



**WORKSESSION
LACEY CITY COUNCIL
THURSDAY, JUNE 18, 2015
7:00 – 9:00 P.M.
LACEY CITY HALL, 420 COLLEGE STREET SE**

AGENDA

- 7:00** **LEGISLATIVE UPDATE**
MARK BROWN, CONNECTIONS PUBLIC AFFAIRS
(VERBAL REPORT-NO ATTACHMENT)
- 7:30** **STREET LIGHT LED CONVERSION**
SCOTT EGGER, PUBLIC WORKS DIRECTOR
(ATTACHMENT)
- 8:00** **STREET TREES**
RICK WALK, COMMUNITY DEVELOPMENT DIRECTOR
(ATTACHMENT)
- 8:30** **OLYMPIA INTERTIE AGREEMENT**
SCOTT EGGER, PUBLIC WORKS DIRECTOR
(VERBAL REPORT-NO ATTACHMENT)
- 9:00** **ADJOURN**



LACEY CITY COUNCIL WORKSESSION
June 18, 2015

SUBJECT: Street Light LED Conversion Program

RECOMMENDATION: Authorize a budget amendment that will allow the first phase of a city-wide street light LED conversion program.

STAFF CONTACT: Scott Spence, City Manager *SS*
Scott Egger, Public Works Director *SE*
Brad Burdick, Operations Manager
Tim Reisher, Transportation Maintenance Supervisor

ORIGINATED BY: Public Works Department

ATTACHMENTS: None

FISCAL NOTE: Conversion of High Pressure Sodium (HPS) street lights to LED street lights will reduce street lighting electric costs by more than 50% when the conversion is complete. The 2015 budget for street lighting electric costs is \$513,000.

The annual budget for electrical supplies will be increased while HPS heads are replaced with LED heads. A budget amendment of \$400,000 will be needed to purchase a two year supply of LED heads in 2015.

PRIOR REVIEW: None

BACKGROUND:

Public Works studied various options for implementing a program to convert High Pressure Sodium (HPS) street lights to LED street lights in order to reduce energy costs. The option that is most cost effective and most practical is to have Transportation Maintenance crews replace HPS street lights with LED street lights when the HPS street lights fail. They currently replace approximately 450 street lights or 10% of the HPS light inventory each year. Therefore the proposed conversion plan would take approximately 10 years to complete. There are currently 4,572 street lights in our inventory.

Converting the street light inventory over 10 years ensures that the future cost for replacing failed lights will be spread out over time. If a contract were awarded to convert the street lights in one year, the City would need a much larger initial capital investment of approximately \$2.8 million. In comparison, replacing Lacey's street lights at the current HPS failure rate is estimated to cost approximately \$1.8 million in today's dollars (i.e., amount does not include PSE rebates or incremental labor). Additionally, converting the street light inventory all at once would require a large capital outlay by the City in the future once the LED street lights reached the end of their life cycle.

By utilizing transportation maintenance crews that are already replacing the failed lights to complete the conversion, Public Works will eliminate the costs associated with plans, specifications, engineering, construction administration and inspection.

With Council authorization, the City streets department will purchase LED lights and begin the conversion program this summer. PSE currently has a rebate program for LED conversions that will rebate approximately 30% of the cost of the LED light purchases.

ADVANTAGES:

1. LED lights are 50% to 60% more energy efficient than High Pressure Sodium Lights. The reduction in street lighting electrical costs will provide relief to the general fund.

DISADVANTAGES:

1. The budget for electrical supplies will be increased in order to purchase LED heads during the conversion program.



LACEY CITY COUNCIL WORKSESSION June 18, 2015

SUBJECT: Street Tree Ordinance Maintenance Provisions

RECOMMENDATION: Review the Planning Commission's recommendation to the City Council on the maintenance provisions of the street tree ordinance.

STAFF CONTACT: Scott Spence, City Manager *SS*
Rick Walk, Community Development Director *RW*
Scott Egger, Public Works Director *SE*
Ryan Andrews, Planning Manager *RA*

ORIGINATED BY: Community Development and Public Works Departments

ATTACHMENTS: 1. [Planning Commission Record](#)

FISCAL NOTE: See analysis in staff report.

PRIOR REVIEW: February 12, 2015, City Council Meeting
January 15, 2015, City Council Work Session
April 1, 2014, Planning Commission Public Hearing
March 18, 2014, Planning Commission Briefing
December 17, 2013, Planning Commission Briefing
November 5, 2013, Planning Commission Briefing

BACKGROUND:

At the February 12, 2005, meeting, the City Council adopted a consolidated set of regulations pertaining to street trees—Lacey Municipal Code 12.20. The regulations will provide additional clarity and consistency when it comes to administering the City's street tree program. In adopting the regulations, the City Council deferred any decisions on maintenance responsibilities. This briefing will give the Council an additional opportunity to review the Planning Commission's recommendation on the issue and develop a strategy for maintenance that can be incorporated into LMC 12.20.

Prior to the recent adoption of the street tree ordinance, the City of Lacey never had a consolidated set of regulations pertaining to street trees and their maintenance. In the past, regulations have been split between the City's Development Guidelines and Public Works Standards and the tree protection regulations contained in Lacey Municipal Code 14.32. This has caused confusion in the application of regulations and enforcement. This situation was recently memorialized in the 2013 update to the Urban Forest Management Plan (UFMP) which states:

"...there have been challenges with maintenance responsibilities for street trees between the City and adjacent property owners. The City's policy has been to maintain street trees on select City arterials, commercial areas, and City transportation projects and adjacent property owners or owners associations maintain the remainder. However, this has not been evenly applied across the board and there is some confusion between adjacent property owners and the City as to who has the maintenance responsibilities... The City currently lacks an ordinance related to street tree maintenance and may benefit from developing one in the future. Such an ordinance would provide additional clarity and consistency when it comes to maintenance responsibilities."

At the Planning Commission's meeting on November 5, 2013, staff provided a briefing on the (at the time) proposed street tree ordinance. At the briefing, the Planning Commission raised concerns related to equity between the City's past maintenance responsibilities and perceived benefits to certain residents where the City maintains trees versus those developments where all trees are privately maintained. In response, staff prepared an issue paper (see attached) that provides additional background related to past and existing codes and policies, current and future funding sources for right-of-way maintenance, maintenance challenges, and the street tree inventory completed in 2012.

At the December 5, 2013, meeting, the Planning Commission continued the discussion and reiterated their concerns related to equity. To assist the Planning Commission in moving the issue forward, staff prepared three alternatives for the regulations, which were reviewed at the March 18, 2014, meeting: the City maintains all trees it currently maintains as well as any added as part of a transportation project (staff recommended proposal); the City maintains all trees on arterials and collectors; or establishing a dedicated fund by raising taxes for wholesale maintenance of trees throughout the City.

Option A: Staff Proposal

The staff-recommended proposal would essentially maintain the status quo related to street tree maintenance. This means that the city will maintain all trees that are currently maintained as well as any tree that is installed as part of a city transportation project. Currently, the City maintains a total of 2,973 trees at a cost of approximately \$65,000 annually for labor and materials. Most trees that the City maintains were installed as part of previous transportation-related improvement project.

The Planning Commission raised concerns about equity related to this option. A majority of the Planning Commission cited that it shifts maintenance and replacement of street trees

located on arterials and collectors onto adjacent property owners. The issues associated with this option include:

- Burden to homeowners and HOA's to administer and collect for maintenance of trees.
- Homeowners and HOA's usually are not knowledgeable about proper pruning techniques, additional traffic control needed along busy streets, or the need to call for utility locates.
- Lack of homeowner/HOA knowledge about city policies.
- Lack of resources available if a homeowner is elderly or disabled.

The benefits of this proposal include:

- Keeps the status quo.
- Keeps the budget distribution to existing General Fund programs the same. If more funds are required for an enhanced street tree program, funds to other existing essential services such as street maintenance, park services or facilities maintenance will have to be reduced in kind.

Option B: City Maintenance of all Arterials and Collectors

An option to be considered would be to recommend that the city maintains street trees on all arterials and collectors. Currently, most of the trees the city maintains are on arterials and collectors. However, there are some key corridors where the city currently does not provide maintenance including Yelm Highway, Rainier Road, Marvin Road, Hawks Prairie Road and Willamette Drive. According to estimates prepared by the Public Works Department, the additional cost to maintain these 2,051 trees would be approximately \$150,000 per year for labor and materials. In addition upfront costs for a bucket truck/chipper combination would be approximately \$300,000 with yearly depreciation and maintenance costs of approximately \$40,000.

The key issues related to this proposal are related to additional cost by the city. Should this be the preferred recommendation, the additional \$150,000 per year would take budgeted funds from the general fund and would necessitate the need to reduce funding and level of service delivery within other current general fund categories. The issues associated with this option include:

- Higher cost for the city that may take budget funds from other services or programs.
- Additional notification and outreach would be needed to inform the public in the change of policy.

The benefits of this proposal include:

- Regular maintenance of trees along city corridors and gateways that provide an overall aesthetic benefit to the city.
- Professional, qualified crews working within the right-of-way that will prevent issues associated with residents doing work in these high traffic areas.

Option C: City Establishes a Dedicated Fund to Maintain All Trees

The final option would be for the City to establish a dedicated fund to maintain all trees in the city. This could be done by raising taxes or other concept whereby residents are taxed for the benefit of the city maintaining all trees.

