted removals."
9. Definition of a "hazard tree" will be reviewed in the ISA definition and will be held open until the next meeting for potential amendment at that time.

Commissioner Walsh made the following motion, seconded by Commissioner Doherty:

“I move that the Planning Commission forward a recommendation of approval to the City Council on application case number CPA2008-00002 for the Tigard Comprehensive Plan update pertaining to Tigard Urban Forest and adoption of the revisions that the group just reviewed [above] and approval of the staff report and public testimony presented and received. I further move that the definition of “hazardous tree” be revised based upon ISA definition and that that issue be left open for future review and approval by the Planning Commission.”

The motion carried as follows:

AYES: Caffall, Doherty, Fishel, Hasman, Inman, Muldoon, Vermilyea, and Walsh
NAYS: None
ABSTENTIONS: None
EXCUSED: Anderson

6. OTHER BUSINESS -

President Inman reminded the commissioners that this issue would go to City Council for a May 6 workshop and a June 3 hearing.

7. ADJOURNMENT

President Inman adjourned the meeting at 11:48p.m.

Doreen Laughlin, Administrative Specialist II

ATTEST: President Jodie Inman

CITY OF TIGARD, OREGON
 TIGARD CITY COUNCIL
 RESOLUTION NO. 07-30

A RESOLUTION OF THE TIGARD CITY COUNCIL ADOPTING AN INTERIM TREE BOARD CHARGE STATEMENT FOR THE PURPOSE OF DEVELOPING A COMPREHENSIVE TREE PROTECTION AND URBAN FOREST ENHANCEMENT PROGRAM.

WHEREAS, the current charge of the Tree Board (Council resolution 01-02) requires it to, "develop and administer a comprehensive tree management program for the maintenance, removal, replacement and protection of trees on public property"; and

WHEREAS, the Board's current charge does not provide the latitude for it to undertake other important community tasks related to stewardship of Tigard's tree resources; and

WHEREAS, the City is engaged in update of the Tigard Comprehensive Plan and the Tree Board's services are needed to address the important matters of tree stewardship and enhancement of the City's urban forest, because:

- a. Urban development has resulted in loss of trees;
- b. Trees and other natural resources contribute to Tigard's quality of life and overall environmental quality;
- c. Urban density, unless well designed, results in loss of trees and private open space;
- d. An attractive, treed environment is a component of an economically prosperous community;
- e. A balance is needed between tree stewardship and the need for efficient use of valuable urban lands;
- f. A sound technical basis is needed for useable and up-to-date tree codes and standards;
- g. Tree stewardship and urban forest enhancement provides civic engagement opportunities; and
- h. A healthy urban forest and its associated benefits require active management.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: For the purposes of developing a comprehensive City Tree Stewardship and Urban Forest Enhancement Program, the Tree Board shall have the following responsibilities in addition to those spelled out in its existing mission statement.


- a. The Tree Board shall work with the Planning Commission to update the City's Comprehensive Plan by developing Comprehensive Plan background information (findings) and goals, policies, and action measures pertaining to tree stewardship and the contribution of trees and other vegetation to Tigard's quality of life.
- b. The Tree Board shall recommend updated goals, policies, action measures, and background information to the Planning Commission. The Board shall participate in the Commission's joint work sessions to review/discuss the same. These amendments to the Comprehensive Plan are subject to Planning Commission public hearings and recommendation to the City Council.

- c. The Tree Board shall propose a tree stewardship program for Planning Commission consideration which shall consist of municipal code and land use regulations to implement the above "Trees and Vegetation" Comprehensive Plan goals, policies, and action measures. Proposed Municipal and Development Code amendments shall be subject to review by the City Attorney. Proposed land-use code changes shall be subject to public hearings and recommendation to Council by the Planning Commission. The Tree Board shall participate with the Commission in work sessions to review/discuss the same.
- d. The Tree Board may also make other general recommendations to enhance urban forest resources for City consideration such as public education, incentives, tree planting programs, and arboriculture practices, etc.
- e. The Tree Board shall review recommendations from staff to develop specific interim tree code standards intended to prevent tree removal during the period it takes to develop the City's tree stewardship program. The Tree Board shall participate in work sessions with the Planning Commission prior to the Commission holding public hearings to recommend the interim standards to Council.
- f. The Tree Board, in consultation with the Planning Commission and Committee for Citizen Involvement, shall develop and implement a public information and involvement program to hear public concerns and suggestions regarding tree stewardship and urban forestry enhancement in Tigard. In addition, the Tree Board shall prepare a citizen involvement report as part of the record of its proceedings.
- g. Every three months the Tree Board shall forward a report of its progress to the City Council and Planning Commission. Initially, the Tree Board shall prepare a schedule and scope of work as the first step to implement this mission.

