

MEMO



CITY OF BEND

To: City Council

From: Pauline Hardie, Senior Planner

Date: 9/20/2023

Re: Tree Regulation Update Advisory Committee (TRUAC) Check-In

On May 3, 2023, the City Council approved a resolution forming the Tree Regulation Update Advisory Committee (TRUAC). The resolution (attached) includes the project scope, roles and responsibilities and timeframe for the temporary committee. To date, TRUAC has held the following five meetings to discuss updating the City's tree preservation standards:

Meeting #1 (June 28, 2023) – Reviewed the project scope and current tree preservation standards in the Bend Code (BC) and Bend Development Code (BDC). The following is how the BDC currently defines “significant trees” as measured four feet above the ground (known as DBH, “diameter at breast height”):

- **Deciduous Trees: 6” DBH or larger**
- **Coniferous Trees: 10” DBH or larger**

Meeting #2 (July 11, 2023) – Reviewed tree preservation standards from cities in Oregon, Washington, Idaho, and Texas including how they define a “significant tree”.

Meeting #3 (July 27, 2023) – Reviewed proposed tree preservation plans from five different land use applications in Bend including a residential land division, a cottage development, a mixed-use development, and two multi-unit developments. Following discussion, TRUAC made the following recommendation on what size trees should be mapped and inventoried on a development site (“regulated trees”) and what size tree should be considered a “priority tree” for preservation:

- **Regulated Trees: 6” DBH or larger (Deciduous & Coniferous)**
- **Priority Trees: 20” DBH or larger (Deciduous & Coniferous)**

Meeting #4 (August 17, 2023) – Reviewed proposed tree preservation plans from eight land use applications in Bend including a residential land division, a cottage development, a mixed-use development, two master plans and three multi-unit developments and compared them to possible options for how many “regulated” and/or “priority trees” should be preserved on a



development site. If regulated trees between 6" and 20" are also considered for preservation, it could provide additional flexibility.

Meeting #5 (August 30, 2023) – Continued discussion on potential preservation standards and reviewed mitigation options including on-site tree replacement standards and a fee in-lieu of tree preservation. Prior to making any recommendations on tree preservation standards and mitigation, TRUAC requested a check-in with City Council about whether they can recommend preservation standards for trees smaller than the “priority trees” given the following project scope from the Council Resolution:

“Consider preservation standards for larger trees similar to the Southeast Area Plan”.

Projects in the Southeast Area Plan are required to preserve at least 50% of all trees measuring 24" DBH or larger on sites two acres or larger, in addition to complying with the tree preservation standards in BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls.

Throughout the TRUAC meetings, committee members have expressed a desire to provide flexibility to developers and have discussed options to preserve some smaller trees (less than 20" DBH) in addition to, or in-lieu of, the larger “priority” trees. The committee is unsure if this aligns with Council’s direction at the outset of the work effort.

Following the Council check-in, TRUAC will hold at least two more meetings to discuss tree preservation standards. Due to the need for additional meetings and time to draft the amendments, it is likely that the overall timeline for the adoption of the code amendments will need to be extended.

RESOLUTION NO. 3323

A RESOLUTION CREATING A TEMPORARY COMMITTEE FOR POTENTIAL AMENDMENTS TO CITY CODES AND STANDARDS FOR TREE PRESERVATION

FINDINGS

A. The 2022-2023 Bend City Council Goals include an Environment and Climate Goal. That goal commits the City to "(i)mprove the quality of life for more people in Bend by increasing equitable access to clear air, water and to a healthy environment and to implement solutions that fulfill the City's commitment to being good stewards of our natural environment, decreasing carbon emissions and mitigating the effects of climate change." The goal is supported by several guiding principles and action items, one of which provides direction to revise the Bend Development Code and other relevant standards to protect trees while balancing housing affordability and natural resource preservation.

B. The Council Goals also include a Housing Goal, which commits the City to "(t)ake meaningful action to make this statement a reality: People who live and work in Bend can afford housing in Bend." That goal also includes guiding principles and action items, which include reducing regulatory barriers to housing development.