At this point, a ballpark estimate for the total number of trees in the city along all streets would be in the neighborhood of 20,000 to 30,000 trees. At our current budget rate, this means that the total cost of maintaining all trees would be approximately \$437,269 to \$655,903 per year not including any up-front costs such as equipment, etc. There are currently 16,949 households in the City of Lacey. That means that each household would be responsible for paying approximately \$26 to \$39 per year for street tree maintenance. These numbers are just a guide and could shift based on the exact number of trees in the city and the amount of annual maintenance required. Additionally, not every property in Lacey has street trees—meaning that some residents would be paying for a service that they would not directly benefit from. The issues associated with this option include:

- May be difficult to enact a tax based on voter preferences.
- Would potentially be a hardship for those who are on a limited budget.
- This type of program would require additional operations staffing and equipment as well as requiring additional staff time to administer.

The benefits of this proposal include:

- Regular maintenance of trees along city corridors, gateways, and within neighborhoods that provide an overall aesthetic benefit to the city, not only within commercial areas and corridors, but also within neighborhoods.
- Professional, qualified crews working within the right-of-way that will prevent issues associated with residents doing work in high traffic areas and within neighborhoods.
- Potential for increased property values because of improvement to street frontages and the public realm within neighborhoods.

The Planning Commission held a public hearing on April 1, 2014. Several members of the public spoke and generally favored option two for the City to maintain all trees on arterials and collectors. After considering public testimony and staff's recommendation, the Planning Commission ultimately voted 7 to 2 to recommend the proposed street tree regulations LMC 12.20 to the Council with a recommendation to adopt Option B—the City maintains all trees on arterials and collectors. The majority of the Planning Commission preferred this option because it would eliminate the equity issues associated with Option A.

STREET TREE ORDINANCE LANGUAGE

April 1, 2014 Planning Commission Recommendation Draft

12.20.010 INTENT

This chapter establishes regulations and standards necessary to ensure that the City continues to realize the benefits provided by maintaining safe travel ways and a healthy urban forest. This chapter is intended to:

- A. Maintain trees located in the public rights-of-way in a healthy, non-hazardous condition through the application of tree care standards contained in ANSI A300 standards.
- B. Provide guidance for the planting, maintenance and protection of trees located within the city right-of-ways.
- C. Remove diseased, hazardous and or nuisance trees located either within the public right-of-way or on adjacent private property that poses a risk to the general public health, safety and welfare.

12.20.020 PERMIT REQUIRED

- A. A right-of-way access permit shall be obtained from the City Public Works Department prior to the planting, major pruning (more than 30% of the canopy), or removal of any street tree within the City. A separate permit is required for each work location. No permit is required for normal and minor pruning (less than 30% of the canopy) of street trees.
- B. A land clearing permit or exemption shall be obtained from the City Community Development Department in accordance with LMC 14.32 prior to the removal of any tree from private property.

12.20.030 STANDARDS FOR TREES LOCATED IN THE RIGHT-OF-WAY

- A. Maintenance: The fronting property owner (commercial, industrial, residential) and or owner/community association is responsible for mowing, pruning, weeding, watering, replacement (due to death, damage or disease as determined by the City Forester) and any other tree, shrub, groundcover maintenance, and tree grate within the respective right-of-way and common areas. Landscaping shall be maintained per ANSI A300, Standard Practices for Trees, Shrubs and other Woody Plant Maintenance.

OPTION A: The City of Lacey will only maintain street trees that were or are planted as part of a City-funded transportation project. In addition, trees that are being maintained by the City on the effective date of this ordinance will continue to be maintained.

OPTION B: The City of Lacey will maintain street trees that are located along arterials and collectors as identified in the map labeled as "Functional Classification of Roadways" in the City of Lacey Transportation Plan. Additionally, the City of Lacey will maintain street trees that were or are planted as part of a City-funded transportation project and any trees that are being maintained by the City on the effective date of this ordinance.

OPTION C: The City of Lacey will maintain all street trees located within the city limits.

- B. Street tree varieties to be planted: All trees within the right-of-way shall be planted in accordance with Section 4G.100 of the City of Lacey Development Guidelines and Public Works Standards including species, size, location, etc. Any alternate species shall not be used unless approved by the City Forester.



Comment [RA1]: Planning Commission recommended Option B.

STREET TREE ORDINANCE LANGUAGE

April 1, 2014 Planning Commission Recommendation Draft

- C. Tree topping: It is unlawful for any person or city department to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the City Forester.
- D. Property owner responsibilities: Property owners and or community associations shall have the following responsibilities regarding street trees within the property owner's portion of right-of-way fronting their property:
 - 1. Dead and severely-damaged street trees: Dead or severely-damaged street trees shall be removed and replaced.
 - 2. Hazard trees: Hazardous street trees shall be removed or pruned. In the event of removal, the street tree shall be replaced.
 - 3. Right-of-way obstructions: Street trees shall be maintained so that they do not obstruct the free use of the right of way, including, but not limited to, clearance for sight visibility, traffic signage and signals, as well as pedestrian and vehicular use of streets and sidewalks.
 - 4. Protection of utilities, streets, and sidewalks: Street trees shall be planted and maintained so that they do not damage utilities, streets or sidewalks.
 - 5. Improperly pruned street trees: No person may engage in improper pruning of street trees. The City Forester may require a property owner to remove and replace improperly pruned street trees, if the improperly pruned street tree will not be able to achieve its mature size or full environmental function.
 - 6. Clean right-of-way: The right-of-way shall be kept reasonably clean from street tree debris, including, but not limited to, branches, leaves, flowers, and fruit.
 - 7. Disease or insect infestations: Street trees shall be maintained free of disease or insect infestation. Street trees that are infected with disease or insects shall be replaced, if deemed necessary by the City Forester.

12.20.040 STANDARDS FOR TREES ON PRIVATE PROPERTY

- A. Responsibilities of Adjacent Property Owners:

Any person, persons, community association or corporation in possession of private property adjacent to public rights-of-way shall maintain any trees upon private property which may affect public right-of-way, in a safe, healthy condition in compliance with the provisions of this Chapter. Adjacent property owners have the following routine tree maintenance responsibilities:

 - 1. Removal or pruning of trees located on the owner's private real property that is considered a public nuisance as defined in 12.20.050.A.;
 - 2. Pruning of trees located on the owner's private real property that are considered a public nuisance as defined in 12.20.050.A. Branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel; sidewalk clearance shall be 10 feet high and road clearance shall be 14 feet high. Control of pests on trees located on the owner's private real property which may, upon determination by the City Forester, pose a threat to public trees;
 - 3. Removal of all debris (wood, branches & leaves) from public property by sunset of the day on which any tree work is done.

STREET TREE ORDINANCE LANGUAGE

April 1, 2014 Planning Commission Recommendation Draft

B. Tree topping.

It is unlawful for any person or city department to top any tree on private property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the City Forester.

12.20.050 NUISANCES

A. Public Nuisances.

The following are hereby declared public nuisances under this Chapter:

1. Any tree or part thereof (public or private) which, by reason of location or condition, constitutes a hazard to public safety as determined by the City Forester or authorized City representative,
2. Any tree or part thereof (on public or private property) which obstructs the free passage of pedestrian or vehicular traffic or which obstructs public street lighting;
3. Any tree or alternate host plant or part thereof (on public or private property) which harbors pests which reasonably may be expected to injure or harm public trees.

B. Abatement of Public Nuisances.

The following are the prescribed means of abating public nuisances under this Chapter:

1. Any tree or alternate host plant or part thereof (public or private) declared to be a public nuisance by the city shall be pruned, removed or otherwise treated as directed by the city. All costs for nuisance abatement are the responsibility of the property owner or adjacent property owner;
2. The City may cause a written notice to be personally served or sent by mail to the owner of the particular property;
3. In the event the nuisance is not abated by the date specified in the notice, the City is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement may be charged to the subject property owner. Monies which have not been recovered through the City bill-collection procedures may result in a lien against the property or assessed on taxes. In addition, the owner of the property upon which the nuisance is located may be subject to prosecution by the city. Nothing in this provision shall be construed to exempt any person from the requirement of obtaining permits.
4. The City is empowered to cause the immediate abatement of any nuisance if it is determined by the City to be an emergency or immediate hazard to public safety;
5. If the City Forester determines that disposal of the wood, branches and soil from removal or pruning of a nuisance tree is required to complete abatement, such disposal shall be done as required by the City. All costs associated with the disposal of material from private trees shall be the responsibility of the property owner.

- C. Appeals of Nuisances: Any appeals of a nuisance determination by the City shall be processed by the city's hearings examiner pursuant to the provisions of LMC 2.30 and Section 1D "Appeals" of the Development Guidelines and Public Works Standards. Any appeals shall be filed within 14 days of the nuisance determination. Nuisance determinations in cases of immediate abatement related to an emergency or immediate hazard to public safety are not appealable.

STREET TREE ORDINANCE LANGUAGE

April 1, 2014 Planning Commission Recommendation Draft

12.20.060 PUBLIC TREE CARE

The city shall have the right, but not the obligation, to plant, prune, maintain and remove such trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

12.20.070 ENFORCEMENT

The City Public Works Department shall have the authority to enforce the provisions of this chapter as it relates to trees located within the public right-of-way or any tree located on private property that poses a risk, hazard or nuisance to the public right-of-way.

MINUTES

Lacey Planning Commission Meeting
Tuesday, April 1, 2014 – 7:00 p.m.
Lacey City Hall Council Chambers, 420 College Street SE

Meeting was called to order at 7:00 p.m. by Gail Madden.