SECTION 2: Upon adoption of the Tree Protection Program, the Tree Board's charge statement shall be reevaluated to address public issues associated with the urban forest and other natural resources as seen fit by the City Council

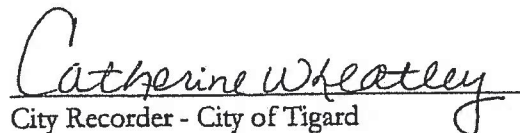
SECTION 3: This resolution is effective immediately upon passage.

PASSED: This 22nd day of May 2007.



 Mayor - City of Tigard

ATTEST:



 City Recorder - City of Tigard

RESOLUTION NO. 07 -30

Page 2

John Floyd

From: Tom Coffee
Sent: Friday, May 02, 2008 10:43 AM
To: Ron Bunch; John Floyd; Darren Wyss; Todd Prager; Dick Bewersdorff
Subject: FW: Comp Plan Workshop on Managing Tigard's Urban Forest, May 6, 2008

fyi

From: Craig Prosser
Sent: Friday, May 02, 2008 8:15 AM
To: Tom Coffee
Subject: FW: Comp Plan Workshop on Managing Tigard's Urban Forest, May 6, 2008

From: Craig Dirksen [mailto:craigd@tigard-or.gov]
Sent: Thursday, May 01, 2008 07:41 PM
To: Liz Newton; Craig Prosser; Councilmail Councilmail
Subject: FW: Comp Plan Workshop on Managing Tigard's Urban Forest, May 6, 2008

From: John Frewing[SMTP:JFREWING@TELEPORT.COM]
Sent: Thursday, May 01, 2008 7:42:45 PM
To: Craig Dirksen
Subject: Comp Plan Workshop on Managing Tigard's Urban Forest, May 6, 2008
Auto forwarded by a Rule

Dear City Council Members,

I was told on Tuesday evening that no public comment will be allowed on May 6, but my written views would be considered. Just a bit ago, I see in an email from Craig Prosser that some public comment will be allowed. I don't know which is true, but I made plans which prevent my attending next Tuesday evening. Please consider the remarks below as if read at your workshop; please consider each of them. John Frewing

On Tuesday, May 6, you will have a workshop considering portions of Tigard's new comp plan dealing with our 'urban forest'. I am concerned that the material being presented does not reflect the community values nor the work of the Tree Board and different citizens over the past year, but in a number of specific regards, reflects the much narrower wishes of the home building community as presented to the Planning Commission on April 21.

As you seek to work toward a new comp plan, one of the pervasive issues is that of an appropriate degree of SPECIFICITY on different issues. The comp plan must have enough specificity to mean something, to set policy direction in a distinctive way, and to disallow subsequent code writing in some directions. The Tree Board wrestled with this issue in a number of cases, but the Planning Commission, in responding to the arguments of the home building community on April 21 did away with some specificity and added other specificity which unduly directs code writing toward their desires to avoid any interference with their practice of clearing and leveling lots to put in a standard variety of house (which design is in no short supply in Tigard).

The home building community interests are clear, yet the values of Tigard citizens and the needs of our community, as it is mostly built out – are quite different today than in 1983 when the earlier comp plan was drafted. I ask that your comments and actions reflect the values of Tigard citizens and their needs more directly than the proposed document suggests. The several surveys conducted by the city over the past couple years is a good starting point to determine Tigard citizen views. I will point out examples of where change is needed to reflect my reading of these surveys. As I understand it, there is no state ‘rule’ which directs the level of specificity which should be included in a comp plan policy – it is simply a matter of the city council deciding what is important enough to be stated as a policy.

