

Research Topics for ACC Discussion Re: Trees and Views

1/5/2010

History

1. In January 1984 the following amendment was made to the Regulations:

“Amendment to L.M.C. Regulation II, Article III, Paragraph 4.”

“Home owners shall maintain improvements on their premises and the grounds of such premises in a neat and attractive manner and in particular shall keep grasses and weeds cut and shrubs and trees pruned. Views and sunlight are important to property owners for reasons of enjoyment and property value, hence, when landscaping their own lots, owners should select varieties of shrubs and trees which will not grow higher than the roof height limit set for their lots by the Architectural Control Committee. Furthermore, owner planted hedges, shrubs and rows of trees shall be pruned so as not to exceed a height of eight feet. However, a scattering of tall evergreens is encouraged to enhance the beauty of the neighborhood as long as views from the neighboring lots are not unduly impaired.”

2. It appears that on 11/16/91 the paragraph above was moved **from** Regulation II, Article III **to** Regulation I, Article I. The first sentence above was moved, intact to Regulation I, Article I, paragraph 8. Maintenance. The remainder of the above paragraph was moved, intact to Regulation I, Article I, paragraph 9, Trees, Shrubs and Views. The paragraph was expanded to include the following:

“Trees of six inches or more, breast height diameter may not be cut, therefore, without authorization pursuant to Regulation II, Article I, Paragraph 2. (Note: paragraph 2 states: ‘Cutting of Evergreens. No trees of six inches or more breast high diameter shall be cut until ACC approval is received.’) When owners or occupants of developed or undeveloped lots elect to prune or remove hedges, shrubs or other brush, or trees from their lots, trunks and branches shall be removed or burned within a reasonable time not to exceed 6 months. If the trunks, branches and other debris are gathered into a burn pile, the pile shall be removed or burned within two months.”

As a result of this movement both the Operations Committee and the Architectural Control Committee were involved in applying this regulation and there was frequently some confusion about where the responsibility lay. The general modus operandi seemed to be that Operations handled situations where there was conflict between neighbors and ACC handled the remainder. ACC, of course, had to get involved when a tree was greater than 6 inches a breast height.

On March 3, 2005, the following revised Regulation II, Article I, paragraph 1 was approved by the Board of Trustees.

From:

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1. Approval Required. *No lot shall be cleared or excavated for use until ACC approval is received. All construction on any property, including exterior lighting, is likewise subject to approval as prescribed in this Regulation.*

To:

1. Approval Required. *No lot shall be cleared or excavated for construction, nor shall percolation testing holes be dug, until ACC approval is received. All construction on any property, including exterior lighting, is likewise subject to approval as prescribed in this Regulation.*

A lawsuit involving John Henderson, a resident on Montgomery Lane, resulted in the delegation of a committee to rewrite the regulation. This task was completed just prior to April 2007 and was submitted to the entire membership for a vote. Subsequently, the regulation was voted in by the membership on April 21, 2007 and the regulation was approved by the Board of Trustees on May 19, 2007. It then became Regulation II, Article I, paragraph 3 Trees and Views on Private Property and as a result became entirely under the responsibility of ACC and is our current regulation.

3. Trees and Views on Private Property. *Trees and views both provide significant psychological and tangible benefits for property owners and are essential to the character of our Port Ludlow community. However at times they may come into conflict with each other. This regulation is written in recognition of the importance of scenic resources, views, trees, drainage and sunlight to properties and is intended to provide a fair mechanism for resolving disputes relating to trees and views of LMC property owners.*

Any tree of six inches (6 in.) or more breast height diameter may not be cut without authorization of the Architectural Control Committee - Typical Protective Covenants, Paragraph 4.

- a. Landscape & Maintenance. *When landscaping their lots property owners shall select varieties of plants, shrubs and trees which will not grow to exceed their roof line height. Hedges, shrubs and rows of trees planted by owners along property lines shall be pruned so as not to exceed a height of 8 feet. Property owners shall remove seedlings on their property before they become 6 inches breast height diameter to help preserve views.*
- b. Views and Obstruction Relief. *Property owners are not entitled to any more view than that which existed when they purchased their property and are encouraged to document that view by photos and other means. Note that there will be instances where property owners views may be impacted under Regulation II. Any request for committee action must be submitted in writing. All interested parties to the request are encouraged to work out an agreement amongst themselves, including financial responsibility,*

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subject to the committee' approval Methods of relief shall include pruning, trimming, thinning, limbing up, limited windowing, and possible removal. Exception: Mature native evergreens/conifers designated by the ACC to remain on property when developed are exempt from removal unless ruled to be diseased or hazardous to persons or property. Topping will be strongly discouraged except on young cedars for hedging not to exceed 8 feet. Corrective action shall not commence until written notice is received from the committee. All resulting work shall be monitored by at least one member of the committee.