Planning Commission members present: Gail Madden, Mike Beehler, Carolyn Cox, Vasilij Stupin, Cathy Murcia, Paul Enns, Albert deSantis, Rebecca Lee, and Carolyn St. Claire. Staff present: Rick Walk, Ryan Andrews, Scott Egger, Tom Palmateer, Martin Hoppe, Roger Schoessel, and Leah Bender.

Gail Madden noted a quorum present.

Vasilij Stupin made a motion, seconded by Carolyn Cox, to approve the agenda for tonight's meeting. The motion carried. There were no corrections or amendments to the March 18 minutes.

1. **Public Comments:** None.
2. **Commission Member's Report:** Cathy Murcia said she attended the first sign ordinance amendment committee meeting and found it interesting. Rick Walk said he will give the Director's Report following the public hearings.
3. **Public Hearings:**
Capital Facilities Plan:
 - Ryan Andrews gave some background information and noted that the complete final version of the Plan was distributed to Planning Commissioners.
 - Tom Palmateer gave a brief overview on how the complete CFP is organized. Tom pointed out that the Plan is on the city website and the table of contents contains links to each section to ease navigating through the document. Tom also noted that a hard copy of the Plan is available to the public at the Lacey Library.
 - No public comment was given. Gail Madden closed the public hearing.
 - **Mike Beehler made a motion, seconded by Vasilij Stupin, to refer the Plan to Council for adoption. All were in favor, the motion carried.**

Street Tree Ordinance:

- Ryan went over the public outreach methods staff employed to get the word out for this public hearing.
- Ryan explained that in the past there has not been a consolidated set of regulations regarding permits and maintenance. Staff from Community Development and Public Works collaborated to come up with this draft ordinance.
- In previous discussion of this ordinance, Planning Commission has raised concerns related to equity.
- Ryan went over the three options staff has offered and reiterated that option one is preferred by staff.
- Gail asked for public comments.
- Teresa Hammer testified. She stated that she owns Ammerstone Association Management and works with several owners associations. Ms. Hammer offered the following observations and suggestions:
 - HOAs are inheriting problems from developers. Too many trees and/or inappropriate trees are planted and then must be maintained by the owners. Not everyone agrees that trees are an asset. Perhaps the ordinance could reflect that maintenance is an inherited problem.
 - The word "shall" could be used more carefully.
 - Identify what is owned by whom.
 - Identify who owns and who maintains frontage property to avoid future problems.
 - If developers were required to plant fewer trees, it would help avoid future problems and expense for owners.
 - If option one is chosen, it would be helpful to phase it in so as not to create a huge responsibility for the owners.
 - It would be helpful to owners if HOAs were allowed to remove more trees. Property owners already have a lot to maintain and developers put in too many trees.
- Ron Lawson testified. He pointed out that street trees are expensive to maintain, and the leaves that fall in autumn create problems and more maintenance issues. Mr. Lawson suggested that a solution would be to remove all street trees and replace them with shrubs which require less maintenance and are cheaper. He recognized that street trees are considered a traffic calming measure but he disagrees with this.
- Rebecca Lee asked Teresa Hammer about her experiences going through the process of removing trees.
 - Ms. Hammer gave an example of a neighborhood that had issues with street trees that were damaging the sidewalk. The trees had to be removed and replaced and it was very costly. She gave another example of the Cottages at Lakepointe that had problem birch trees on private property that caused a lot of damage during an ice storm. Per city regulations, a forester review was required; the forester evaluated the trees and stated that every other tree could be removed. That was a very costly process, the remaining trees are still causing problems and should be removed, but now the HOA does not have the funds available. She stated that it would have been easier if they could have taken out all the trees at the same time when they had sufficient funds to do so. Ms. Hammer

also noted that we need to figure out where boundaries are because there was an instance where an HOA was maintaining trees that did not actually belong to them.

- Cathy Murcia asked staff who is responsible for repairing sidewalks that are damaged by street trees. Ryan said that within the city right-of-way the city maintains and repairs damaged sidewalks.
- Vasily Stupin asked Ms. Hammer if most owner associations have sufficient tree maintenance programs. Ms. Hammer said they do not. She noted that, until recently, trees have not been included in HOA reserve studies.
- Rick Walk clarified that there are other ordinances in place that regulate trees and trees on private property and pointed out that tonight's hearing is in regards to the street tree ordinance and street trees in the public right-of-way.
- Ryan Andrews noted that we did receive written comments from one person who preferred option one.
- Mike Beehler expressed concern over the equity issue and said he is not satisfied with any of the options.
- Carolyn St. Claire said she likes both option one and two, and she feels that Council should make the decision.
- Vasily Stupin commended staff on the draft ordinance and the great outreach, tonight's turnout has been the best he's seen so far. He said he advocates option two and feels the city should go back to maintaining all trees along arterial and collector roads. He said that if option two is chosen, it will force Council to decide what the city's priorities are.
- Scott Egger clarified that the city has never maintained all trees and that the current practice is how it has always been done. Rick Walk noted that the reason for this draft is to reconcile this issue between past practice and adopted city policy and guidelines.
- Rebecca Lee said she feels option two is the most unequal, and that maintenance should be more equally dispersed so that everyone contributes and everyone benefits.
- Carolyn Cox supports option two and feels that option one would cause us to retreat from being a tree city.
- Cathy Murcia asked staff where the deficit comes from if option two is chosen. Scott Egger explained that it comes from the general fund and could result in the loss of a police officer or the loss of street maintenance. He reiterated that the city has not been offering a service that it is now retreating from.
- Rebecca asked if a credit system could be established. Rick said that type of program would be too difficult to maintain.
- Mike asked for clarification regarding trees taken over by the city as part of a street maintenance project. Ryan explained that only trees installed by the city because of a project are maintained by the city.
- Scott Egger explained that revenues have flatlined while the budget has increased, adding to the budget increases strain on the city and there is no leeway.
- Paul Enns said he appreciates the options that have been presented. He feels that option one really isn't good enough, option two has some issues, and option three seems better, but he would most likely support option two.
- Gail asked for clarification of city maintenance of trees due to traffic project and contiguous trees not included, causes confusion. Ryan said option two eliminates that confusion.
- Cathy noted that the city requires developers to put in so many trees and then owners associations have to maintain them – how is that addressed. Rick said that can be addressed separately with subdivision standards, development guidelines could be under a future work program. This would be a good topic to raise at the September joint meeting with Council.
- **Vasily Stupin made a motion, seconded by Paul Enns, to refer the ordinance to Council with option two provided that Planning Commission and Council have an in-depth discussion about the issues that have come up. Seven in favor, two opposed; the motion carried.**
- Rebecca and Cathy said they felt the issue should be discussed further as they are concerned about the financial burden it places on the city and programs that would have to be cut.
- Vasily and Carolyn St. Claire stated that Council will make the final decision.
- Albert de Santis pointed out that option one continues the current level of service and doesn't create a financial burden on the city. He suggested looking at the wording to clarify the details of responsibility.
- Public hearing was closed.

Crossing Policy:

- Ryan gave some background information and reiterated that the policy was created as an interim measure until funding becomes available for a city-wide non-motorized plan as identified in the 2030 Transportation Plan.
- No public testimony was given.
- The Planning Commission commended the staff on the proposed policy and approach.
- **Vasily Stupin made a motion, seconded by Rebecca Lee, to refer the policy to Council. All were in favor, the motion carried.**
- Public hearing was closed.

4. Director's Report:

- Rick reported that he attended the Board of County Commissioners public hearing regarding North Thurston Public Schools' request to amend the UGA to include a parcel off of Marvin Road NE to add a high school. This item is scheduled for a worksession with the Board on April 9.
- Rick highlighted the new agenda format on the website that Leah had created and thanked her for the good work.
- Rick noted that the sign ordinance committee meeting got off to a good start.

5. **New Business:**
Gateway Town Center:
 - Rick gave a PowerPoint presentation outlining the history of the Gateway Town Center project.
 - Nisqually Tribe and Wig Properties purchased the property in 2012.
 - Rick went over what the next steps will be to complete the development of the project.
6. **Communications and Announcements:** None.
7. **Next meeting:** April 15, 2014.
8. **Adjournment:** 9:25 p.m.

Ryan Andrews

From: Glenn Briskin <g.briskin@comcast.net>
Sent: Tuesday, March 25, 2014 7:34 AM
To: Ryan Andrews
Subject: Trees

I like option 1.

Glenn Briskin
The Pointe HOA
360 561 0897

AMMERSTONE ASSOCIATION MANAGEMENT
5709 LACEY BLVD SE, Suite #201
LACEY, WA 98503
(360) 455-1131

RECEIVED APR 09 2014

April 7, 2014

City of Lacey
Lacey City Council
ATTN: Council Members
420 College Street SE
Lacey, WA 98503

Dear Council Members:

I am writing in regards to the recent public hearing on creating a Street Tree Ordinance for the City of Lacey. My name is Teresa Hammer and I own Ammerstone Association Management and I am a homeowners association manager. I reviewed printed information about this issue and attended the Lacey Planning Commission meeting on April 1st to listen to the Planning Committee's discussion. As you consider "option 2" as recommended by the Planning Commissions you will find it works for now, but will be a problem again and again. This policy needs to have a long term solution. I would like to share my statements from the April 1st meeting with you regarding my concerns on this issue and give you some possible solutions to consider. Thank you, in advance, for your time to review my opinion.

