



DATE: 26 January 2023
TO: Environmental Commission Members
RE: Better Protection Trees and Woodlands
FROM: Christopher Graham, John Mirsky, Wendy Carman et al

Fellow Commissioners –

Attached is a set of draft amendments to Chapter 55, Unified Development Code (UDC) for your review and consideration in preparation for our meeting on Thursday, January 26. Specifically, these draft documents:

- Recommend amendments to:
 - Section 5.23.1 Purpose and Intent
 - Section 5.23.2 Protected Natural Features
 - Section 5.23.3 Endangered Species Habitat
 - Section 5.23.5 Woodlands
 - Section 5.23.6 Landmark Trees
- Propose amendments to the Landmark Tree List
- Propose a new Invasive Species List
- Amend Section 5.30.2.A, Alternative Mitigation Plans, as well as the Definitions in Article III.

For your convenience, also included in this package are the existing Landmark Tree list and the city's current council-approved Fee Schedule for tree loss (Trees and Development). The existing language of the UDC sections can be found here: [UDC Seventh Edition Effective 1-30-22.pdf \(a2gov.org\)](#).

This is a more detailed summary of the proposed UDC changes and their rationale:

- Section 5.23.3 would be renamed to Rare Species Habitats, and slightly amended to make its language and oversight align with State Law (which governs these Natural Features);
- A new (replacement) Section 5.23.5 named “Landmark and Heritage Trees” would implement a new category of Natural Feature called “Heritage Trees;”

- A new (replacement) Section 5.23.6 would increase the recognition and protection of the City's Woodlands, especially "Native Forest Fragments," and it would also introduce protection for "Qualified Urban Woodlands;"
- Existing Sections 5.23.5 and 5.23.6 would be repealed and replaced with the order reversed (where trees would precede Woodlands);
- The Landmark Tree List from the late 1980's would be replaced with a new Landmark and Heritage Tree List; and
- Article III would be modified with new, revised, and replaced definitions.

The proposed changes would increase the cost of taking individual native trees, especially old ones, as well as implement new costs for intruding upon Native Forest Fragments and Qualified Urban Woodlands.

Moreover, experience shows that our current UDC Natural Features provisions are a model for successful regulation. They have survived most legal challenges. In the past, supporting language was in an attachment to the Code called Guidelines used to guide Planners. They were incorporated verbatim into the Code (thankfully) when various developmental chapters were consolidated into the UDC. Given that the supporting Natural Features Master Plan is soon to be heavily condensed, it is important to retain the additional language explaining the "why" in the Code. As was true with the Guidelines, is true with the existing Cod language, this updated language gives staff sound basis for negotiations with petitioners. Petitioners would still benefit in avoiding the time-consuming and costly dispute resolution processes, many of which escalated to City Council in the past.

The motivation for these changes came from several sources:

- Council's 2019 request that the commission and the natural features working group suggest amendments to UDC to protect Heritage Trees;
- Council's 2019 climate emergency declaration which justifies better tree and Woodlands protections and more sustainably managed landscapes;
- A review of the status of "the natural features ordinance" conducted in response to an earlier Council request;
- Commissioners' prioritization of improved Natural Features protections;
- Natural Areas Program (NAP) management best practices developed over the last 38 years;
- 20+ years of local lessons learned regulating our existing Natural Features; and
- Other communities' tree-regulation best practices and lessons learned, including those related to dispute resolution.

It is recognized that the city has multiple development-related priorities, including new sustainable and affordable housing. Natural features, especially our valued trees and woodlands, must be duly considered and prioritized in the design and approval process. The proposed changes would implement appropriate protections and mitigation requirements.