



February 20, 2025

To: Mayor Lund, City Council, and Landmark Tree Ordinance staff
RE: Feedback about Landmark Tree Ordinance proposed revisions

This 3-page letter represents Whatcom Million Trees Project's feedback about revisions City staff suggested to City Council in a [February 10 Study Session](#) on the Emergency Landmark Tree Ordinance (LTO). The revisions were proposed for adoption before the Type VI hearing begins.

We agree with and appreciate several minor clarifications staff have made, such as arborist and critical root zone definitions. We share the City's goal to improve the clarity and appropriateness of the ordinance. Overall, we feel the LTO is well-written, but the proposed revisions **still do not address key issues** detailed below.

First, we believe it is essential to clear up misinformation about the LTO's potential impact on housing development. An accurate understanding is critical for policymakers and the public to make informed decisions based on fact. Here's one recent example: Incorrectly using COB General Plan data, a local real estate agent claimed on KGMI radio that there were 150,000 Landmark Trees in the City on private property, affecting 2,788 acres. This led to a faulty, hyperinflated estimate of \$7 billion loss of development value.

The LTO potential impact is actually much smaller. First, we've confirmed with City Planning staff¹ that there are only 260 acres (in COB **and** in UGAs) of buildable "vacant, partially developed, and underdeveloped" private land not already covered by mapped critical areas or associated buffers. Also, based on WMTP's [Bellingham's Tallest Trees](#) interactive lidar-based map which can identify most Landmark Tree candidates by height per parcel type and location, there are just several hundred Landmark Trees altogether on private property within Bellingham. **Most 36" DBH or larger Landmark Trees are on public and school/campus parcels, not private home lots.**

It's also important to understand that the LTO ordinance already provides several opportunities to balance urban canopy goals of the City with housing goals. Three are summarized below:

- **Fair-use clause.** Section 6(a) of the LTO has a fair-use clause that will enable development to occur even when Landmark Tree(s) must be removed. This significant factor will ensure no reduction of a site's development potential, particularly on small private parcels.
- **Hazard/unhealthy trees.** Via Section 6(d) of the LTO, any Landmark Tree on private property that is rated by an arborist as having poor survivability (or creates a hazard) will not be retained and thus would not have any development impact.
- **Site planning incentives.** In Sections 6(a)(iv) and 9(g) of the LTO, the Planning Director has discretionary authority "to reduce other development standards, such as setbacks, lot coverage, open space, and minimum parking requirements, upon a finding that the reduction will not create significant impacts." The recent elimination of parking minimums also can help. All of these factors will ensure continued profitability for developers who accommodate Landmark Trees within a site.

¹ Dec. 11, 2024 email from Kurt Nabbefeld.

We strongly recommend that clear information similar to the above about the potential LTO impact on housing development is added to the City's [Landmark Tree Protection](#) webpage.

Regarding the Landmark Tree Ordinance's wording, even with the latest proposed revisions by City staff, the LTO does not address six key issues:

1. Transparency & Accessibility: A Simple Public Scoresheet of LTO Results.

A cherished COB goal is to increase the transparency and accessibility of its operations and decisions. This enhances our local democracy. Currently, the LTO process is buried in staff reports and attachments one permit at a time. There is no ongoing, accessible "big picture" view of LTO processing and results. This information will be helpful for developers as well as the public.

Suggested revision: Add to Section 8(c) an additional responsibility of the Bellingham Landmark Tree Committee: Maintain a simple, up-to-date, publicly-accessible 'scoresheet' of where and how many Landmark Trees are nominated, are currently being considered, or have been approved or denied. In the case of proposed developments, show in the scoresheet how many trees the Landmark Tree Committee (and eventually the Hearing Examiner) has decided to retain or remove.

Fiscal/Staff Resource Impact: Minimal. It would likely take staff 15 minutes max to complete such an entry in a simple spreadsheet or database that's visible on a City webpage.

2. Accountability: Tree Survey DBH Verification, If Needed.

We have seen several instances locally of arborist under-reporting of the DBH of large trees, sometimes by as much as 6-8" thus keeping LTO-qualified trees from being potentially protected. This is quite unfortunate and is due to an inherent conflict-of-interest in an applicant's hired arborist providing such data. A simple, low-overhead deterrent to inaccurate reporting is needed.

