



City Council
250 Hamilton Avenue
Palo Alto, CA 94301

SUBMITTED

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Department: Public Works
Category: Supplemental Report
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SUPPLEMENTAL INFORMATION (ID # 14536)

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Supplemental Report - SECOND READING: Update to the Tree Protection Ordinance, Title 8 of Palo Alto Municipal Code

Following Council's approval of the first reading of the updated Tree Protection Ordinance (Title 8 of PAMC, Staff reports #14355 and #14495) on June 6, 2022, several letters from the public were received in advance of the second reading scheduled for June 20, 2022 (Staff report #14504). These letters expressed concerns over two main topics. This supplemental memo provides a response from staff on these items of concern.

Implications for ADUs under new Tree Protection Ordinance

Regarding ADUs and the updates to Title 8, staff has reviewed the correspondence received from the public. This includes correspondence between a member of the public and the California Department of Housing and Community Development (HCD). Contrary to an assertion by the member of the public, staff does not believe HCD opined that the proposed tree regulations conflict with state law. Rather, HCD has opined that, in general, a tree ordinance "could potentially prohibit ADUs on many properties and would constitute a sort of lot coverage restriction that is prohibited under Government Code Section 65852.2(c)(2)(C)." This statement was subject to the caveat, however, that it "is for general information; we would need to assess the specific case."

Staff is confident that review of any specific case will reveal that the proposed tree regulations do not conflict with state law. The proposed tree ordinance is written to permit the removal of a tree if it is not feasible to retain it. If there is some unforeseen circumstance that would cause the tree ordinance to preclude a state minimum ADU, staff understands that the ADU law governs.

Staff also notes that the reference to Chapter 8.10 that has concerned some members of the public appears in PAMC 18.09.040 (Units Subject to Local Standards). For these ADUs, state law authorizes the City to create standards "that include, but are not limited to, parking, height, setback, landscape, architectural review. . . ." (Government Code section 65852.2(a)(1)(B)(i)). The proposed tree protection regulations fall within this authority.

Tree Disclosure and Tree Preservation Report Requirements

Regarding the submission of Tree Disclosure Statements and Tree Preservation Reports, staff believes there may be some confusion from the public regarding these requirements. The Tree Disclosure Statement is the single sheet questionnaire currently contained within the standard T1 Tree Protection Sheet. Under the updated ordinance, the disclosure form will be updated to reflect changes to the ordinance, but it will essentially remain the same: a single page

questionnaire about trees on the property. Many permit types are exempt from submitting a Tree Disclosure Statement.

(d) Disclosure of information pursuant to this section shall not be required when the development for which the approval or permit is sought does not involve any change in an existing building footprint nor any grading, trenching, or paving, or any change in landscaping which could alter water availability to established plants, hedges, shrubs, or trees.

Under the new ordinance, when a Tree Disclosure Statement is required, it will now need to be completed by an arborist. This is intended to ensure that Tree Disclosure Statements are accurate. Staff does not anticipate that this will be a large expense for an applicant. Completing a Tree Disclosure Statement will likely take less than an hour for an arborist to complete. The arborist will identify the tree species, measure sizes, determine proximity to work, and then fill out the statement. If the answers to the Tree Disclosure Statement indicate that no Tree Preservation Report is needed, then nothing further is required. The applicant submits plans with the tree info provided by the arborist, and no arborist report, tree preservation report or arborist generated site is plan required. This is the same as what is currently required under the existing ordinance, with the only change being the arborist filling out the Tree Disclosure Statement.

Under the updated ordinance, as with the current ordinance, the determination as to when a Tree Preservation Report is required is dictated by the answers to the Tree Disclosure Statement. Typically, if there will be construction activity within the Tree Protection Zone (10 times the tree diameter at breast height) of a protected tree, a Tree Preservation Report will be required.

Evaluation of Ordinance During Implementation

On June 6th, Council included the following language in its motion approving the ordinance:

B. Directs staff to evaluate prospective modifications to the ordinance that will come to light over the next year, as well as planning implications to be reviewed by the Planning and Transportation Commission and Parks and Recreation Commission in the following months.

Public Works and Planning and Development Services are coordinating on a system for identifying and responding to any unanticipated issues that arise during the implementation of the new ordinance. As directed, staff will work to address issues as needed through the Planning and Transportation and Parks and Recreation Commissions.