- c. Criteria used for determining the extent of relief to be granted will include but not be limited to the following and will apply to all interested parties:
 - i. The extent to which property values, screening of property, soil stability and drainage (soil structure, degree of slope and root system), surrounding vegetation and community aesthetics are affected
 - ii. The extent to which view has been diminished since purchase of property and view obstruction will be relieved by requested action.
 - iii. The extent to which view has been obstructed as expressed in percentage of total view and the extent to which trees obstruct sunlight and reduce air circulation.
- d. Consultation. Experts may be consulted regarding trees, drainage and environmental issues when necessary. This committee is subordinate to State and County regulations.
- e. Debris clean up. All debris resulting from approved request shall be disposed of within 2 months. Burning of yard debris is permitted only under regulation I, Article I 10 and is subject to Jefferson County and local Fire Department permitting procedures outlined in Regulation V, Article II.
- f. Appeal of Committee Decision. An owner who has filed a request or anyone who has identified himself or herself as an interested party affected by a request may file an appeal of the committee decision by following procedures outlined in Regulation V, Article II.

On December 15, 2007, the following Regulation II, Article I, paragraph 2 was changed and was approved by the board of trustees and is our current regulation. (Note: this is included for background purposes.)

From:

- 2. Cutting of Evergreens. No tree of six inches or more breast high diameter shall be cut, topped or limbed until ACC approval is received.

To:

- 2. Cutting of Trees. No tree of six inches or more breast high diameter shall be cut, topped or limbed until it has been individually identified to be cut and ACC approval is received, see Regulation II, Article I (3). In determining whether to

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approve an application to cut, top, or limb a tree, consideration must be given to the following:

- a. Views and sunlight are important to owners and occupant for reasons of enjoyment and property value;*
- b. A scattering of tall evergreens is encouraged to enhance the beauty of the neighborhood, as long as views from neighboring lots are not unduly impaired; and*
- c. An important function of large trees is absorption of runoff; so trees should not be cut if a drainage problem will be created.*
- d. If the ACC has been notified by an affected party that a tree on a developed or undeveloped lot is perceived to be hazardous, the ACC shall then notify the owner of said tree of the complaint by Certified, Return Receipt Request mail. The LMC accepts no responsibility or liability for said tree. For the purposes of this regulation, the following defines a hazardous tree.*

- i. Hazardous Tree: A hazardous tree shall mean a tree that has been certified by a Licensed Registered Washington State Arborist as being dead, or is so effected by a significant structural defect, damage or disease, or soil that may not provide adequate support, that a falling or failure appears imminent, and poses a threat to life or property.*

- ii. Hazardous Tree by Location: Tree(s) located in a place where they could cause property damage if they fall.*

Complaints concerning hazardous trees by location shall only be deemed relevant if the complaint is made by the party living on an adjoining property and thus directly affected by the tree(s) in question.

At the August 8, 2009 meeting of the Board of Trustees, ACC appealed to place a moratorium on the above Regulation II, Article I (3) because it was determined that the regulation was written in such a way that made it impossible to apply the regulation consistently. The LMC Board then passed a motion to place a moratorium on the application of this regulation until January 2010 so there would be sufficient time to revise the regulation to be brought to the Board for approval.

Noteworthy concepts from other Communities

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It is not the intent to incorporate any of these following regulations from other communities verbatim, but rather to use them as a resource to gather good ideas. That is, for us to include in a rewrite of our regulation the aim of making our regulations more understandable and written in such a way to encourage voluntary compliance. Further we can glean ideas to make our regulations work in such a way that they can be applied consistently.

Definition of Protected Trees

Our regulation stating “*A scattering of tall evergreens ...*” was supplemented in the current regulation with “*Mature native evergreens/conifers designated by the ACC to remain on the property when developed are exempt from removal unless ruled to be diseased or hazardous to persons or property.*”

Both of the above terms are usually viewed by the complainant as pertaining to trees elsewhere in Port Ludlow, but not to the trees obstructing his or her view. Further the records supporting the trees designated by the ACC to remain on the property are frequently non-existent especially for any time prior to Brian Belmont’s tenure. Since some judgment must be exercised in each case, it is very difficult to remain consistent, particularly when applied by an ever changing group of volunteers on ACC.