CHANGES AT THE LAST MEETING OF THE PLANNING COMMISSION

During the past year, staff and the Tree Board have introduced into comp plan language the concept of an ‘urban forest’, recognizing that trees have value, not only in an environmental sense, but in maintaining property values, attracting residents and businesses and supporting other amenities of a successful and sustainable city. Adjacent cities have strong language protecting, enhancing and maintaining their urban forest. Simply as a comparison and as a matter of competition, Tigard should have no less. One important element of promoting an urban forest is the regulation of some practices outside of the ‘development’ process (ie subdivision) itself. **At the pleading of the home building community, reference to regulations outside of the development process was eliminated.** The Tree Board was appropriate in not specifying at the comp plan policy level exactly what regulations outside of the development process might evolve, but noted that SOME actions in this regard were desired. The Tree Board over the past year noted what some considered extreme measures in Lake Oswego regulations, but agreed that some kinds of actions, regulatory in nature as well as educational, promotional and advisory in nature would be appropriate.

Information presented to the Tree Board, eg from Atlanta, GA, discussed the nature of an urban forest, noting its variety in age and species, protection of unique or exemplary stands, and complementary plantings. In Tigard, one of the complementary elements of our urban forest is its understory. The Tree Board discussed how to deal with this element, noting that a forest understory not only adds to the habitat value of trees, but also provides protection and promotes the health of soil beneath trees: it is part of a FUNCTIONING urban forest. The Tree Board acknowledged that not every tree must have a native understory beneath it, but saw our native understory as an important part of our urban forest. **At the pleading of the home building community, any reference to protection of forest understory was eliminated.** Again, detailed regulations or other city actions are yet to be worked out, but by eliminating this concept, the homebuilding community established a record for opposition at a later date. You should restore words in comp plan policy to protect our forest understory for all its values to the city. Additionally, without understory regulated in this section of the comp plan, its only protection exists in the Goal 5 section of the comp plan which has procedural difficulties, eg, the need for ESEE analyses, which city staff knows it is avoiding by placing tree protection under Goal 2 – Land Use.

Mitigation for the loss of trees in our urban forest has long been a concept in Tigard’s regulations. The nature and amount of mitigation have always considered a variety of factors such as availability of mitigation sites, cost, type of trees to be established, etc. The home building community sought successfully to weaken city policy regarding mitigation. The Tree Board had developed wording that included the concept of ‘proportionality’ in mandating mitigation. Such wording recognized that loss of a non-native, small tree might not deserve the same mitigation as loss of a large native tree not otherwise in the vicinity. **At the pleading of the home building community, the word ‘proportional’ was stricken from comp plan policy endorsing the concept of mitigation. The homebuilding community further asked that Tigard’s mitigation policy should ‘minimize cost to the developer’.** While such a request might be expected from these folks based on their narrow economic interests, and certainly must be considered, any wording to minimize costs is in essence a policy to not enforce mitigation. The Planning Commission, yielding to the presence of 12 representatives, who had but once appeared during the year of policy development by the Tree Board, added wording explicitly noting that cost was a major factor in developing mitigation regulations and programs, not noting the variety of

other factors related to mitigation. This is an instance of adding one type of specificity at the expense of other considerations, and it should be stricken or all other factors affecting mitigation should be listed.

ISSUES NOT ADDRESSED

Because the home building community had 12 persons present and took up the greatest portion of time (at a meeting that went to 11:30PM), a variety of comments, both new and old, were not discussed at all on April 21. I offer some of them below with the request that either you, the City Council, address them, or ask the Planning Commission to address them before returning proposed comp plan policies to the City Council for action:

A The city should have a policy of identifying (at a useful scale) significant treed/timbered areas remaining in the city as part of a map in the comp plan (same as the zoning map is part of the comp plan, or same as the US Army Corps flood plain map is a part of the comp plan). Of particular importance are the remaining few stands of native trees in our uplands. The Tree Board has heard over the past year that a canopy map is or soon will be available through METRO and PSU work, but its presentation has been repeatedly delayed. It is a very important tool in managing Tigard's urban forest. The prior comp plan made reference to and the associated factual background material included a map of timbered areas. Those significant treed/timbered areas (eg ash, valley ponderosa, white oak) should be more stringently zoned, and some measures developed for special protection of significant trees or groves. Other adjacent cities utilize this information to define 'resource zones' with different tree protection requirements. Details can be left to the code writing effort to follow. The staff background information discusses in very general terms the importance of maintaining tree canopy – more specific local information is available: In City of Portland (little loss in tree canopy over last 40 years), the average summer temperature has increased 2.18 degrees F (73-82 versus 97-06 decades). In Portland's western suburbs (eg Tigard), the average summer temperature has increased 3.48 degrees F. Thus, we locally have seen a **60 percent higher temperature increase** than our more urban neighbors to the northeast – tree canopy loss is acknowledged as a major factor in summer temperature increases. (NOAA – Portland data).