C. Oregon expresses its housing policies in various ways, including through ORS 197.304, known as the needed housing statute. That statute provides that the availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern. The statute requires that standards, conditions, and procedures regulating development of housing must be clear and objective, and that those standards, conditions, and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

D. On March 15, 2023, the Bend City Council held a work session to review and discuss existing tree preservation code requirements. After discussion, the Council was supportive of developing potential amendments to City codes for large-scale developments to protect larger trees, similar to the approach reflected in the Southeast Area Plan (SEAP), and to increase Bend's urban tree canopy. The Council directed staff to work with the Stewardship Subcommittee on the formation of a temporary committee to advise staff on potential code updates.

E. The Council expressed that this project should be approached with an intent to balance the important goals of tree preservation and housing development, and indicated that proposed new or updated tree preservation standards should not impede the development of housing, which remains a critical need across Oregon and especially in Bend.

F. On April 14, 2023, the Stewardship Subcommittee discussed the formation of a temporary committee and the scope and timeline for bringing potential code updates to the Council for consideration. The Subcommittee was supportive of a temporary committee comprised of the following members: one member of the Human Rights and Equity Commission, one member of the Environment and Climate Committee, one member of the Affordable Housing Advisory Committee, one member of the Neighborhood Leadership Alliance, at least one arborist, developers representing affordable housing, production housing, and/or commercial development, and members from the community at-large or who represent community organizations. The Bend Park and Recreation District will be invited to designate a staff member to act as an *ex officio*, non-voting member that will not count toward the temporary committee's maximum membership of 15 individuals.

G. Bend Code 1.20.015(H) authorizes the City Council to establish temporary committees by resolution to address specific issues or to engage in specific tasks, within identified timeframes, and to establish the scope of the authority and responsibilities of the temporary committee. Through this Resolution, the City Council delegates the selection of the temporary committee members to the Mayor, one Council member, and the City Manager. This group will consider and select members of the temporary committee consistent with these findings. The Council intends to confirm the appointment of committee members selected by this group by motion at a future Council meeting, most likely in June 2023.

H. The temporary committee will work with and advise the City project team, and is charged with making recommendations on potential code changes for tree preservation to the Bend Planning Commission and Bend City Council, as appropriate. The Council directs the temporary committee to consider the issues with the ongoing need for housing in mind, and to develop recommendations that will not have the effect, either individually or cumulatively, of discouraging the development of needed housing in Bend.

I. Creation of the Tree Regulation Update Advisory Committee (TRUAC) is the next step to develop potential amendments to City codes and standards to protect trees while balancing housing affordability and natural resource preservation.

Based on these findings, THE CITY COUNCIL OF THE CITY OF BEND RESOLVES AS FOLLOWS:

To create the Tree Regulation Update Advisory Committee (TRUAC) in accordance with this Resolution, its findings, and the attached Exhibit A, the TRUAC Project Charter.

Adopted by motion on May 3, 2023.

YES: Mayor Melanie Kebler
Councilor Barb Campbell
Councilor Anthony Broadman
Councilor Megan Perkins
Councilor Ariel Méndez
Councilor Megan Norris
Councilor Mike Riley

NO: none



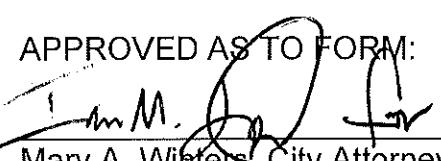
Melanie Kebler, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

TREE REGULATION UPDATE ADVISORY COMMITTEE (TRUAC) PROJECT CHARTER

SECTION 1. PROJECT GOAL

A. Develop and propose potential amendments to the Bend Municipal Code (BMC), Bend Development Code (BDC), and the City of Bend Standards and Specifications to improve tree protection standards for larger new development while balancing the need for housing production, housing affordability, and natural resource preservation.