Sommerset Highlands.

In the Protective Covenants of Somerset Highlands I the following statement is made: “*No trees of any type, other than those existing at the time these restrictive covenants of Somerset Highlands are filed, shall be allowed to grow more than 20 feet in height provided they do not unnecessarily interfere with the view of another residence.*”

In the view guideline for Somerset the following statement is made: “*The 20’ provision means two things. First, ‘new’ trees shall not be allowed to grow more than twenty (20) feet. Second, the twenty (20) foot height restriction does not apply to **Grandfathered Trees**, provided they do not unnecessarily interfere with the view of another residence. If either tree unnecessarily interferes with the view of another residence it must be trimmed to a lower height so the resulting view restoration is sufficient to prevent the tree from ‘unnecessarily interfering with the view of another residence.’*”

Innis Arden

In a 1986 lawsuit: “*The Court found that ‘trees that were view-blocking trees before the subdivision of Innis Arden are exempt where trimming and topping would have a significant adverse effect.’*”

In April of 1989 the King County Superior Court wrote: “*Where a view-obstructing tree is demonstrated to have existed prior to the subdivision of Innis*

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Arden, and trimming or topping to comply with the covenant would have significant adverse effect on the overall health of the tree.’”

“Where a tree is demonstrated to have been view blocking prior to subdivision (1941, 1945, and 1949 for Innis Arden I, Innis Arden II, and Innis Arden III respectively) and trimming and topping would significantly damage the tree, then it would be ‘grandfathered’. The court accepted an arborist’s report showing the results of coring the tree and establishing its age and height at the time the subdivision was platted.”

Clyde Hill

In their “**View Regulations – Overview**” the following is stated: “Any tree that precedes the incorporation of the City (1953) is exempted from these regulations”

In their “**Definitions**” the following is stated: “‘Tree’ a woody perennial plant which usually, but not necessarily, has a single trunk and a height of 15 feet or more, or has a circumference measured at 24 inches above the ground for the purposes of this chapter includes any shrubbery capable in its normal growth to exceed a height of eight feet; references herein to ‘tree’ shall include the plural; provided however, **any tree whose age antedates the incorporation of the city shall be deemed a ‘historic’ tree and shall be exempted from this chapter.**” [my emphasis]

Initial Contact for View Relief

Our regulations provide a means for a property owner to seek relief from a view obstructing tree by merely filling out a form and wait (sometimes impatiently) for ACC to process it. ACC is then obligated to provide a ruling on the matter within 30 days. Other communities take a different approach worth considering.

Clyde Hill

In their “**View Regulations – Overview**” the following is stated, in part: “*The initial step in the established process is for the complainant to make all reasonable efforts to find a voluntary solution with their neighbor. This is the most important and sometimes the most challenging step in the process. The intent of the View Ordinance is to exhaust all reasonable efforts to resolve these matters as neighbors, without governmental intervention. The experiences of many other people throughout Clyde Hill have demonstrated many successes when a degree of respect and sincerity for each neighbor’s concern was taken seriously.*”

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“If after exhausting all reasonable approaches as neighbors the view obstruction is still unresolved, the complainant is required, with the voluntary concurrence of the tree owner, to seek the services of the King County Dispute Resolution Center in an attempt to settle the matter.

“A property owner who desires to take advantage of the provisions of this chapter to resolve the conflict between trees and views, shall file with the city clerk a written report stating with particularity the manner in which the view from her/his property or sunlight reaching her/his property is being unreasonably obstructed by the growth of one or more trees on neighboring property; the specifics of her/his efforts to alleviate the problem including contacts with the tree owner and the appropriate homeowners’ association(s) or neighborhood view association(s) in the area, and that these efforts have not been successful; and that all efforts to mediate or arbitrate a resolution of the unreasonable obstruction through the King County dispute resolution center have been exhausted. She/he shall deposit with the city clerk a nonrefundable fee, in an amount to be established by resolution of the city council, to cover the administrative costs as prescribed by the board of adjustment. In addition, the complainant shall deposit with the city clerk, in an amount to be established by resolution of the city council, an additional deposit, which shall be refunded in any amount not used, against the consulting expenses incurred by the city under provisions of this chapter (for landscape architect, tree surgeon, or other consultant), and shall agree in writing to pay in full the reasonable amount of any such expenses, even if such expenses exceed the amount of the advance.”