B Policy 2.2.2 addresses coordination of tree management among the departments of the City of Tigard which issue permits and take direct action themselves; it (and its associated material in the background statement) falls far short of recognizing either the problems or the needed policy to improve the present situation. Depending on the scale of development, requirements for utility and other infrastructure improvements may be limited (i.e., electrical, plumbing, mechanical trades). For some of these situations, a site plan or tree plan is NOT required. Applications do not include information if trees or tree roots will be affected. Further, these simpler permits are typically not reviewed by planners to determine whether any tree preservation requirements apply to the site. For more extensive applications and permits, the location of utility easements and excavations again are not typically not shown (eg for phone, gas, cable and electric trenching on individual lots) or compared to tree preservation requirements, and this deficiency continues for details of site preparation work in the field. The private utility companies and contractors are typically not aware of the tree protection requirements and may trench through a root zone, adding further stress to trees that were intended to be saved. Finally, when lots have been platted and utility infrastructure installed, the building permit presents another hazard to trees – the applicant (different than developer) may omit a 'save' tree from the plan or mislocate a tree on the plan. The root zone may be shown incorrectly if at all, or be given no buffer against a foundation wall or other structure. At the comp plan policy level, these kinds of tree protection measures need more than a simple 'coordinate' order. These issues call for a policy that mandates 1) a tree specialist in the city to review drawings for the lesser developments and for the later stages of site development in a subdivision, 2) collaboration meetings regarding tree protection on major or complex projects, 3) require a composite plan sheet showing tree protection and all work on a site, and 4) combination of public infrastructure and private site work permit applications.

C The comp plan should provide a legislative basis for broadening the allowed use of tree fines and mitigation funds to protect and develop our urban forest. This would be a major policy change from present practice, yet

staff reply to this comment (which was initiated by a Tree Board member) was simply to say it was too specific, and 'many regulatory choices are available to the City ...'.

D Several of the proposed policies, by the omission of corresponding words, conflict with existing comp plan policies, namely, existing Policy 3.4.2, that calls for PD review in timbered areas, calls for maintenance of trees and natural vegetation 'to the maximum extent possible', and that calls for clustered housing in areas having important wildlife habitat. The protections included in our comp plan which was written 25 years ago should be continued for the current update – the need is more severe with fewer treed sites existing in the city. Proposed findings for these weaker provisions are not based on facts in the record.

E There exists in the proposed comp plan policies and action measures no legislative basis for City of Tigard to require, in appropriate cases, "alternative analyses", necessary to allow a staff or hearing officer decision finding that a particular arrangement results in 'minimizing' tree removal. Without at least one alternative to be shown by applicant, the city is left to devise an alternative itself or 'take it or leave it'.

F Tigard has seen significant tree removal over the last decade by the developer practice of thinning trees, removing all trees, waiting a year or so, then applying to build on a bare piece of ground, with no need to mitigate trees. This has been a major source of citizen outrage, perhaps a major factor in Bull Mountain residents resisting annexation, and of course a cause of reduction in our urban forest. This practice should be addressed specifically in the comp plan. When raised in discussion so far, the staff response has been that it is too specific a matter to be addressed here, and that this practice "would be prohibited under existing draft policies, if not specifically mentioned." My view is simply that if it is not mentioned, it is not prohibited.

G Our comp plan is a formal statement of the existing conditions and policies going forward. As a statement of city actions, the background material should include specific information on enforcement efforts in recent years, financial aspects of tree protection in Tigard (fines, mitigation fees, account balances, etc.) and mitigation sites currently growing new trees. Such information is key to later comparisons of ongoing city efforts in tree protection.

The above comments, A through G, are all in the record of the Tree Board and its deliberations over the past year. Please consider each of them as if read individually to you in your workshop.

Sincerely,

John Frewing
7110 SW Lola Lane
Tigard, OR 97223 503-245-5760 jfrewing@teleport.com



Home Builders Association
of Metropolitan Portland

May 6, 2008

To: Tigard City Council
Fr: Alan DeHarpport on behalf of Home Builders Association of Metropolitan
Portland (HBA)
Re: Worksession regarding Tigard's Urban Forest Comprehensive Plan Amendment

Dear Councilors,

There are several key issues with regard to the proposed Comprehensive Plan Amendment (CPA) that I would like to raise. The key issues can be summed up in four areas: property values, tree mitigation cost, builder/developer engagement, and application of the CPA on the tree code. Property values are decreased under the current tree code. The high cost of tree mitigation in Tigard is exorbitant. The builder/developer stakeholders have not been properly engaged in the process since the tree board was placed in charge of this policy development. While myself and other builders have had a chance to offer comments to the planning commission, and the tree board it would have been better to form an advisory group that included diversity that placed builders and developers on an equal footing as the members of the tree board. HBA believes that passing the current language included in the CPA before a tree code is in place increases the potential for punitive aspects of tree mitigation in the existing tree code for the city of Tigard.