My first concern when reading the briefing/staff report is that language needs to be very clear as to who is responsible. Lumping property owners and homeowners associations in the same sentence will allow blame to shift constantly. As a manager of homeowners association the most important thing to remember is that the property owners inherited all assets from the developer, including the street trees. The homeowners association did not install trees on their own where a property owner of a non-HOA parcel may have. Please review the language on the Street Tree Ordinance, section 12.20.030, section D. The paragraph should be restated to say: "Property owners shall maintain their street trees, the homeowners/condo association shall maintain street trees on their common areas and homeowners in approved HOA plats shall maintain their street trees within the adjacent owners portion of the public right-of-way for all public roadways as follows:..... " This statements provides a clear statement as to who's involved and what areas need to be maintained. Using the word "fronting" will not be clear to owners who have street trees on the side of their property and believe it's someone else's responsibility to maintain. In addition, many of the briefing notes say the HOA is responsible for the street trees but that is an inaccurate statement as most property lines are from the street to rear fence line of lots with an easement along the front or side of the lot for utilities and/or sidewalks. Forcing the responsibility into the HOA's lap will only cause upset when the HOA must point out the City's error in language.

My next concern is what I believe created this issue - to much tree maintenance costs in the budget. The

City of Lacey is known for its trees and the reason there are so many trees is because the development department required builders/developers to install the street trees decades ago. You need to look at the policy requirements and change the requirements for approving a plat if you don't want to end up with the maintenance costs. I think there are a couple of options to consider:

1. Require less trees in the planter strip (area between the sidewalk and the street) at the development stage.
2. Change the planter strip area so that the sidewalk is next to the street and the street tree sits inside the front/side yard. This action would result with the trees fully on the owners property and less issues with damage to sidewalks.
3. Filing documentation for future maintenance of street trees with the plat would cohesively link City requirements with the Covenants, Conditions, and Restrictions for any homeowners association. If a builder adds more trees than the city required, it would be a document that could be referred to a decade later when tree issues begin to occur, essentially protecting the City.

The City cannot financially sustain maintaining the street trees on all public roadways. However, you may want to consider a phased-in approach on this issue to reduce your maintenance costs over a three to five year time line. Since there has never been a set of regulations on street tree maintenance, everyone has to be educated on this issue. Simply putting a policy in place (like what was done in 2001 and then amended in 2005) did not inform people as to their responsibility. People assume the city takes care of these things. I would suggest the following:

1. Review all the roadways in the City of Lacey. Determine what area the city is to maintain due to the City funded transportation project and all other projects where easement agreements caused the city to install and maintain street trees.
2. Determine which roadway's property owners are responsible for the street trees maintenance and divide the education piece into separate notices.
 - A. Property owners (non-HOA owners) who have street trees adjacent to public roadways.
 - B. Homeowners/Condo association who have common area street trees adjacent to public roadways
 - C. Homeowners in approved HOA plats who have street trees adjacent to public roadways that the Association is not required to maintain.
NOTE: Some HOA's maintain front yard landscaping and the HOA would be responsible for the street tree maintenance.
3. Plan the "transfer of maintenance" discussion. Start with the easiest properties first.
 - A. If an individual owner is already taking care of the street trees, send them a thank you note for doing such a good job. (Who wouldn't love that kind of letter!)
 - B. Send notice to the Homeowners/Condo Associations that they are responsible for taking care of street trees adjacent to public roadways and they either get a THANK YOU or a reminder to perform this maintenance. This would be a good place to let them know if they provide landscaping services to front laws, those street trees would also need general maintenance. The HOA would then notify their homeowners.
 - C. Send notices to property owners reminding them to perform street tree maintenance for trees adjacent to the public roadway.
4. Educate your staff on the adopted policy. Owners needs to know the city is only responsible for their trees. Make sure the same information is stated in every discussion.

Do not exaggerate the facts with outrageous dollar figures or use scare tactic words like we'll have to cut fire/police staffing. That benefits no one and causes distrust. Property owners/HOA's/Condo owners may need help to take care of the transferred responsibility. The City could perform a one-time trimming to help those who ask - put it in writing - and thereafter the responsibility falls on the property owner. Let owners know about the free forestry review and the pruning and trimming classes available, help them help themselves.

5. Have an enforcement policy in place for those who will need a push for compliance. Many will accept the responsibility, but the City should be prepared for those who will refuse to take care of the street trees and have a plan of action ready to go in those cases.

I believe street trees are needed to provide the beautiful canopy Lacey is known for. However, I think the City should reconsider their replacement requirement. Generally there are three, five, seven trees required on certain sized lots. If the corner lot is 50' by 100', does there need to be three street trees along the 50 foot side and seven along the 100 foot. Do we need street trees every fifteen feet or so? If the maintenance is the property owners responsibility shouldn't the owner have a say about how many they have to take care of on their own property. Recognizing that trees grow and allowing owners to take out overgrown street trees that no longer fit in the right-of-way without replacement is not a negative to the "city of trees" and would cause less sidewalk/asphalt repairs and street drain issues. In addition, you may want to ensure your city forester understands what you're trying to accomplish with this task. They may want to keep trees when it's in some property owners "better" interest to remove them. Make sure owners are clear that the street trees cannot be eliminated, but can be reduced if requested.

I hope I have given you some "food for thought" as you consider option 2 as recommended by the Planning Commissions. Asking everyone to maintain their street trees is a big task and shifting the financial burden to the HOA/condo or an unbeknownst property owner is going to create a major issue unless the education piece is well handled. It will not be an easy task to educate everyone on this new policy, but it can be done. As a professional association manger, we take care of many properties and can come alongside the city and mirror the discussion to help you. I would certainly encourage the conversation to begin with the professionally managed properties first and then tackle the more difficult areas thereafter. Spring is here and it's a good time to begin the discussion.

If you have question, please feel free to contact me. I would be happy to present additional information to the council to help fully understand how this decision will impact property owners in homeowners associations.

Sincerely,



Teresa Hammer
Ammerstone Association Management
(360) 455-1131
Teresa@Ammerstone.com

cc: Lacey Planning Commission
ATTN: Ryan Andrews - Acting Planning Director
ATTN: Rick Walk - Community Development Director



STAFF REPORT

March 24, 2014

SUBJECT: Street Tree Ordinance Public Hearing—Proposed LMC 12.20

RECOMMENDATION: Hold a public hearing and make a formal recommendation to the city council on the proposed street tree regulations—LMC 12.20.

TO: Lacey Planning Commission

STAFF CONTACT: Rick Walk, Director of Community Development *RW*
Ryan Andrews, Associate Planner *RA*

ORIGINATED BY: Initiated by Community Development and Public Works staff and identified in the 2013 Urban Forest Management Plan.

ATTACHMENTS:

1. Draft Street Tree Regulations, LMC 12.20
2. Issue Paper

**PRIOR COUNCIL/
COMMISSION/
COMMITTEE REVIEW:**

March 18, 2014 Planning Commission Briefing
December 17, 2013 Planning Commission Briefing
November 5, 2013 Planning Commission Briefing

BACKGROUND:

The City of Lacey has never had a consolidated set of regulations pertaining to street trees and their maintenance. In the past, regulations have been split between the City's Development Guidelines and Public Works Standards and the tree protection regulations contained in Lacey Municipal Code 14.32. This has caused confusion in the application of regulations and enforcement. This situation was recently memorialized in the 2013 update to the Urban Forest Management Plan (UFMP) adopted this past July which states:

"...there have been challenges with maintenance responsibilities for street trees between the City and adjacent property owners. The City's policy has been to maintain street trees on City arterials, commercial areas, and City transportation projects and adjacent property owners or owners associations maintain the remainder. However, this has not been evenly applied across the board and there is a large amount of confusion between adjacent property owners and the City as to who has the maintenance responsibilities. The street tree inventory completed in 2012 will address some of the issues as it will provide a map of all City-maintained trees in Lacey and will therefore provide better information delivery to the public. The City currently lacks an ordinance related to street tree maintenance and may

benefit from developing one in the future. Such an ordinance would provide additional clarity and consistency when it comes to maintenance responsibilities.”

To further address the lack of City regulations pertaining to street trees and their maintenance, goals and policies within the UFMP supports development of a street tree program and regulations as an essential part of Lacey’s Urban Forestry Plan.

To address the lack of regulations and the confusion regarding maintenance issues, City staff members including both the Community Development and Public Works Departments have collaborated to develop the draft street tree regulations. The key elements of the regulations include:

- Identifying the City’s Public Works Department as having the authority to regulate street trees including issuing permits for tree removal or pruning of more than 30% of the canopy of a tree.
- Establishing maintenance standards including requiring trees in the right-of-way to be those identified in the Development Guidelines & Public Works Standards, prohibiting tree topping, and clarifying property owner responsibilities along and fronting City rights-of-way.
- Setting standards for trees on private property adjacent to the right-of-way that may affect public safety or tree health within the right-of-way.
- Establishing procedures related to nuisances and enforcement.

Since these regulations will be administered by the Public Works Department, they will be contained in Chapter 12—Streets and Sidewalks of the municipal code and not in LMC 14.32 which contain tree regulations administered by Community Development.

At the Planning Commission’s November 5th meeting, staff provided a briefing on the proposed street tree ordinance. At the briefing, the Planning Commission raised concerns related to equity between the City’s past maintenance responsibilities and perceived benefits to certain residents where the City maintains trees versus those developments where all trees are privately maintained. In response, staff prepared an issue paper (see attached) that provides additional background related to past and existing codes and policies, current and future funding sources for right-of-way maintenance, maintenance challenges, and the recently completed street tree inventory.