Suggested revision: Revise Section 9(e) of the LTO to state that as part of the Planning Department's project review process, staff will access lidar data to discern whether it's necessary to have City staff field-check the DBH of suspected under-reported trees. Also include language that COB may revoke the business license renewal of arborists who have repeatedly under-reported and deny them the right to practice in the City for up to 3 years.

Fiscal/Staff Resource Impact: Minimal. Field-checking will likely be rarely needed but is an important deterrent. Staff responsible for other inspections could be trained to verify tree DBH. Revoking a business license renewal adds virtually no overhead to the Finance Department.

3. Proper Documentation: Site Planning Options Summary for H. E. review.

When Landmark tree(s) are recommended for removal in a proposed development, the Hearing Examiner should be able to clearly review which site planning options were jointly considered by the applicant and Planning Department staff that could retain the Landmark Tree(s) proposed for removal, and to see why such options were rejected.

Suggested revision: In projects that propose removing Landmark Trees, include ordinance language requiring the Staff Report to the Hearing Examiner to include a one-page summary of site design options (i.e. smaller footprint, increased height, site reconfiguration) that were considered to potentially retain one or more of those affected Landmark Trees, and specifically why such design options were rejected. The goal would be to clearly answer: *Can this project be altered to still go forward but save the tree(s)? If not, why?* If lack of project profitability is claimed, budget documentation by the applicant should be included to substantiate that claim. An applicant's unwillingness to accept an alternative site plan should not be allowed to justify the tree removal.

Fiscal/Staff Resource Impact: Minimal. One page summary will likely require an hour or two of staff time to document the process. This documentation will further increase transparency and aid in responding to submitted public comments about tree loss.

4. Improved Clarity: Reword a Fuzzy Purpose Statement.

Section 2(j) of the proposed LTO revision adds ambiguity to the purpose of the ordinance: *"Balance the need to protect urban trees with the climate benefits of increasing density in urban areas."* We believe it should be restated or else it will be unfairly applied to neuter virtually any development-related application of the LTO. The Hearing Examiner cannot fairly adjudicate applications when policy dictates balancing factors external to the City of Bellingham. **The point of the ordinance is to design better projects that meet multiple COB goals, not to block projects.**

Suggested revision: Revise Section 2(j) to, *"Leads to better development designs that balance the need to protect mature urban trees with other community goals as increased urban density occurs."*

Fiscal/Staff Resource Impact: None.

5. Fix an Unreasonable Exclusion: Include Certain Black Cottonwood Trees.

Section 3 and Section 4(a) of the LTO exclude all black cottonwood trees from Landmark Tree status. Though some cities in Washington and Oregon do that, we believe a more nuanced guideline is appropriate. The issue is the trees have aggressive root systems and large branches that can drop from wind or decay. We estimate there are 120-150 black cottonwood trees within the City. Most are on public land near streams, lakes, or wetlands and do not pose a high risk to infrastructure or people. In these environments, black cottonwoods are an important and significant native tree to protect in riparian areas.

Suggested revision: Do not exclude ALL black cottonwood trees from LTO protection. Include black cottonwood trees 36" DBH or greater that do not create infrastructure conflicts or hazards in confirmed **low- or moderate-risk locations** with trunks 30' or farther from current buildings, public paths, and utilities.

Fiscal/Staff Resource Impact: None.

6. Fairer Due Process: Include H.E. review of Landmark Tree determinations.

Section 9(e)(v) allows an applicant to appeal via the Hearing Examiner the Director's decision regarding Landmark Trees. That's fine, but the Hearing Examiner should be allowed -- in a project hearing (or later appeal) -- to review and rule on *any* Landmark Tree administrative decisions that have occurred for the project. This provides a fairer due process to the community regarding these important natural assets.


Suggested revision: Revise Section 9(e)(v) wording to state the above.

Fiscal/Staff Resource Impact: None.

In conclusion, COB staff did a great job in developing the original Landmark Tree Ordinance, enacting it on an emergency basis, and most recently suggesting clarifications. By also incorporating the above additional improvements, our City will have a clear, cost-effective, fair, and balanced LTO to review for permanent adoption. Many other cities have achieved this. Bellingham can, too!

Thank you for considering our suggestions.

Sincerely,



Michael Feerer, Founder

[Whatcom Million Trees Project](#)