Property Values

There are many variables working together that require attention. We heard from one Planning Commissioner that perhaps mitigation fees are too low since it doesn't seem to be stopping tree removal on properties when developments are built. What's important to consider here is that we are talking about developable land and this conversation is not about the protection of tree resources associated with water quality, wetland protection or other sensitive sites. When development occurs on property that is treed and zoned for development the trees must be removed for a variety of reasons including: requirements for density overlays from Metro and the City's own engineering manual.

It is simply not possible to maintain property values, save the trees, and put in the streets and houses—particularly when the zoning is for small lots which requires a higher percentage of the land to be disturbed in all cases. If mitigation fees are raised, it will only decrease property values further. We also were asked why can't less lots be developed and trees saved? Fewer lots could be developed, but again builders have minimum density requirements that have to met so we are limited on this option. More importantly, further restrictions also have an impact on the landowner's value and can significantly de-value the property owner's land value.

If we go the other direction and reduce the size of the lots, we are limited by home design available for smaller lot size and therefore a reduction in land value is also the end result. Also of importance under this pathway is the compatibility of the existing neighborhoods where you could have and existing neighborhood with a R4.5 zone averaging 7,500 ft² lots adjacent to a new development with 3,000-5,000 ft² lots. Under the Planned Development (PD) process we know for certain the immediate neighbors would object to the higher density.

The highest and best use of the land slated for urbanization is not tree preservation. From HBA's perspective the highest and best use of this developable land is urban development and the fairest method to achieve tree protection is to offer the landowner developer some reimbursement for the lost value of the property due to the mitigation standards. Anything less, approaches a potential conflict with "takings" and could well move the city closer to legal challenges from citizens, which should not be a desired outcome.

As an alternative language should be added to the CPA that recognizes the financial impact of tree mitigation by requiring that devaluation of property zoned for future development be minimized.

Secondly, tree mitigation costs are extreme, and there are no public lands where trees can be planted for developers to mitigate upon. The code currently allows developers to either pay the mitigation fee, or mitigate. However, since there is no land to mitigate on, the developer is left with the option to find an owner who will allow mitigation trees to be planted on their property, buy land to mitigate on, or pay the fee. The fee is the most costly option, but it also usually the only option. Thus, the current mitigation regulations create a system where a landowner with property zoned for development taxed in order to meet a combination of on-site planning requirements.

The current tree fund has nearly \$2 million collected in the past 8 years, yet the City spends only \$50,000 per year on tree planting. At current rates, it will take 40 years to go through the \$2M currently on hand; however, the fund will continue to grow even larger unless things are changed. Language should be added to the CPA that acknowledges current mitigation fees do not reflect the current need, are too high and require the tree code to reduce the mitigation fees to be more in step with the identified need. Under a system of SDCs the tree mitigation for Tigard is no different from a municipality charging SDC well in excess of the project list for transportation or to build a sewer system with pipes that are gold plated.

Public Process

As we commented in the summary, the development community has not been fully engaged in this "public" process. The only reason the builder/developer community was engaged at all is due to a phone call between Tigard City staff and Jay Harris at Harris-McMonagle Engineering approximately one year ago.

Tigard staff mentioned to Mr. Harris that the Tree Board had been working on the comp plan amendment for over a year at that time. Apparently there was one builder who was an alternate on the tree board, but that individual stopped attending the meeting. No one from the City or the Tree Board attempted to contact the HBA or any other member of the development community about the City's plan to amend the comprehensive plan. As a result, the proposed language is coming from the very stakeholder group responsible for implementing the tree code. It should not come as a surprise to the City Council that there is a general feeling amongst the developer/builder community that we are not supporting elements of this proposed language.