At the December 5th meeting, the Planning Commission continued the discussion and reiterated their concerns related to equity, the City’s legal authority to require property owners adjacent to the right-of-way to maintain trees and landscaping in those areas, and whether requiring maintenance by adjacent property owners is an undue tax.

To assist the Planning Commission in moving the issue forward, staff prepared three alternatives for the regulations which were reviewed at the March 18th meeting: the City maintains all trees it currently maintains as well as any added as part of a transportation project (staff recommended proposal); the City maintains all trees on arterials and collectors; or establishing a dedicated fund by raising taxes for wholesale maintenance of trees throughout the City.

Option 1: Staff Proposal

The current staff-recommended proposal is reflected in the current draft of the street tree regulations which essentially maintains the status quo related to street tree maintenance.

This means that the city will maintain all trees that are currently be maintained as well as any tree that is installed as part of a city transportation project. Currently, the City maintains a total of 2,973 trees at a cost of approximately \$65,000 annually. Most trees that the City maintains were installed as part of previous transportation-related improvement project.

The Planning Commission has previously raised concerns about equity related to this option. The crux of the concern is the shift of maintenance and replacement of street trees located on arterials and collectors onto adjacent property owners. The issues associated with this option include:

- Burden to homeowners and HOA's to administer and collect for maintenance of trees.
- Homeowners and HOA's usually are not knowledgeable about proper pruning techniques, additional traffic control needed along busy streets, or the need to call for utility locates.
- Lack of homeowner/HOA knowledge about city policies.
- Lack of resources available if a homeowner is elderly or disabled.

The benefits of this proposal include:

- Keeps the status quo.
- Minimizes cost to the city which frees up money for additional programs including pavement management and general government services.

Option 2: City Maintenance of all Arterials and Collectors

An option to be considered would be to recommend that the city maintains all arterials and collectors. Currently, most of the trees the city maintains are on arterials and collectors. However, there are some key corridors where the city currently does not provide maintenance including Yelm Highway, Rainier Road, Marvin Road, Hawks Prairie Road and Willamette Drive. According to estimates prepared by the Public Works Department, the additional cost to maintain these 2,051 trees would be approximately \$150,000 per year for staff time and additional upfront cost for a bucket truck/chipper combination.

The key issues related to this proposal are related to additional cost by the city. Should this be the preferred recommendation, the additional \$150,000 per year would take budgeted funds from other programs to do the work—specifically, the concern is that it would further deplete the funds currently used for pavement management and other general government services. Another alternative could be that, instead of the annual maintenance that all trees receive in the city now that the maintenance schedule goes to every two or three years. Reduced annual maintenance would help reduce the budget impact associated with maintaining the additional trees. The issues associated with this option include:

- Higher cost for the city that may take budget funds from other services or programs.
- Additional notification and outreach would be needed to inform the public in the change of policy.

There are several benefits of this proposal including:

- Regular maintenance of trees along city corridors and gateways that provide an overall aesthetic benefit to the city.

- Professional, qualified crews working within the right-of-way that will prevent issues associated with residents doing work in these high traffic areas.

Option 3: City Establishes a Dedicated Fund to Maintain All Trees

The final option would be for the City to establish a dedicated fund to maintain all trees in the city. This could be done by raising taxes or other concept whereby residents are taxed for the benefit of the city maintaining all trees.

At this point, a ballpark estimate for the total number of trees in the city along all streets would be in the neighborhood of 20,000 to 30,000 trees. At our current budget rate, this means that the total cost of maintaining all trees would be approximately \$437,269 to \$655,903 per year not including any up-front costs such as equipment, etc. There are currently 16,949 households in the City of Lacey. That means that each household would be responsible for paying approximately \$26 to \$39 per year for street tree maintenance. These numbers are just a guide and could shift based on the exact number of trees in the city and the amount of annual maintenance required. Additionally, not every property in Lacey has street trees—meaning that some residents would be paying for a service that they would not directly benefit from. The issues associated with this option include:

- May be difficult to enact a tax based on voter preferences.
- Would potentially be a hardship for those who are on a limited budget.
- This type of program would require additional operations staffing and equipment as well as requiring additional staff time to administer.

There are benefits associated with this program which would be very similar to those associated with the previous option, including:

- Regular maintenance of trees along city corridors, gateways, and within neighborhoods that provide an overall aesthetic benefit to the city, not only within commercial areas and corridors, but also within neighborhoods.
- Professional, qualified crews working within the right-of-way that will prevent issues associated with residents doing work in high traffic areas and within neighborhoods.
- Potential for increased property values because of improvement to street frontages and the public realm within neighborhoods.

RECOMMENDATION:

The Planning Commission is requested to take public comment and testimony in a public hearing on LMC 12.20—proposed street tree regulations, analyze the testimony, and make a formal recommendation on the regulations to the City Council.

Staff is recommending that the current proposed draft be recommended to the City Council as it minimizes cost to the city which frees up money for additional general government programs and services, memorializes current city policy for what trees are publicly maintained and would thereby require no additional notice to business owners or residents, and would not burden residents with additional cost beyond what they are currently funding.



STAFF REPORT
March 12, 2014

SUBJECT: Draft Street Tree Ordinance—Proposed LMC 12.20

RECOMMENDATION: Staff will present the current draft street tree regulations and present three options for the maintenance and replacement of street trees on arterials and collectors. At the conclusion of the briefing, the Planning Commission is requested to develop a preferred alternative draft of the regulations and schedule a public hearing for the next regular meeting of April 1, 2014.

TO: Lacey Planning Commission

STAFF CONTACT: Rick Walk, Director of Community Development
Ryan Andrews, Associate Planner *RA*

ORIGINATED BY: Initiated by Community Development and Public Works staff and identified in the 2013 Urban Forest Management Plan.

ATTACHMENTS:

1. Draft Street Tree Regulations, LMC 12.20
2. Issue Paper
3. E-mail from David Schneider, City Attorney, dated January 31, 2014

**PRIOR COUNCIL/
COMMISSION/
COMMITTEE REVIEW:**

December 17, 2013 Planning Commission Briefing
November 5, 2013 Planning Commission Briefing

BACKGROUND:

At the Planning Commission's November 5th meeting, staff provided a briefing on the proposed street tree ordinance. The ordinance sets to regulate maintenance of trees on public rights-of-way as well as private trees that effect the right-of-way (i.e. trees that project into the right-of-way, are a hazard and are in danger of falling into the right-of-way, etc.).

At the briefing, the Planning Commission raised concerns related to equity between the City's past maintenance responsibilities and perceived benefits to certain residents where the City maintains trees versus those developments where all trees are privately maintained. In response, staff prepared an issue paper (see attached) that provides additional background related to past and existing codes and policies, current and future funding sources for right-

of-way maintenance, maintenance challenges, and the recently completed street tree inventory.

At the December 5th meeting, the Planning Commission continued the discussion and reiterated their concerns related to equity, the City's legal authority to require property owners adjacent to the right-of-way to maintain trees and landscaping in those areas, and whether requiring maintenance by adjacent property owners is an undue tax. In response to the concerns about right-of-way maintenance responsibilities for adjacent property owners, the City Attorney has responded that the City does have the authority. Additionally, he determined that under the City's police powers, the expenditure of time and effort necessary for the maintenance is incidental to the enjoyment of the property and would therefore not be an undue tax. The City Attorney's e-mail is attached for your review.

To assist the Planning Commission in moving the issue forward, staff has prepared three alternatives for the regulations: as proposed with the City maintaining all trees it currently maintains as well as any added as part of a transportation project; the City maintains all trees on arterials and collectors; or establishing a dedicated fund by raising taxes for wholesale maintenance of trees throughout the City.

Option 1: Staff Proposal

The current staff proposal is reflected in the current draft of the street tree regulations which essentially maintains the status quo related to street tree maintenance. This means that the city will maintain all trees that are currently be maintained as well as any tree that is installed as part of a city transportation project. Currently, the City maintains a total of 2,973 trees at a cost of approximately \$65,000 annually. Most trees that the City maintains were installed as part of previous transportation-related improvement project.

The Planning Commission has previously raised concerns about equity related to this option. The crux of the concern is the shift of maintenance and replacement of street trees located on arterials and collectors onto adjacent property owners. The issues associated with this option include:

- Burden to homeowners and HOA's to administer and collect for maintenance of trees.
- Homeowners and HOA's usually are not knowledgeable about proper pruning techniques, additional traffic control needed along busy streets, or the need to call for utility locates.
- Lack of homeowner/HOA knowledge about city policies.
- Lack of resources available if a homeowner is elderly or disabled.

The benefits of this proposal include:

- Keeps the status quo.
- Minimizes cost to the city which frees up money for additional programs including pavement management and general government services.

Option 2: City Maintenance of all Arterials and Collectors

An option to be considered would be to recommend that the city maintains all arterials and collectors. Currently, most of the trees the city maintains are on arterials and collectors. However, there are some key corridors where the city currently does not provide maintenance including Yelm Highway, Rainier Road, Marvin Road, Hawks Prairie Road and Willamette Drive. According to estimates prepared by the Public Works Department, the

additional cost to maintain these 2,051 trees would be approximately \$150,000 per year for staff time and additional upfront cost for a bucket truck/chipper combination.

