

Statement from City of Bend Attorney's Office

A Notice of Intent to appeal the recently adopted tree code has been filed by Pahlisch Homes before the Land Use Board of Appeals (LUBA). At this stage, we do not know the nature and scope of the arguments Pahlisch will be making on appeal. The substantive arguments and positions of the parties in a LUBA appeal are not due until after the record is settled, which has not yet occurred and can in and of itself be a lengthy process.

However, the appellant has made unnecessarily inaccurate statements in its media statement about the City's process. Far from rushed, the process for the code amendments took over a year. On March 15, 2023, the Bend City Council held a work session to review and discuss existing tree preservation code requirements in response to numerous community concerns around how many trees were cut down for larger development projects. Council was supportive of developing potential amendments to City codes for large-scale developments to protect larger trees, and to increase Bend's urban tree canopy. Council also said that this project should be approached with an intent to balance the important goals of tree preservation and housing development, and indicated that proposed new or updated tree preservation standards should not impede the development of housing, which remains a critical need across Oregon and especially in Bend.

On May 3, 2023, the Council approved a resolution forming the Tree Regulation Update Advisory Committee (TRUAC) to make recommendations to Council on necessary amendments to the City's tree preservation regulations. TRUAC was made up of 15 volunteers representing developers, neighborhoods, arborists, architects, and environmental and equity interests. TRUAC held **nine public meetings** to discuss clear and objective code amendments to help preserve trees during new development while balancing the need for housing in the community. After much discussion and debate representing views on all sides of the issues throughout the meetings, including examples of the impacts of various options, on December 5, 2023, a majority of TRUAC recommended a package of amendments to the Bend Development Code for tree preservation and mitigation to be considered by the Planning Commission and City Council.

On June 10, 2024, the Planning Commission held a public hearing on this package of amendments, considered testimony, deliberated, and voted to recommend that the City Council approve the proposed text amendments, with several related recommendations. The City Council held another public hearing on June 20, 2024, to accept evidence, receive public testimony, and consider the



TRUAC and Planning Commission recommendations. The City Council deliberated and discussed the recommendations, made some changes, and then found that the amendments satisfy the criteria for approval of the Bend Development Code and approved the amendments.

To recap, the **updated codes** will require developers to plant new trees on-site or make a payment in-lieu of preservation if a certain percentage of trees is not preserved on a site as part of a larger development project.

Approved changes generally require a developer to:

- Preserve 20% of trees that are 20 inches in diameter or larger, or
- preserve 25% of what is called the total “diameter at breast height” (the measurement of a tree’s diameter measured at 4 ½ feet off the ground) on a site. This means diameters of all trees that have a 6-inch diameter or larger on a development site would be added together, and 25% of that total would need to be preserved, or
- preserve at least 5% of the total “diameter at breast height” of all trees 6 inches in diameter or greater on a site, and then either plant new trees on site and/or pay the fee in-lieu of preservation.

Development projects on sites that are one acre or less have more flexible standards. Council approved an amendment to exempt all housing projects on sites one acre or less from tree preservation requirements altogether. Council also approved the addition of a discretionary track option for industrial zones. This will allow flexibility for industrial and commercial uses that require large-level sites for building space or outdoor uses.

The updated Tree Code Regulations will also be reviewed annually by the Council to assess the effectiveness of the regulations based on data collected to determine whether or not the regulations are meeting community needs.

The tree regulations go into effect August 16.



Accommodation Information for People with Disabilities

To obtain this information in an alternate format such as Braille, large print, electronic formats, etc. please contact Jacob Larsen at 541-647-0696 or jlarsen@bendoregon.gov.

