

WORTHY ENVIRONMENTAL

Worthy Environmental connects people to the natural world and cultivates a community of environmental stewards working together to build a greener and healthier planet through advocacy, action, and education.

December 20, 2022

To: Mayor Melanie Kebler
Mayor Pro-Tem Anthony Broadman
Councilor Barb Campbell
Councilor Gena Goodman-Campbell
Councilor Megan Perkins
Councilor Mike Riley
Councilor Ariel Mendez

Re: Updating and Enforcing the City Tree Ordinance

We're writing to express our concern over the enforcement of the portions of the Bend Development Code requiring the preservation of "significant" trees and vegetation on private property slated for development within the City. We recently received calls from city residents who were upset by the removal of numerous large ponderosa pine by developer Kine and Kine for the construction of a RV park on Murphy Road. The timing could not be worse, as the cutting follows on the heels of the logging of the mature ponderosa pine near Phils Trail, an egregious act of indifference which the City Council roundly condemned.

Our concerns arise from the language found in Chapter 3.2 of the Bend Development Code adopted on October 19, 2022 (viz., Ordinance NS-2456: BDC Title 3).

The stated purpose of section 3.2.200 ("Landscape Conservation") is to "incorporate *significant* native vegetation into the landscapes of development" (emphasis added). Although the City Code allows for exceptions, the overall intent is to retain significant trees in all developments within the incorporated City limits of Bend (§1.0.100, §2.3.200(B)). "Significant" trees are defined in the Code as "deciduous trees measuring six inches or greater and coniferous trees measuring 10 inches or greater."

We understand that the Murphy Road permit was not appealed and thus did not reach the City Council. Many questions arise. Did the City Staff enforce the above provisions? Specifically, did City Staff address the following questions?

- Did Kine & Kine complete a Tree Protection Plan as required under 3.2.200(C)?
- Did Kine & Kine complete an Inventory of Significant Vegetation as required under 3.2.200(D)(1)(a)?
- What was the justification given by Kine & Kine for removal of all significant vegetation on site? Was that justification warranted?

The Murphy Road project is one example in recent history where the mandate to preserve and protect our natural environment appears to have been trumped by the desires of a developer. With your help, the City of Bend can become a model of exemplary management of our natural resources within the boundaries of our city. This is especially important in light of current climate issues, including long-term drought, heat domes, and the need to maintain mature vegetation as natural climate solutions.

We urge the City Council to consider the recommendations below:

- Ensure that enforcement actions available in Title 3 of the 2022 Landscaping Code revisions are implemented.
- Increase the penalty fees for removal of significant trees by 100% and authorize citizen suits for damages in Superior Civil Court if the City elects not to enforce a provision.
- Require the City staff to demand tree inventories and protection plans from all developers as required.
- Identify a single responsible official who is responsible for reviewing development plans and applications.
- Work with the Hearings Officer to ensure Code requirements are addressed and fully satisfied prior to a review.
- Measure whether the environmental impact of any substantial tree or vegetation removal diminishes or enhances the City's commitment to reducing its carbon footprint.
- If a proposed development results in the removal of trees and vegetation, require the permit seeker to offset that carbon sequestration loss by investing in carbon reduction landscaping and technology measures.

We understand several Councilors have not yet been sworn in. This letter is intended to open up a conversation that, we hope, will result in public meetings to discuss the problem and the solutions. We are standing by at the appropriate time to meet with the City and Staff. Thank you.

Sincerely,

s/Roger Worthington

s/Richard Martinson

Roger Worthington, Esq,
Richard Martinson, Ph.D.,
Worthy Environmental
495 NE Bellevue Drive
Bend, Oregon 97701