The key issues related to this proposal are related to additional cost by the city. Should this be the preferred recommendation, the additional \$150,000 per year would take budgeted funds from other programs to do the work—specifically, the concern is that it would further deplete the funds currently used for pavement management and other general government services. Another alternative could be that, instead of the annual maintenance that all trees receive in the city now that the maintenance schedule goes to every two or three years. Reduced annual maintenance would help reduce the budget impact associated with maintaining the additional trees. The issues associated with this option include:

- Higher cost for the city that may take budget funds from other services or programs.
- Additional notification and outreach would be needed to inform the public in the change of policy.

There are several benefits of this proposal including:

- Regular maintenance of trees along city corridors and gateways that provide an overall aesthetic benefit to the city.
- Professional, qualified crews working within the right-of-way that will prevent issues associated with residents doing work in these high traffic areas.

Option 3: City Establishes a Dedicated Fund to Maintain All Trees

The final option would be for the City to establish a dedicated fund to maintain all trees in the city. This could be done by raising taxes or other concept whereby residents are taxed for the benefit of the city maintaining all trees.

At this point, a ballpark estimate for the total number of trees in the city along all streets would be in the neighborhood of 20,000 to 30,000 trees. At our current budget rate, this means that the total cost of maintaining all trees would be approximately \$437,269 to \$655,903 per year not including any up-front costs such as equipment, etc. There are currently 16,949 households in the City of Lacey. That means that each household would be responsible for paying approximately \$26 to \$39 per year for street tree maintenance. These numbers are just a guide and could shift based on the exact number of trees in the city and the amount of annual maintenance required. Additionally, not every property in Lacey has street trees—meaning that some residents would be paying for a service that they would not directly benefit from. The issues associated with this option include:

- May be difficult to enact a tax based on voter preferences.
- Would potentially be a hardship for those who are on a limited budget.
- This type of program would require additional operations staffing and equipment as well as requiring additional staff time to administer.

There are benefits associated with this program which would be very similar to those associated with the previous option, including:

- Regular maintenance of trees along city corridors, gateways, and within neighborhoods that provide an overall aesthetic benefit to the city not only within commercial areas and corridors but also within neighborhoods.

- Professional, qualified crews working within the right-of-way that will prevent issues associated with residents doing work in high traffic areas and within neighborhoods.
- Potential for increased property values because of improvement to street frontages in neighborhoods.

RECOMMENDATION:

Staff will present the current draft street tree regulations and present three options for the maintenance and replacement of street trees on arterials and collectors. At the conclusion of the briefing, the Planning Commission is requested to develop a preferred alternative draft of the regulations and schedule a public hearing for the next regular meeting of April 1, 2014.

Staff's recommendation is to move forward with the current proposed draft as it minimizes cost to the city which frees up money for additional general government programs and services, memorializes current city policy for what trees are publicly maintained and would thereby require no additional notice to business owners or residents, and would not burden residents with additional cost beyond what they are currently funding.



STAFF REPORT

December 11, 2013

SUBJECT: Draft Street Tree Ordinance—Proposed LMC 12.20

RECOMMENDATION: Staff will present the revised draft street tree regulations and the issue paper developed to address concerns raised at the previous briefing. At the conclusion of the briefing, the Planning Commission is requested to schedule a public hearing on the proposed regulations for the next regular meeting of January 7, 2014.

TO: Lacey Planning Commission

STAFF CONTACT: Rick Walk, Director of Community Development *RW*
Ryan Andrews, Associate Planner *RA*

ORIGINATED BY: Initiated by Community Development and Public Works staff and identified in the 2013 Urban Forest Management Plan.

ATTACHMENTS:

1. Issue Paper
2. Revised Draft Street Tree Regulations, LMC 12.20
3. DG&PWS Street Tree Maintenance Policy History

**PRIOR COUNCIL/
COMMISSION/
COMMITTEE REVIEW:**

Urban Forestry Plan amendments in 2013 include policy direction to develop a street tree ordinance. Development of a street tree ordinance is also included in the 2013-2014 work program.

BACKGROUND:

At the Planning Commission's November 5th meeting, staff provided a briefing on the proposed street tree ordinance. The ordinance sets to regulate maintenance of trees on public rights-of-way as well as private trees that effect the right-of-way (i.e. trees that project into the right-of-way, are a hazard and are in danger of falling into the right-of-way, etc.).

At the briefing, the Planning Commission raised concerns related to equity between the City's past maintenance responsibilities and perceived benefits to certain residents where the City maintains trees versus those developments where all trees are privately maintained. Staff has prepared an issue paper that provides additional background related to past and existing codes and policies, current and future funding sources for right-of-way maintenance, maintenance challenges, and the recently completed street tree inventory.

Additionally, the Planning Commission provided some recommendations for minor changes to the draft ordinance which are included for your review. These changes included clarifications related to maintenance responsibilities, permit requirements under LMC 14.32, and added appeals language for appeals of nuisance procedures.

RECOMMENDATION:

Staff will present the second draft of the street tree regulations as well as present an issue paper related to concerns raised at the previous briefing. At the conclusion of the briefing, the Planning Commission is requested to schedule a public hearing to accept public testimony for the next regular meeting of January 7, 2014.



STAFF REPORT

October 29, 2013

SUBJECT: Draft Street Tree Ordinance—Proposed LMC 12.20

RECOMMENDATION: Staff will present the draft street tree regulations and address any comments or questions. At the conclusion of the briefing, the Planning Commission is requested to schedule a public hearing on the proposed regulations for the next regular meeting of November 19, 2013.

TO: Lacey Planning Commission

STAFF CONTACT: Rick Walk, Director of Community Development
Ryan Andrews, Associate Planner *RA*

ORIGINATED BY: Initiated by Community Development and Public Works staff and identified in the 2013 Urban Forest Management Plan.

ATTACHMENTS: 1. Draft Street Tree Regulations, LMC 12.20

**PRIOR COUNCIL/
COMMISSION/
COMMITTEE REVIEW:**

Urban Forestry Plan amendments in 2013 include policy direction to develop a street tree ordinance. Development of a street tree ordinance is also included in the 2013-2014 work program.

BACKGROUND:

The City of Lacey has never had a consolidated set of regulations pertaining to street trees and their maintenance. In the past, regulations have been split between the City's Development Guidelines and Public Works Standards and the tree protection regulations contained in Lacey Municipal Code 14.32. This has caused confusion in the application of regulations and enforcement. This situation was recently memorialized in the 2013 update to the Urban Forest Management Plan (UFMP) adopted this past July which states:

"...there have been challenges with maintenance responsibilities for street trees between the City and adjacent property owners. The City's policy has been to maintain street trees on City arterials, commercial areas, and City transportation projects and adjacent property owners or owners associations maintain the remainder. However, this has not been evenly applied across the board and there is a large amount of confusion between adjacent property owners and the City as to who has the maintenance responsibilities. The street tree inventory completed in 2012 will address some of the issues as it will provide a map of all City-maintained trees in Lacey and

will therefore provide better information delivery to the public. The City currently lacks an ordinance related to street tree maintenance and may benefit from developing one in the future. Such an ordinance would provide additional clarity and consistency when it comes to maintenance responsibilities.”

To further address the lack of City regulations pertaining to street trees and their maintenance, goals and policies within the UFMP supports development of a street tree program and regulations as an essential part of Lacey’s Urban Forestry Plan.

To address the lack of regulations and the confusion regarding maintenance issues, City staff members including both the Community Development and Public Works Departments have collaborated to develop the attached draft street tree regulations for review. The key elements of the regulations include:

- Identifying the City’s Public Works Department as having the authority to regulate street trees including issuing permits for tree removal or pruning of more than 30% of the canopy of a tree.
- Establishing maintenance standards including requiring trees in the right-of-way to be those identified in the Development Guidelines & Public Works Standards, prohibiting tree topping, and clarifying property owner responsibilities along and fronting City rights-of-way.
- Setting standards for trees on private property adjacent to the right-of-way that may affect public safety or tree health within the right-of-way.
- Establishing procedures related to nuisances and enforcement.

Since these regulations will be administered by the Public Works Department, they will be contained in Chapter 12—Streets and Sidewalks of the municipal code and not in LMC 14.32 which contain tree regulations administered by Community Development.

To assist in discussion purposes, staff has developed the following list of pros and cons related to the ordinance as proposed. Please keep these in mind when reviewing the regulations.

Pros:

- Provides better consistency in administering tree standards in the right-of-way.
- Clearly indicates when fronting property owners are responsible for maintenance.
- City would have better and clearer authority to address hazardous trees adjacent to the right-of-way.
- Establishes nuisance and enforcement procedures.

Cons:

- Puts more of the burden on fronting property owners and/or associations who may be responsible for additional maintenance where they may be currently responsible for little or none.
- Would require some notification procedure (potential methods could include individual mailing, utility bill insert, Lacey Life, press releases, website notification, Twitter, etc.) to let residents and businesses know of the change in policy.

RECOMMENDATION:

Staff will present the draft street tree regulations and address any comments or questions. At the conclusion of the briefing, the Planning Commission is requested to schedule a public hearing to accept public testimony for the next regular meeting of November 19, 2013.