This perception is supported by the comp plan amendment itself on a wide variety of levels. For example, nowhere in the proposed Comp Plan Amendment is it stated that there is a general perception from the developer/builder community that the current ordinance creates financial hardship for those properties that have trees upon them and are zoned for development. Nowhere in the document does it state that the ever-growing \$2M mitigation fund may possibly be over funded based on annual outlay of \$50,000 per year, and as such, perhaps a re-evaluation of the tree mitigation fees should be considered. Nowhere in the document does it recognize that the right to develop private property should even be considered.

Most importantly, the document does not recognize the City's own engineering and building codes conflict with many aspects of tree retention, such as the most basic requirements that streets be built, utilities installed, and building pads be cleared for structures. The document does not recognize that over time, residential development has added to the tree canopy as landscapes naturally mature. From a planning perspective the document does not acknowledge Metro has determined that infill development on smaller lots is more desirable than expanding the urban growth boundary, and that these smaller lots require a larger percentage of any site to be cleared for construction.

From a public policy process I have seen better processes. There is a level of culpability from builders and developers not participating throughout this entire process, but quite honestly by running this process through the tree board we collectively never felt our comments were much more than window dressing. To effectively construct this work a group representing a wider range should have been established and this clearly should have including representatives from the builder/developer community. We can't change the clock back at this time, but we can offer some final thoughts on the language in front of you this evening.

Proposed language

You might be surprised that builders are generally fine with the majority of the work contained in this document. There in fact are only seven remaining issues to comment on. We appreciate the planning commission's willingness to move on some of these items and offering the following comments for the remaining work.

Public Attitudes

We encourage you to take time to review the details of the community attitudes survey. Of particular note, the survey page 29 of the question: "I would support regulations protecting existing trees" 6% strongly disagree, 9% somewhat disagree, 30% somewhat agree, and 54% strongly agree. 2% were undecided.

Page 2-11 - The proposed CPA, the long-range planning staff indicated "that 84% of Tigard Residents supported regulations to protect existing trees." First, this survey only asked 400 random persons not all "Tigard Residents." Secondly, "regulations protecting trees" was not defined. A more accurate question would be *"I would support regulations that devalue private property while protecting trees."* This question is not addressed at all in the study and is of paramount importance to the builder/developer community's concerns. We recommend that this question be posed to the same 400 persons who took the first survey before any decision is made about this proposed CPA. Regulation is supported, but at what cost to the underlying property owner? We feel that a comparable survey putting the financial impacts to property owners would yield significantly different responses.

Page 2-12 - The proposed CPA staff states that "there is general feeling among residents, developers, and other stakeholders that the existing regulatory structure is not adequate and hinders both the strategic protection of trees and the orderly urbanization of the City." Based on internal conversations with developers, builders, arborists, planners and engineers, there is no one who feels that that "existing regulatory structure is not adequate." In fact, every builder/developer that has raised concerns consider the current tree code onerous and more than "adequate" in every way. We recommend that a statement indicating that language include:

"A significant number of builders/developers have voiced strong opposition to the current tree code stating that it is punitive, devalues private property, and has created a mitigation fund that is disproportionate to the actual value of the loss of trees."

Page 2-12 and the top of 2-13 - The proposed CPA, it states "As a result, the existing regulatory structure does not encompass a significant number of trees across the city, which may be removed by the property owner without City consultation or permit." This implies that the upcoming code revisions should provide regulation for tree cutting on residential landscaping. We recommend that an additional sentence be added stating:

"The City will continue to recognize that individuals have the right to cut trees on their property without a permit when there is no intent on behalf of the property owner to develop their property."

Page 2-13 - The key findings do not address any of the concerns raised by the builder/developer community during the "public" process. An additional bullet should be added stating:

"The builder/developer community has expressed concern regarding the cost of mitigation and the devaluation of property values due to the high cost of mitigation."

Goal 2.2 - Does not acknowledge that development is affected by tree regulation. We recommend the goal be changed to:

"To enlarge, improve, and sustain a diverse urban forest to maximize the economic, ecological and social benefits of both trees and infrastructure development within the City."

Goal 2.3 - Does not acknowledge that land development is affected by tree regulation. We recommend that the Goal be changed to:

"To balance the diverse and changing needs of the City through well-designed urban development that balances the loss of existing trees with infrastructure development to create a living legacy for future generations."