Innis Arden

In their **“Process for Preserving Sound and Mountain View on Residential Lots in Innis Arden.”** It is stated, in part: *“To employ this voluntary process, the Petitioner is required to try to work out the conflict with the Respondent before filing a petition. Personal contact should be shareholder to shareholder, if possible, but either party may involve a third party to facilitate communication. The Parties are urged to approach the discussion with rationality, reason and respect. Both Petitioner and Respondent should document contacts (i.e., letters, emails, conversations) for the purpose of providing facts to the Compliance Committee if a petition should be filed.*

Living Fences

Our regulations regarding trees planted along property lines often are used by the complainants to overreach the intent. Not in the current regulation, but in the current “Evaluation Procedures” it is stated:

“Hedges and rows of trees of any species planted along property lines shall be maintained at a height not to exceed eight feet. For purposes of this policy the

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definition of 'along property lines' is that area which is parallel to all property lines within fifteen feet (15') from that line."

Considering that our regulation allows a house to be built such that the roof drip line may be within five feet (5') of the property line the 15' regulation seems to be excessive. Further it has been interpreted by some to apply to **all** property lines including the one parallel to the street. Since we do not allow fences to be placed on the property between the house and the street the following regulations may be worth considering.

Clyde Hill

In their "**View Regulation Overview**" the community of Clyde Hill has a regulation that seems to address our notion that all trees within 15 feet of a property line must be limited to a height of eight feet.

"Living Fence Regulations:

"The manner in which plants along a property line or 'living fences' are maintained area a concern within the community. Almost all the time these plants are adequately maintained to provide privacy in a way that does not conflict with another neighbor's enjoyment. On fewer occasions there is a concern. The following information should help clarify the City's policy and provide information on how the City's fence regulation were interpreted by the Washington State Court and are consequently enforced by the city.

"Section 17.04.230 CHMC defines 'fence' as:

A fence shall be any barrier which is naturally grown or constructed for the purposes of confinement, means of protection or use as a boundary."

"Section 17.37.020 (A) states that:

Constructed fences shall not exceed six feet in height measured from the original grade, except as permitted under Chapter 17.040 for recreational facilities. Whenever a fence is placed on top of a retaining wall, the height of the fence and the retaining wall together shall not exceed six feet as measured from the original grade, except as permitted under Chapter 17.040 for recreational facilities. Naturally grown fences shall not exceed eight feet in height as measured from the original grade."

"Comments

Both the Washington State Court of Appeals and the State Supreme Court upheld the validity of the living fence ordinance. The ordinance was questioned as being unconstitutionally vague and indefinite but the Supreme Court found that the definition set forth above utilized plain language as to what constituted a fence and no further objective standards were necessary. The State Supreme Court also pointed out that a specific intent to violate the ordinance was not required at the time the trees or shrubs were planted. The Court ruled that, even though the landowner's stated purpose for planting the trees may be for aesthetics, sufficient

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intent to create a fence may be inferred for the results. The State Supreme Court also held that the trees and shrubs need not be planted precisely on a property line to be considered a fence. The fact that the owner has planted or maintains tall, bushy trees close together at, near or along the owner's property line in a manner that would create a dense, wooded wall will have created a naturally grown or 'living fence' prohibited by the city ordinance."

Definition of a View

Regarding views, our regulation really only addresses the issue of "planted trees" and the notion that "Property owners are not entitled to any more view than that which existed when they purchased the property ..." Some other communities seem to address the view issue in a more straightforward manner worth considering,

Clyde Hill

In the Clyde Hill Municipal Code the following is stated, in part:

"B. Prior to rendering a decision in favor of the complainant, the board shall find all of the following facts to be true:

- 1. That the property owner making the complaint has contacted the tree owner and made reasonable efforts to alleviate the problem as set forth in CHMC 17.38.030;*
- 2. That the view from or the sunlight reaching the real property of the complainant is unreasonably obstructed and the manner in which the view or sunlight is obstructed. In determining whether the view from or sunlight reaching the real property of the complainant is unreasonably obstructed, the board may consider several factors, which include but are not limited to, the following:*
 - a. The extent of the alleged view obstruction, expressed as a percentage of the total view, and calculated by means of a surveyor's transit or by photographs or both;*
 - b. The extent to which landmarks or other unique view features, as defined in CHMC 17.38.020(E), are obstructed;*
 - c. The extent to which the tree(s) cause shadows or reduce air circulation and/or light;*
 - d. The extent to which the tree(s) affect the real property value of the complainant's real property;*
 - e. The extent to which the tree(s) provide visual screening; a wildlife habitat; soil stability (as measured by soil structure, degree of slope and extent of root system); and energy conservation and/or climate control;*
 - f. The extent to which the tree(s) affect neighboring vegetation;*
 - g. The visual quality of the tree(s), including, but not limited to, species characteristics, size, form, texture, color, vigor and*

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location; and other tree-related factors, including, but not limited to, indigenous tree species, specimen tree quality, rare tree species, and historical value;

3. That such obstruction materially decreases the enjoyment of the real property of the complainant; and

4. That trimming, pruning, removal or other alteration of the site of the obstruction in the manner to be determined by the board will not unreasonably decrease the enjoyment of the real property of the tree owner, as determined by an objective evaluation.

C. In making the board's decision, the personal attachment of a party to particular trees or landscaping shall not be compelling nor shall a minor obstruction of a view or sunlight be decisive."

Sommerset

In the *View Guideline for Sommerset*, it states, in part:

The Spirit of the Guideline

To preserve the views of a homeowner, the way they were, when the house was built.

Language of the Guideline

The view that this Guideline is intended to preserve is the View that was observable above the View Line from the Observation Zone at the time the relevant Main Floor Living Space was Built. Because this Guideline is not intended to preserve a View that did not exist at the time the house was built, this Guideline will not be applied in a way the would force a downhill Owner to expand or enlarge the View that existed when the relevant Main Floor Living Space was Built.

Note: In the above paragraph all of the terms in capitals are defined further in the document. (e.g., *View – Elements that comprise View in this definition are Lake Washington, Lake Sammamish, Puget Sound, City, Mountain and Horizon.*)

Resolution Process

Our resolution process is limited, at best, given that we normally do a site visit and attempt to make a determination about the complaint as applied to the regulations within 30 days. Further our regulations do not address the cost of the tree modifications and it is assumed that it is the burden of the tree owner, which causes even more resistance to compliance.

Other communities are a bit more crisp in their definition of how the tree trimming or removal will be accomplished and how the costs will be allocated.

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Clyde Hill

“Within 15 days after the decision of the board becomes final, the tree owner will obtain at least two bids from licensed tree service companies to have the prescribed work done, and shall present all bids to the complainant. Within 15 days after presentation of the bids, the complainant will deposit with the board or tree owner an amount equal to the percentage of the lowest bid deemed appropriate by the board, under subsections (A), (B) and (C) of this section. Failure by a complainant to deposit with the board or tree owner the full amount required by the board within the 15 days required shall constitute a withdrawal and abandonment of the claim. The tree owner will, at her/his sole discretion, choose the company by which she/he wishes the work done and shall order the work done within 30 days after receiving the complainant’s deposit or such other period of time as the board may determine to be reasonable and appropriate. The tree owner shall pay the difference between the deposit amount and the bid amount of the company she/he has chosen. The ordered work shall be done by a licensed tree service under the sole discretion and control of the tree owner. However, nothing in this section shall prohibit the tree owner from doing the work herself/himself. The complainant shall pay the entire lowest bid amount of the ordered work, unless the board makes an express finding that:

- A. Removal of the tree is otherwise required for compliance with CHMC 17.37.020, in which case the owner may be required to pay up to 100 percent of the cost of the work, the actual percentage to be determined by the board, including reimbursement of the complainant’s filing fee; or*
- B. The tree constitutes a hazard to the safety of the complainant or his property, and is being maintained by the tree owner in disregard for the safety or others, in which case the tree owner may be required to pay up to 100 percent of the cost of the work, the actual percentage to be determined by the board, including reimbursement of the complainant’s filing fee; or*
- C. While no view or sunlight obstruction to a neighbor’s property existed when the complainant took possession of the dwelling, but due to growth of a tree an obstruction occurs at a later date, and the tree owner has disregarded the view or sunlight obstruction to neighbor’s property by allowing the tree to grow to such a height as to obstruct the view or cause sunlight obstruction to neighbor’s property, the tree owner may be required to pay up to 100 percent of the cost of correcting the view obstruction or sunlight obstruction, the actual percentage to be determined by the board. The city shall comply with this section of the code the same as any other person. “*

Mediation

When a conflict between neighbors cannot be resolved amicably by discussion between those neighbors, other communities typically consider mediation the next logical step. Incidentally, if the situation cannot be resolved by mediation the next logical step in the

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process is to resolve their issues with each other through the courts. The other communities, because they are in King County are directed to the King County Dispute Resolution Center. Jefferson County has a mediator that could be used in this process.