Street Tree Ordinance Additional Background and Analysis

At the Planning Commission's November 5th meeting, staff provided a briefing on the proposed street tree ordinance. The ordinance sets to regulate maintenance of trees on public rights-of-way as well as private trees that effect the right-of-way (i.e. trees that project into the right-of-way, are a hazard and are in danger of falling into the right-of-way, etc.). At the briefing, the Planning Commission raised concerns related to equity between the City's past maintenance responsibilities and perceived benefits to certain residents where the City maintains trees versus those developments where all trees are privately maintained. The following analysis provides additional background related to past and existing codes and policies, current and future funding sources for right-of-way maintenance, maintenance challenges, and the recently completed street tree inventory.

Summary of Past and Existing Codes and Policies

In 2001, the DG&PWS (section 4G.100.D) stated that the City will be responsible for pruning all street trees located in the right-of-way and the adjacent owner or homeowner's association was required to mow and weed the planter strip. This policy continued until 2005 when the DG&PWS was amended to read that the City will be responsible for all street trees located in the right-of-way along arterials and collectors with the owners or homeowner's associations responsible for mowing, weeding, and tree maintenance. Additionally, owners or homeowner's associations were responsible for tree and planter strip maintenance within neighborhoods. The 2009 edition of the DG&PWS reflects this current policy. However, our current (unwritten) policy is to also maintain the planter strip (including roundabouts, medians, etc.) associated with improvements constructed by the City as part of City transportation projects.

The current draft of the Street Tree Ordinance attempts to formalize the unwritten policy by stating that the City is/will be responsible for planter strip and street tree maintenance associated with improvements constructed as part of City transportation projects as well as any trees that we are currently maintaining on the effective date of the ordinance.

The Planning Commission questioned the equity of the current proposed Street Tree Ordinance language because tax monies are used to maintain trees for the benefit of private developments that we are already maintaining consistent with old policies and not maintaining others. In effect, the City has grown into this situation with a variety of different policies over the last 12 years. A similar situation is related to stormwater. Older developments within the city are generally not responsible to maintain stormwater infrastructure as older developments were created prior to strict regulations pertaining to the design and maintenance of stormwater facilities. Newer developments are required to privately maintain the ponds, swales, and other facilities as the policies related to stormwater changed over time putting the responsibilities related to these facilities into the hands of residents and owners associations. Additionally, as more streets and neighborhoods are constructed, City resources are not keeping pace with a growing community and the desire to maintain the aesthetic quality that

tree-lined streets provide. As a result, our policies and practice also need to evolve to balance the aesthetic expectation of the community with City resource limitations.

Funding Sources

The City spends approximately \$65,000 per year on right-of-way maintenance funded through the General Fund of the City's annual budget. The General Fund is funded primarily through sales tax, property tax, and utility taxes and supports most City operations not funded under a separate utility. The General Fund also funds public safety, public works, parks, planning, etc. There are essentially no other city funding sources other than the general fund available for dedication to street tree maintenance at this time. Other funding sources such as establishing a Transportation Benefit District (TBD) have been discussed in the past; however, this source has been addressed as a tool to bridge the financial gap for maintenance of streets—specifically the pavement management program. This is especially important since the elimination of the \$850,000 of annual funding in 2012 for pavement overlay and the continual pressures to fund such a program. According to the City's annual "State of the Streets Report", the overall pavement rating within the city declines even with an annual budget of \$1,000,000—it would take a budget of nearly \$3,000,000 annually just to keep our overall pavement rating at present levels. If a TBD is enacted, this would fund approximately \$400,000 per year of transportation improvements—less than half of what our previous funding levels just for pavement maintenance.

For the next five years, the City expects to have budget deficits which means that we will have to take money from other programs to balance the budget, therefore limiting the amount of any additional funds the City can dedicate to additional right-of-way maintenance. However, through the budgeting process, the City is exploring establishment of a program to assist neighbors in removing and replacing trees. This program will assist homeowners who may not have the resources to otherwise remove dead, dying, or hazardous trees within their neighborhood by utilizing existing city staff and other resources to address these issues.

Maintenance Challenges

Ideally, the City would maintain all trees within the right-of-way. Our staff is trained to deal with urban forestry issues, knows correct pruning techniques, has the equipment needed to do a quality job, and we have International Society of Arboriculture certified arborists on staff. However, resource limitations make this infeasible. This means that, as equitably as possible, our residents, property owners, and business owners are responsible for maintaining these assets. To assist property owners, the City has held workshops in the past as part of our quarterly homeowner's association meetings with our city arborist who presented information related to proper street tree maintenance and care. The City also provides the services of our arborist free of charge to interested neighborhoods to provide hands-on demonstrations related to proper street tree care. The City will need to continue to invest in educational programs to inform our businesses and residents on proper tree care. These educational programs are important, however, inconsistencies between privately maintained trees and the quality maintenance that City staff can provide will be an on-going issue.

Map and Summary of Existing Maintenance

In 2012, the City completed a comprehensive inventory of street trees on all arterials, collectors, and within all commercial areas. This map is not only important for the City to know what our urban forest resources are, but also as a tool to inform residents and business owners about responsibility requirements related to trees. As part of the inventory, the City has identified whether each tree is publicly or privately maintained. This information is available through the City's internal GIS system and is a vital public information tool.

The City maintains trees associated with City transportation projects, certain arterials and collectors associated with past policies established in the Development Guidelines and Public Works Standards, and in certain commercial areas. The proposed regulations propose to continue this practice by maintaining any trees we currently maintain but any additional trees located along streets will be maintained by the adjacent property owners, owner's association, etc. Staff will present a map of the 2012 street tree inventory to the Planning Commission to provide a more graphic illustration of those trees that we currently provide maintenance on versus those that are privately maintained.

Retaining walls located on private property where the public right-of-way line is closer than the height of the wall shall not exceed 4-feet in height unless the wall is designed by a Washington State Licensed Professional Engineer and the wall meets all the requirements of the adopted Building Code. Walls meeting this criteria must be approved by the Director of Public Works and the Building Official.

Retaining walls over 4-feet in height located on a public right-of-way shall meet or exceed WSDOT design standards and be designed by a Washington State Licensed Professional Engineer.

4G.100 Street Trees

All public streets within the City and the City's UGMA boundary will be planted with trees to create a distinct and pleasant character for those roadways. The street trees on the following table shall be required in or along the public right-of-way. Contact the City for specific street and accent trees in the core area.

See Chapter 4B.125, Landscape/Planter Areas, for specific site preparation requirements.

A. Planting theme

1. Ratio: 3 street trees to 1 accent tree.
2. Species: See following table.

A. Planting size: Trees, 2 to 3-inch caliper, measured 6-inches above the base. Ground cover (i.e., kinnikinnick), 4-inch pot spaced 18 to 20-inches on center or 1 gallon pots at 20-inches on center. Low growth shrubs (i.e., Oregon grape), 1 gallon pots at 3-feet on center. Shrubs (i.e., rhododendron), 18 to 24-inches in height at 5-feet on center or 3 gallon pot at 5-feet on center.

B. Location: Trees shall be centered in the median or as shown on the applicable roadway detail. Trees shall be spaced 35-feet on center starting 10 to 15-feet from the property line. Exceptions may be made when there are existing sidewalks. Street trees may then be planted 3 to 5-feet behind the sidewalk. Tree spacing may be adjusted slightly to allow a minimum 10-foot spacing on either side of a driveway.

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- D. **Maintenance:** All projects, regardless of type or zoning, required to plant street trees will also be required to maintain the trees in perpetuity, regardless of ownership. Trees shall be maintained per ANSI A300, Standard Practices for Trees, Shrubs and other Woody Plant Maintenance.

The City will be responsible for pruning all street trees located in the right-of-way. The owner/homeowner's association is responsible for mowing and weeding. See Chapter 6.210 for installation and maintenance of irrigation systems. Medians shall be maintained by the City.

- E. Exceptions to the planting theme may be made by the Director of Public Works and the Director of Parks and Recreation. Exceptions include but are not limited to; screening industrial areas; planting around historical sites; maintaining natural vegetation that better serves as street landscaping or beautification.

Reference: City of Lacey Urban Beautification Project Plan and Resolution 633.

Retaining walls on private property shall meet the requirements of the adopted Building Code. Retaining walls located on private property shall be set back from any public right-of-way line a distance at least equal to the height of the wall unless otherwise approved by the Director of Public Works. Retaining walls located on private property where the public right-of-way line is closer than the height of the wall shall not exceed 4-feet in height unless the wall is designed by a Washington State Licensed Professional Engineer and the wall meets all the requirements of the adopted Building Code. Walls meeting this criteria must be approved by the Director of Public Works and the Building Official.

Retaining walls over 4-feet in height located on a public right-of-way shall meet or exceed WSDOT design standards and be designed by a Washington State Licensed Professional Engineer.

4G.100 Street Trees

All public streets within the City and the City's UGA boundary will be planted with trees to create a distinct and pleasant character for those roadways. The street trees on the following table shall be required in or along the public right-of-way, including medians. Contact the City for specific street and accent trees in the core area.

See Chapter 4B.125, Landscape/Planter Areas, for specific site preparation requirements.

A. Planting theme

1. Ratio: 3 street trees to 1 accent tree.
2. Species: See following table.

B. Planting size: Trees, 2 to 3-inch caliper, measured 6-inches above the base. Ground cover (i.e., kinnikinnick), 4-inch pot spaced 18 to 20-inches on center or 1 gallon pots at 20-inches on center. Low growth shrubs (i.e., Oregon grape), 1 gallon pots at 3-feet on center. Shrubs (i.e., rhododendron), 18 to 24-inches in height at 5-feet on center or 3 gallon pot at 5-feet on center.

