



CAMBRIDGE CITY COUNCIL

Craig A. Kelley
City Councillor

To: Donna Lopez, City Clerk

From: Craig A. Kelley, City Councillor

Date: February 4, 2019

Subject: Memorandum Submission

Please place the attached memorandum, “Tree Removal Comments”, on the City Council agenda as “Communications and reports from Other City Officials” for the February 4, 2019 meeting.

Thank you.



CAMBRIDGE CITY COUNCIL

Craig A. Kelley
City Councillor

MEMORANDUM

To: Cambridge City Council

From: Craig Kelley, *City Councillor*

Date: January 31, 2019

Subject: Tree Removal Comments

Dear City Council:

Prior to the Ordinance Committee meeting on trees scheduled for 14 February, I wanted to share my foundational thoughts on tree protection and amendments to our Tree Protection Ordinance (TPO), [Section 8.66 of our Ordinances](#), with you. It is crucial that we protect and enhance our tree canopy, but the amendments as presented to the Council did not accomplish that goal. I have some ideas, listed below, that I think will do a much better job of protecting our tree canopy.

As presented to the Council at our 28 January meeting, and as I explained then, the tree protection ordinance amendments do not seem to in any way constitute a “moratorium.” Instead, they simply clarify a ‘buy out’ process for removing significant trees, which our TPO defines as trees of at least 8” diameter at breast height. Keep in mind that ‘tree’ is a term that does not necessarily include everything that one might think is a tree and a professional arborist’s opinion might be needed to determine if vegetation qualifies as a tree, and might be covered by the TPO, or perhaps is a shrub and is not covered.

This amendment considered on the 28th, would have had, I believe, the following impacts:

1. No impact on projects already under a variety of permitting processes, such as a large project review. 55 Wheeler Street, for example, would not have been impacted.

2. No impact on affordable housing projects.
3. Smaller infill developers would be able to quantify the cost of removing ‘significant’ trees in the context of the overall financial implications of what can be multimillion-dollar development projects. For example, 9 Donnell Street (pictures attached), according to their Special Permit application, seemed to have had five (5) significant trees on the property before the project started. At the end of the development project, most or all of them appear to have been removed. The surest way to keep such trees standing until the UFTF finishes its work would be to *not issue* special permits that allow infill development projects to move forward if significant trees would be impacted. We should consider this option in our TPO amendments.
4. Property owners wanting to remove larger trees would most likely be informed by their arborist, if we informed arborists of this new law, that a permit was required, and they would make the decision whether to pay the tree replacement fee or to wait for a permit. I suspect most would wait but perhaps for some people, even a five figure tree mitigation cost would not be a financial deterrent. Still, I suspect most people would want to follow the law rather than flout it and few would cut down larger ‘significant’ trees.
5. Property owners wanting to remove smaller trees, but still trees that are 8” DBH, would most likely find themselves surprised by enforcement action and fines when they use a handsaw and a stepladder to remove a tree. As shown in the attached pictures, not all “significant” trees are particularly big, and many people would not think twice about removing these trees as part of a home landscaping project. And as discussed above, what is actually a “tree” is a question that may require professional assistance in specific cases. I think it would be a real shame, and detrimental to our desires to ensure good governance, if removing small but still “significant” trees exposed property owners to drastic and unexpected financial harm.
6. Unless the ordinance had been further amended, if we were to have moved it forward on the 28th, it would likely have taken effect for all property owners starting on 12 February, immediately after its earliest possible ordination. Because we had discussed no comprehensive way to provide adequate notice to ensure property owners would know of this dramatic change, it is far too possible that property owners acting in good faith and with no notice of this new law would have broken it and suffered its consequences. Simply thinking that having this information presented on TV does not meet our obligation to inform the public about such significant changes in local law.

If we want to preserve our tree canopy while the Urban Forestry Task Force completes its work, we should amend the TPO to keep special permits from being issued to anyone who applies after the amendments are passed, to include smaller infill developers requiring a special permit.

And to make sure the Ordinance is both followed and does not have the unanticipated

result of fining property owners for removal of something that truly does not seem “significant” but meets our statutory definition, we have to leave enough time between the passage of the ordinance and its taking effect for the City to send out a notification to every property owner and local arborist and landscaping company advising people of this change.

I look forward to discussing this issue with you in more detail at the Ordinance Committee meeting.



map: Auto (Oblique) ▾ Apr 2014 - Jun 2014 ▾ ◀ image 1 of 5 ▶ 04/21/2014  

9 Donnell Street
Pre-Infill Project
2014



9 Donnell Street
Post-Infill Project
2017



Significant Trees (or not?)



Significant Trees (or not?)



Significant Trees (or not?)