Innis Arden

In their *View Information Packet* it states, in part:

“In January 1990, the Innis Arden Board developed the ‘Petition for Relief Under View Preservation Covenants,’ which defines the process for redress. The process requires a discussion between parties, followed by mediation and/or binding arbitration; the Court is to be involved only in review capacity or enforcement procedure if needed. The party seeking redress may file suit in Superior Court at any time during or in lieu of this process.”

Clyde Hill

In their document titled **“What Do I Do If I have a VIEW or TREE MATTER With My Neighbor?”** Under the heading of **“View Regulations – Overview”** it is stated in part:

“If after exhausting all reasonable approaches as neighbors the view obstruction matter is still unresolved, the complainant is required, with the voluntary concurrence of the tree owner, to seek the services of the King County Dispute Resolution Center in an attempt to settle the matter.”

“If the mediation is unsuccessful, the issue can go before the City’s Board of Adjustment for a public hearing and a specific decision by the Board. The Board will base its decision on standards and guidelines set forth in Chapter 17.38 of the Municipal Code and on the factual testimony from a public hearing where the matter would be discussed. The tree owner and the complainant are bound by the Board’s decision unless the findings are appealed to the City Council, whose decision is final.”

Sommerset Highlands

In their document **“First Amendment to declaration of Protective Covenants, Restrictions, Limitations, Conditions and Agreements for the Plat of Sommerset Highlands #1”** it states, in part:

“NON-BINDING MEDIATION PROCEDURES.

1. Request for Mediation. In the event a dispute between two or more Lot Owners arises out of the Declaration, as amended, either the Lot Owner(s) asserting a violation of the Declaration, as amended, (the ‘Complainant’) or the Lot Owner(s) alleged to be in violation (the ‘Respondent’) may request a mediation

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by first notifying the CRC [Covenants Review Committee] and the other affected parties in writing describing the nature of the complaint.

2. Time and Place. Within ten (10) days of receiving a written request for mediation, the CRC shall notify all affected parties of a mediation conference which shall be held at a reasonable time and place, not later than thirty (30) days from the date the written complaint is received, unless the time is extended for good cause.

3. Selection of Mediators. The Complainant and Respondent shall have the right to agree to the mediator of their choice. If the Complainant and Respondent cannot agree, then at least one member of the CRC shall serve as a mediator, in which event the Complainant and the Respondent shall be allowed to strike one CRC member each from the list of prospective mediators.

4. Mediation Conference. At the mediation conference, all affected parties shall have an opportunity to be heard.

5. Findings & Recommendations. Within ten (10) days after the mediation conference, the mediators shall issue written findings and recommendations to both the Complainant and Respondent

6. Costs. The party requesting the mediation shall bear the cost of a reasonable fee assessed in the discretion of the CRC for completed mediation, not to exceed \$100.”

Normal Pruning and Maintenance

Mercer Island

In a document titled *Highlights of Mercer Island’s Tree Regulations* it is stated, in part:

“Do I need a permit to cut a tree on my property?”

“Permits not required: *A tree permit is not required in the following situations:*

- Normal pruning and maintenance - does not require a permit provided the pruning is limited to not more than 25% of a tree’s total leaf area and the pruning conforms to the limitations described within the “Definitions Section” at the end of this document. Also, see the “Pruning Basics” brochure for more detailed information about pruning.*
- Small trees - Cutting a small tree does not require a tree permit unless the tree is a designated Landmark tree or tree within a Landmark grove. A small tree is any conifer tree that is less than six feet (6') tall or any deciduous tree with a diameter of six inches (6") or less measured at a point 4-1/2 feet above the ground.”*

The above quoted definitions section states, in part:

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“Prune or Pruning’ *The pruning of a tree through crown thinning, crown cleaning, Windowing, or crown raising but not including crown topping of trees or any other practice or act which is likely to result in the death of or significant damage to the tree. Where the listed types of pruning practices are further defined as:*