Goal 2.3.5 – the language "The City shall develop and enforce site design and landscape requirements to reduce the aesthetic and environmental impacts of impervious surfaces through the use of trees and other vegetation." One of the builder/developer community's main concerns was that City-required improvements such as street right of way and building pads are currently required to be mitigated. There is no way to develop a site without these required improvements. Thus, HBA recommends that this policy be changed to:

"The City shall develop and enforce site design and landscape requirements to reduce the aesthetic and environmental impacts of development through the use of trees and other vegetation. City requirements for development of right of ways and building pads shall be exempt from mitigation"

It is HBA's concern that the proposed CPA will result in a revised tree code that does not acknowledge development rights, ignores the financial repercussions of tree mitigation, and will increase the severity of tree mitigation to Tigard property owners of development, treed land.

I have spoken with a wide range of people who depend on residential development as part of their livelihood including bankers, lawyers, insurance agents, title insurance and escrow companies, realtors, contractors small and large including home builders, utility contractors, paving contractors, building materials suppliers, lumber brokers, excavators, cement workers, framers, mechanical contractors, electricians, plumbers, siding installers, roofers, drywall installers, painters, finish carpenters, cabinet makers, tile setters, window manufacturers, fence builders, nursery owners, arborists, and landscapers.

It is HBA's sincere belief that people, jobs, and economic growth can be balanced with tree retention, planting, and an appropriate level of mitigation. We are hoping that you

will consider our thoughts and ultimately modify the proposed language to reflect a more balanced approach to the proposed CPA.

Regards,

Alan DeHarpport
Home Builders Association of Metropolitan Portland
Member, Government Affairs and Legal Action Committee



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May 6, 2008

Tigard City Counsel

RE: Comprehensive Plan Amendment: Tigard's Urban Forest Background Statement and Goals, Policies, and Action Measures

I am sorry, I cannot support the Plan amendment for Tigard's Urban Forest. It is 95% there, but in it's current for is still unacceptable.

The Land Owners, Development Community and HBA has made it clear that the property owner's rights need to be protected as well as the trees. We have consistently asked that one of the primary goals be, to preserve the right of the private property owner to develop their property to the current Comprehensive Plan and Zoning. Thus far, our expectations have fallen on deaf ears and I feel the current plan is a thinly veiled attempt to stop development. A clear and explicit goal needs to be added to preserve these rights. I would direct you to reject this plan until this goal is incorporated.

1: Restricting a private landowners development because of trees, creates a separate class of people that are penalized for the mere fact they have trees on their property. I believe this is unconstitutional and at the very least reprehensible.

2: A great deal of expertise, time and money has been spent to develop the current zoning and limit urban sprawl. The current thought seems bent on throwing this work out and adding to Urban Sprawl. Every building, parking spot, home or apartment unit that is not developed to plan, is another unit that needs to be built on farm land at the edge of the UGB, and results in a greater distance people have to commute. The demand for growth does not stop. This plan in its current form is contrary to the logical plan of the UGB and of both energy and natural resource consumption. The more we spread out, the more farming land, forest, watershed and wildlife are impacted.

3: Reducing development also reduces Tigard's Tax Base and increases the cost per capita cost for all city services.

I suggest including as one of the primary goals under Goal 2.2.12

The City shall require mandatory developing of urban property to its reasonable maximum potential.

Additionally, the following are the exact instances that will make land development impractical.
GOAL 2.3: Policies

8. The City shall require, as appropriate, tree preservation strategies that prioritize the retention of trees in cohesive and viable stands and groves instead of isolated specimens.

"In cohesive and viable stands and groves" has the potential to stop any development with more than one tree standing on it.

I would like to give you an example:

Your 75-year-old mother has 2/3 of an acre and an old house that can be developed into 3 lots, she could sell it for \$300,000 to \$400,000, which she could use to pay for her living at a nice retirement apartment. However, a grove of trees would render it undevelopable, and she would have just one lot and an old house with little value. Don't you think she deserves compensation for her property? I do.

If you're going to take people's property for the benefit of the public, then the public should reimburse the owner just as in a case of Condemnation for Public Improvement.

Policy 8 has the ability to render ANY property with any trees undevelopable or at the very least developed at a sub standard which would:

A: Cause monetary injury to the Land Owner by instantly reducing the land's value.

B: In the case of "Density Shifting" create an undesirably high-density development in what would have been a compatible density area, which could be reforested in a safe and prudent manner. We are already experiencing this with the normal density. Neighbors will really go berserk if we put 4,500 Sq Ft lots in 6,000 to 7,500 Sq Ft areas.