SECTION 2. PROJECT SCOPE

A. Work with City staff to develop and propose potential amendments to the BMC, BDC and the City of Bend Standards and Specifications related to tree preservation for large scale developments including the following:

1. Provide consistency between BMC Chapter 16.10, Clearing, Grading, and Erosion Control on Construction Sites, BDC Chapter 3.2, Landscaping, Street Trees, Fences and Walls and City of Bend Standards and Specifications Chapter 12, Landscape Architecture and Irrigation Systems
2. Provide clear and objective tree preservation standards for the development of housing, including needed housing, and include an optional discretionary process for applicants for development;
3. Consider preservation standards for larger trees similar to the Southeast Area Plan; and
4. Consider alternatives to preserving trees, including tree replacement and a fee-in-lieu of preservation for the purpose of developing and protecting the City's urban tree canopy.

B. Identify tree inventory programs to support preserving and expanding Bend's urban tree canopy.

SECTION 2. TRUAC ROLE AND RESPONSIBILITIES

A. TRUAC will:

1. Advise the City project team on potential amendments to the Bend Municipal Code, Bend Development Code and City of Bend Standards and Specifications related to the project goal and scope;
2. Provide a forum for community input on the development of the potential amendments;

3. Hold open, public meetings in accordance with Oregon Public Records Law, and operate in accordance with the law in all respects;
4. Respect a range of opinions, strive for consensus, and acknowledge points of mutual agreement. If consensus cannot be reached, a concurrence of a majority of TRUAC members present will be required to make recommendations to the Planning Commission and City Council; and
5. Consider adopting procedures for its meetings and reporting to the Planning Commission and City Council.

B. TRUAC will be composed of no less than 11 and no more than 15 members. TRUAC will have members that are or that represent the following:

1. Human Rights and Equity Commission, Environmental and Climate Committee, Affordable Housing Advisory Committee, and Neighborhood Leadership Alliance;
2. At least one arborist;
3. Developers representing affordable housing, production housing, and/or commercial development;
4. Community members at large, including members from one or more community organizations.

C. In addition to the members above, one Bend Park and Recreation District staff member will be invited to act as an *ex officio*, non-voting member.

D. In addition to the members above, the City Council will select one Planning Commissioner liaison and one City Councilor to serve liaison roles to TRUAC. These individuals may participate in TRUAC meetings to the extent of offering input, answering questions, and providing guidance, but may not vote on any matters during TRUAC meetings.

E. The Mayor, a City Councilor and the City Manager will select TRUAC's members, and will designate two of the selected individuals as the chair and vice-chair, respectively. The individuals selected must be appointed by the Mayor with confirmation by the Council, anticipated to occur by Council motion at a City Council meeting in June 2023.

F. The chair and vice chair are expected to work closely with the City project team to advance the project goals.

G. TRUAC will be primarily supported by the Planning Division, but the City project team will include and involve staff throughout the City organization as needed (e.g.,

Engineering, Code Enforcement, Fire, Legal, Utilities, others) on an as-needed basis.

H. The City Council may follow the recommendations, change the recommendations, reject the recommendations, refer the action back to the TRUAC, or take any other action the Council deems appropriate as per Bend Municipal Code section 1.20.015(H). TRUAC will be considered disbanded when the Council acts on its recommendations, or at any other time determined by the Council.

SECTION 3. PROJECT TIMEFRAME

A. The City Council intends TRUAC to operate within the following timeframe:

1. In June 2023, the City Council will appoint TRUAC members.
2. TRUAC will meet at regular intervals between June and October 2023. If needed, TRUAC may continue to meet depending on staff/Council direction.
3. By November 30, 2023, TRUAC will make recommendations on potential Bend Development Code amendments to the Bend Planning Commission, unless this timeline is modified by the Mayor and City Manager.
4. By December 31, 2023, TRUAC will make recommendations on potential amendments to the Bend Municipal Code, Bend Development Code, and City of Bend Standards and Specifications to the City Council, unless this timeline is modified by the Mayor and City Manager.