C. Location: Trees shall be as shown on the applicable roadway details. Trees shall be spaced 35-feet on center starting 10 to 15-feet from the property line. Exceptions may be made when there are existing sidewalks. Street trees may then be planted 3 to 5-feet behind the sidewalk. Tree spacing may be adjusted slightly to allow a minimum 10-foot spacing on either side of a driveway.

D. Maintenance: All projects, regardless of type or zoning, required to plant street trees will also be required to maintain the trees in perpetuity,

regardless of ownership. Trees shall be maintained per ANSI A300, Standard Practices for Trees, Shrubs and other Woody Plant Maintenance.

The City will be responsible for pruning all street trees located in the right-of-way along arterials and collectors. The owner/homeowner's association is responsible for mowing, weeding, and tree maintenance within the respective right-of-way and common areas. See Chapter 6.210 for installation and maintenance of irrigation systems. At the time of plat or site plan review approval, the City will determine responsibility for maintenance of medians.

- E. Exceptions to the planting theme may be made by the Director of Public Works. Exceptions include but are not limited to; screening industrial areas; planting around historical sites; maintaining natural vegetation that better serves as street landscaping or beautification.

Reference: City of Lacey Urban Beautification Project Plan and Resolution 633.

State Licensed Professional Engineer and the wall meets all the requirements of the adopted Building Code. Walls meeting these criteria must be approved by the Director of Public Works and the Building Official.

Retaining walls over 4 feet in height located on a public right-of-way shall meet or exceed WSDOT design standards and be designed by a Washington State Licensed Professional Engineer.

4G.100 Street Trees

All public streets within the City and the City's UGA boundary will be planted with trees to create a distinct and pleasant character for those roadways. The street trees on the following table shall be required in or along the public right-of-way, including medians. Contact the City for specific street and accent trees on arterial and collector streets. These have been specified in the current version of the Lacey Urban Forest Management Plan.

See Chapter 4B.125, Landscape/Planter Areas, for specific site preparation requirements.

- A. Planting theme
 - 1. Street tree plantings shall be in accordance with the Lacey Urban Forest Management Plan.
 - 2. Species: See following table.
- B. Planting size: Trees, 2 to 3 inch caliper, measured 6 inches above the base.
- C. Location: Trees shall be as shown on the applicable roadway details. Trees shall be spaced 35 to 50 feet on center (as directed by the City of Lacey) starting 10 to 15 feet from the property line. Also, trees shall not be planted within 50 feet of the intersection measured from the curb radius. Exceptions may be made when there are existing sidewalks. Street trees may then be planted 3 to 5 feet behind the sidewalk. Tree spacing may be adjusted slightly to allow a minimum 10 foot spacing on either side of a driveway.
- D. **Maintenance:** All projects, regardless of type or zoning, required to plant street trees will also be required to maintain the trees in perpetuity, regardless of ownership. Trees shall be maintained per the current version of ANSI A300, Standard Practices for Trees, Shrubs and other Woody Plant Maintenance.

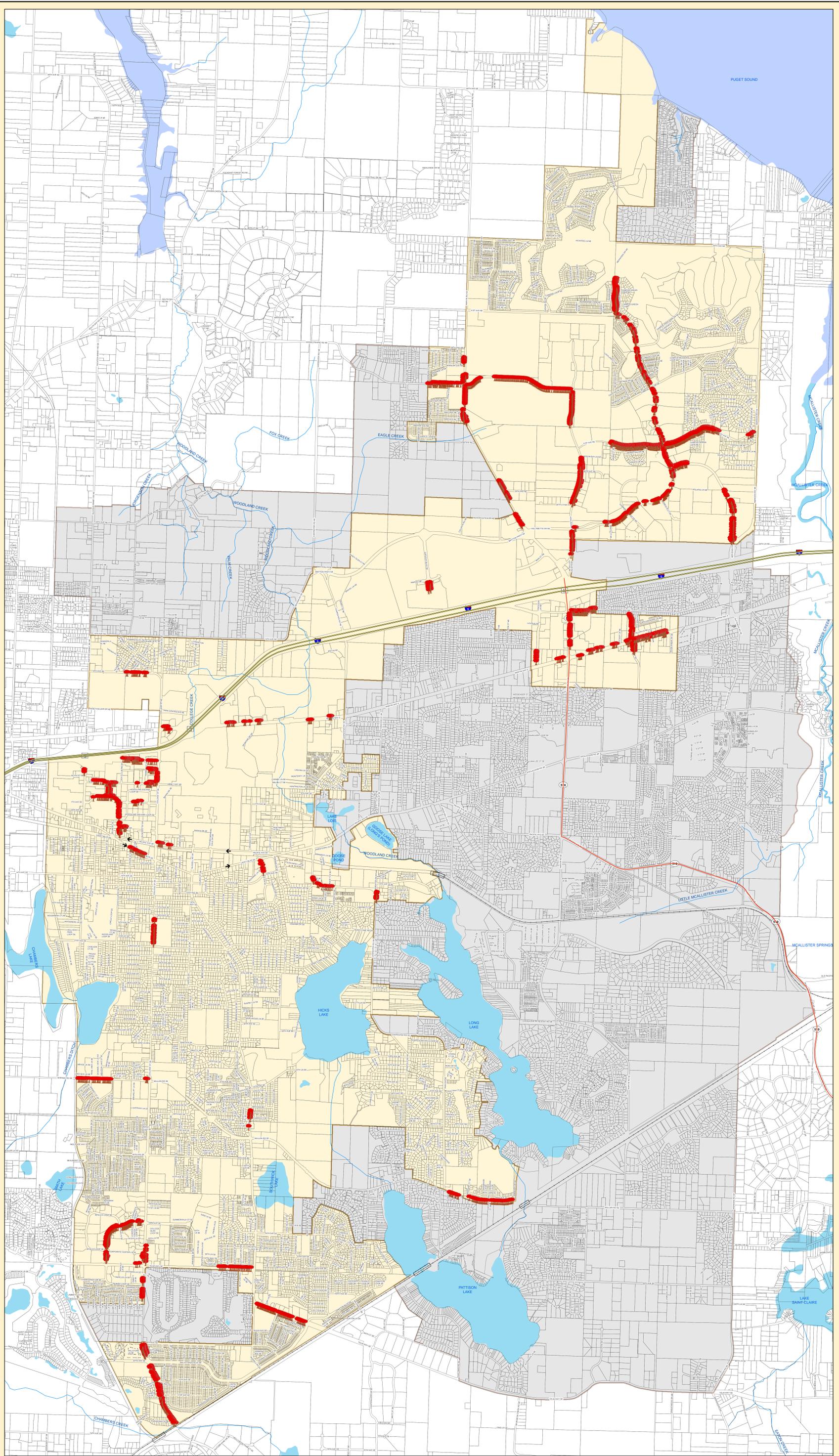
The City will be responsible for pruning all street trees located in the right-of-way along arterials and collectors. The owner/homeowner's association is responsible for mowing, weeding, watering, replacement (replaced due to death, damage or disease after approval by a City representative) and any other tree maintenance within the respective right-of-way and common areas. See Chapter 6.210 for installation and maintenance of irrigation systems. At the time of plat or site plan review approval, the City will determine responsibility for maintenance of medians.

- E. Exceptions to the planting theme may be made by the Director of Public Works. Exceptions include but are not limited to; screening industrial areas; planting around historical sites; maintaining natural vegetation that better serves as street landscaping or beautification.

Reference: City of Lacey Urban Beautification Project Plan and Resolution 633.

GENERAL TREE LIST FOR LACEY

COMMON NAME	BOTANICAL NAME	CULTIVAR	MATURE HEIGHT	CROWN SPREAD	SPACING
Large >50' Tall					40-50'
Northern Red Oak	<i>Quercus rubra</i>		70'	45'	
Tuliptree	<i>Liriodendron tulipifera</i>		70'	35'	
Autumn Purple Ash	<i>Fraxinus americana</i>	Autumn Purple	50'	35'	
Sugar Maple	<i>Acer saccharum</i>	Commemoration/ Bonfire	60'	35'	
European Beech	<i>Fagus sylvatica</i>		50'	35'	
Scarlet Oak	<i>Quercus coccinea</i>		60'	40'	
Medium-Narrow Crowns 40-50' Tall					25-35'
Columnar Tuliptree	<i>Liriodendron tulipifera</i>	Fastigiatum	50'	15'	
Armstrong Red Maple	<i>Acer rubrum</i>	Armstrong	45'	15'	
Bowhall Red Maple	<i>Acer rubrum</i>	Bowhall	40'	15'	
Parkway Maple	<i>Acer platanoides</i>	Columnar-broad	40'	25'	
Skyrocket Oak	<i>Quercus robur</i>	Fastigiata	45'	15'	
Medium - Wider Crowns 40-50' Tall					35-40'
Littleleaf Linden	<i>Tilia cordata</i>	Greenspire	40'	30'	
Summit Ash	<i>Fraxinus pennsylvanica</i>	Summit	45'	25'	
Patmore Ash	<i>Fraxinus pennsylvanica</i>	Patmore	45'	35'	
Norway Maple	<i>Acer platanoides</i>	Emerald Queen	45'	40'	
Red Sunset Maple	<i>Acer rubrum</i>	Red Sunset	45'	35'	



Arterial and Collector Street Trees Not City Maintained

- Arterial and Collector Private Trees
- City Limits
- UGA
- Parcels

Revised: December 31, 2013
 0 0.25 0.5 Miles