- **‘Crown cleaning’** *The removal of dead, dying, diseased, crowded, weakly attached, low-vigor branches, and watersprouts from a tree’s crown.*
- **‘Crown topping’** *The removal of the upper portion of the crown of a tree by cutting back young shoots to a bud or older branches or trunk to a stub or lateral branch not sufficiently large enough to assume the terminal role.*
- **‘Crown raising’** *The removal of the lower branches of a tree in order to provide a height of up to 8' for pedestrian clearance, up to 14' for equestrian clearance and up to 16' for vehicular clearance or such other increased height as deemed appropriate for clearance by the city arborist.*
- **‘Crown thinning’** *The selective removal of branches not to exceed more than twenty-five percent (25%) of the leaf surface to increase light penetration and air movement, and to reduce weight.*
- **‘Windowing’** *The selective removal of branches not to exceed more than twenty-five percent (25%) of the leaf surface while retaining the symmetry and natural form of the tree in order to increase views and light penetration.”*

Clyde Hill

In their Chapter 17 of the Clyde Hill Municipal Code titled **“View Obstruction and Tree Removal, 17.38.090 Pruning”** it states:

“The board and council may direct that the work prescribed pursuant to CHMC 17.38.070 and 17.38.080 be continuously maintained within reasonable limits necessary to insure compliance with this chapter. The tree owner shall have the sole responsibility of maintaining the trees at such height as may be decided upon the board or council. Failure to comply with the direction or decision of the board or council made pursuant to the provisions of this chapter shall constitute a misdemeanor punishable in accordance with the provisions of CHMC 1.08.010 and is declared a public nuisance which may be enjoined or abated as provided law.”

Replacement Trees

Innis Arden

In the **“View Information Packet”** the Community of Innis Arden have uniquely addressed the issue of replacement trees with the following statement:

“Every 3 years, up to six significant trees and associated vegetation may be removed per parcel with no permit and/or replacement of trees required. Any

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significant tree proposed for removal beyond this limit must be replaced as follows:

1. *For each existing “significant tree” (eight inches in diameter at breast height for conifers or 12 inches in diameter breast height for all others), two new trees must be planted.*
2. *Each additional three inches in a significant tree’s diameter at breast height requires one additional new tree, with up to four replacement trees required for each significant tree removed.*
3. *Minimum size requirements for trees replaced under this provision: deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height. Complying with Shoreline’s Development Code does not preclude Innes Arden from being a view community”*

Innes Arden went on to produce the following tables:

View Friendly Plantings

The following plants include ornamental species suitable for Western Washington and a view community such as Innis Arden.

Low Shrubs-to 6'

<i>ABELIA Edward Goucher</i>	<i>Edward Goucher Abeilia</i>
<i>AUCUBA japonica nana</i>	<i>Dwarf Aucuba</i>
<i>BERBERS</i>	<i>Darwin & Warty Barberry</i>
<i>CARPENTERIA californica</i>	<i>Mock Orange</i>
<i>CHAMAECYPARIS obtuse nana</i>	<i>Dwarf Hinoki Cypress</i>
<i>CHAMECYPARIS pisifera filifera</i>	<i>Thread Cypress</i>
<i>CHOSIYA ternata</i>	<i>Mexican Orange</i>
<i>COTONEASTER microphyllus</i>	<i>Rockspray Cotoneaster</i>
<i>DAPHNE</i>	<i>Odora & Collina</i>
<i>ESCALLONIA kompakta</i>	<i>'Kompakta' & 'Fradesii' & 'Jubilee'</i>
<i>GAULTHERIA shallon</i>	<i>Salal</i>
<i>ILEX crenata</i>	<i>Japanese Holly & Buffords Holly</i>
<i>KALMIA latifolia</i>	<i>Mountain Laurel</i>
<i>LEUCOTHOE catesbaei</i>	<i>Drooping Leucothoe -also Texas sage</i>
<i>LIGUSTRUM japonica</i>	<i>Wax-leaf Privet</i>
<i>MAHONIA aquifolium</i>	<i>Oregon Grape</i>
<i>NANDINA domestica</i>	<i>Heavenly Bamboo -some compacts</i>
<i>OSMANTHUS delavayi</i>	<i>Delavay Osmanthus</i>
<i>PIERSS japonica</i>	<i>Andromeda or Lily of the Valley shrub</i>
<i>PINUS Mugo mughus</i>	<i>Mugho Pine</i>
<i>PITTOSPORUM tobira</i>	<i>Wheeler's Dwarf Pittosporum</i>
<i>POTENTILLA fruticosa</i>	<i>Bush Cinquefoil</i>
<i>PRUNUS</i>	<i>'Otto Luyken' Laurel</i>