Hazardous Tree Definition as proposed by Staff:

Hazardous Tree - a tree that is dead, declining, cracked, split, leaning, structurally unsound, suffering from infestation or infection, or otherwise physically damaged or impaired to the degree that it is clear the tree is likely to and injure persons or property and where pruning or other treatments will not significantly alleviate the hazard

This definition was written for use around existing structures.

I believe the words "imminent damage or injury to either existing or planned improvements" are key requirements in order to avoid a future debate.

Specifically, a tree falling on a vacant lot would not necessarily meet that definition of a hazard, while the same tree after development would surely be a hazard, therefore, it should be deemed a Hazard Tree. Your proposed Hazard Tree definition could potentially mandate that all trees are not hazardous, as they do not pose any immediate risk of damage or injury. I suggest a revision is in order.

As a Builder, we do not want to save a tree that has the potential to fall and injure people or property

Hazardous Tree (Revised) - a tree that is dead, declining, cracked, split, leaning, structurally unsound, suffering from infestation or infection, or otherwise physically damaged or impaired to the degree that it is clear the tree is imminently likely to fail and injure persons or property either existing or planned improvements and where pruning or other commonly accepted arboricultural practices treatments will not significantly alleviate the hazard.

Commonly accepted arboricultural practices was under the suggestion of a local Arborist.

Thank you.

Ken Gertz
President
Gertz Construction Co. Inc.



MEMORANDUM

TO: Mayor Craig Dirksen and Members of City Council

FROM: John Floyd, Associate Planner

RE: Recommended Language Changes and Draft Definitions related to Council Hearing on June 3, 2008 regarding CPA 2007-00002

DATE: May 19, 2008

At the June 3, 2008 City Council meeting, a public hearing will be held for Comprehensive Plan Amendment (CPA)2008-00002. The amendment creates goals, policies, and recommended action measures for Tigard's Urban Forest (Statewide Planning Goal 2). City Council reviewed the proposed language at a May 6, 2008 meeting and had a few questions and comments on the amendment language. At Council's direction, staff developed alternative language to address the questions and comments for the Council to consider at the public hearing on February 5, 2008. The proposed changes are outlined below:

The following policies and action measure were amended to address issues of clarity and legibility as expressed by Council.

Policy 2.2.10

The City shall require, ~~as appropriate,~~ the appropriate use of trees and other vegetation as buffering and screening between incompatible uses.

Policy 2.3.2

In prescribing mitigation of the impacts of development, the City shall give priority to the protection of existing trees, ~~and shall consider~~ taking into consideration the related financial impact of mitigation.

Recommended Action Measures 2.3.i

Develop and implement regulations, standards, and incentives to encourage developers to transfer density, seek variances and adjustments necessary to preserve trees and natural open space in a manner that ~~exceeds the requirements of the Development Code~~ optimizes tree preservation and protection.

Council expressed a desire to see a more pro-active approach to the abatement of hazard trees outside of the development review process. While staff is confident that existing Policy 2.3.4 enables a pro-active abatement policy, the following Recommended Action Measure was added to more specifically address the concerns voiced by Councilor Buebner.

Recommended Action Measure 2.3.v

Develop standards and procedures to identify and abate tree related hazards on both public and private property.

In addition to the recommendations above, staff wishes to make Council aware of the Draft Definitions developed by the Tree Board and Planning Commission. While not under formal consideration at this time (to be returned as part of the finished glossary), they may inform your decision making at the June 3, 2008 public hearing. These definitions are as follows:

Hazardous Tree – A tree or tree part that is likely to fail and cause damage or injury, and the likelihood exceeds an acceptable level of risk.

Invasive Species - Plants, animals, and microbes not native to a region, which when introduced either accidentally or intentionally, out-compete native species for available resources, reproduce prolifically, and dominate regions and ecosystems. Because they often arrive in new areas unaccompanied by their native predators, they can be difficult to control. Left unchecked, many have the potential to transform entire ecosystems, as native species and those that depend on them for food, shelter, and habitat disappear.

Mitigation - A process, standard, compensatory action, or any other mechanism by which adverse impacts can be avoided, minimized, restored, or compensated as appropriate.

Urban Forest - Broadly defined as all the trees within the City collectively.

Urban Forest, Diverse - An urban forest that contains a variety and abundance of differing composition, structure, and function. Diversity in composition means variation in species, genetics, abundance and age. Diversity in structure means variation and abundance of vertical and horizontal arrangement, heterogeneity, forest density, micro-climates, and visual quality. Diversity in function means variation and abundance of ecological services, stages of succession, and value as green infrastructure.

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