Research Topics for ACC Discussion Re: Trees and Views

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<i>RHAPHIOLEPIS indica</i>	Indian Hawthorn
<i>RHODODENDREN</i>	Many - Also Azaleas
<i>TERNSTROEMIA japonica</i>	Relative of Camellia
<i>THUJA orientalis Berkmani</i>	'Berkmans' Dwarf arborvitae

Deciduous Trees--to 20'

<i>ACER ginnala</i>	Amur Maple - variety "Flame" Bright red fall foliage
<i>ACER griseum</i>	Paperbark Maple
<i>ACER palmatum (some)</i>	Japanese - Bloodgood or Bloodleaf
<i>BETULA youngi</i>	Weeping Birch
CORNUS	Pogoda Dogwood
<ul style="list-style-type: none"> • <i>alternifolia</i> • <i>Welshi</i> • <i>Kousa</i> • <i>Xrutgersensis</i> 	Tri-color Dogwood Kousa-Gold Star' Stellar Dogwood - many varieties
<i>COTINUS coggyria</i>	Purple - Leaf Smoke Bush Variety 'Grace' shorter
<i>MAGNOLIA stellata</i>	Star Magnolia
MALUS	Crabapple-some varieties-
	'Arnold'- 'Parkman'- 'Sargent'-
	'Floribunda'- Echterineyer- Weeping
<i>PRUNUS (flowering cherry)</i>	Shogetsu - Tri Loba – Weeping Cherry
SOPHORA	Weeping Pagoda Tree
STEWARTIA	Mountain stewartia & variety 'Grandiflora'
ULMUS	Camperdown Elm - weeping

Low Conifer Trees--to 20'

<i>CHAMAECYPARIS obtuse gracilis</i>	Slender Hinoki Cypress
<i>CHAMAECYPARIS pisifera 'Cyano Viridis'</i>	Boulevard False Cypress
<i>TSUGA mertensiana</i>	Mountain Hemlock
<i>THUJA occidentalis Pyramidalus</i>	Pyramidalis (easily maintained)
<i>TAXUS baccata stricta</i>	Irish Yew (easily maintained)

Native Plants

<i>Acer circinatum*</i>	Vine Maple: 15-25', drought tolerant, beautiful in groves or as individuals. Nice winter form.
<i>Amelanchier alnifolia</i>	Serviceberry: 6-8', Deciduous, erect shrub with clusters of pristine white flowers followed by ½ inch purple berries loved by birds and people for pies and jam. Tolerates full, hot sun.

Research Topics for ACC Discussion Re: Trees and Views

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<i>Cornus sericea, occidentalis</i>	<i>Red-osier dogwood, creek dogwood, red-twig dogwood (to 15')</i>
<i>Gaultheria shallon</i>	<i>Salal (3'-7')</i>
<i>Holodiscus discolor, creambush, arrowwood, rock-spiraea</i>	<i>Oceanspray, (to 15')</i>
<i>Lithocarpus densiflorus var echinoides</i>	<i>Tanbark Oak: 6-8', Handsome evergreen. New growth is silvery to cream to pink. The species is tall, so be sure to get var. echinoids.</i>
<i>Lonicera ciliosa</i>	<i>Orange honeysuckle, trumpet honeysuckle (10' to 20')</i>
<i>Oemleria cerasiformis</i>	<i>Indian-plum, osoberry (5' – 16')</i>
<i>Physocarpus capitatus</i>	<i>Pacific ninebark, ninebark (6'-13')</i>
<i>Ribes sanguineum</i>	<i>Red flowering currant: 6-9', lovely spring flowers attract hummingbirds. An exceptional Northwest native, prized by gardeners.</i>
<i>Rosa gymnocarpa</i>	<i>Baldhip rose, naked-hip rose, little wild rose, little wood rose, wood rose (to 6')</i>

* For height considerations, prune trees when young to encourage horizontal rather than vertical growth.

Do not prune Maples from Christmas to May (when sap is running).