



City of Medina

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**STAFF ANALYSIS AND RECOMMENDATION
NON-ADMINISTRATIVE RIGHT OF WAY TREE ACTIVITY PERMIT**

Prepared by: Tom Early, Medina Tree Code Consultant
Date: June 8, 2016

Summary of Decision: Approved, subject to conditions.

Part 1 – General Information:

CASE NUMBER: TREE 15-034

LOCATION: City-wide along collector and local access roads

TAX PARCEL NUMBER: Public street rights-of-way

PROPERTY OWNER: Not applicable

APPLICANT: Josh Potter, Asplundh Tree Expert Company (agent) c/o Puget Sound Energy

LEGAL DESCRIPTION: Public right-of-way

PROPOSAL: Non-administrative Right-of-way Tree Activity Permit to authorize utility tree pruning, removal and maintenance activities consistent with ANSI A300 Tree Pruning standards along a majority of the city's rights-of-way. This work includes:

- Pruning of trees located within the city rights-of-way and on adjoining private properties to re-establish safety clearances around the power lines; and
- Remove one Sweetgum City tree adjacent to 2240 Evergreen Point Road

COMPREHENSIVE PLAN DESIGNATION: Single Family Residential.

ZONING DESIGNATION: Public, R-16, R-20, R-30

CRITICAL AREAS: None identified.

ENVIRONMENTAL REVIEW (SEPA): Exempt pursuant to WAC 197-11-800(23).

EXHIBITS:

2. Application, received October 19, 2015
3. Map showing rights-of-way where tree activities are taking place
4. Affidavits declaration of mailing and posting dated March 2, 2016 and May 25, 2016
5. Supplemental tree activity application for tree removal at 2240 Evergreen Point Road
6. Medina Suitable Tree Species List
7. Public Comments

Part 2 – Site Characteristics:

EXISTING CONDITIONS: The tree growth interfering with overhead power lines and their supporting utility poles.

SURROUNDING ZONING: Trees are located adjacent to properties containing all zoning designations within the City.

ACCESS: Trees designated for trimming will be accessed from public rights-of-way.

Part 3 – Comprehensive Plan:

The Medina Comprehensive Plan identifies the setting and character of Medina as having a distinctive and informal natural setting that is typified by semi-wooded and heavily landscaped lots that provide visual and acoustic privacy between neighbors and abutting city streets. One of the primary goals is: “To maintain Medina’s high-quality residential setting and character” (Goal LU-G1).

The Medina Landscape plan is a component of the Community Design Element (Chapter 3) of the Comprehensive Plan. The Medina Landscape Plan lists landscaping alternatives to perpetuate the informal, natural appearance of Medina’s street right-of-way, public areas, and the adjacent portions of private property.

The following are applicable goals that apply to the creation of landscaping arrangements:

- Screen development from City streets and from neighboring properties;
 - Respect the scale and nature of plantings in the immediate vicinity;
 - Recognize “historical” view corridors;
 - Maintain the city’s informal, natural appearance.
- GOAL: CD-G2: To maintain the informal, natural appearance of Medina’s street rights-of-way and public areas.

Policy CD-P5: Residents are urged to consult with the City and with their neighbors on both removal and replacement of trees and tree groupings to help protect views and to prevent potential problems (e.g., removal of an important tree or planting a living fence).

- GOAL: UT-G2: To minimize aesthetic and environmental impacts caused by utility services.

Policy UT-P1: The City shall coordinate with applicable service providers to seek repairs and upgrades to existing utility facilities as necessary to maintain and/or improve efficiency, reliability, and/or capacity.

Part 4 – Agency Review/ Public Comment:

NOTICES: (See Exhibit 3.)

Application Received:	October 19, 2015
Determination of Completeness:	February 24, 2016
Notice of Application:	March 2, 2016
Notice of Hearing:	May 25, 2016

The application was received on October 19, 2015. The application was determined complete on February 24, 2016. A Notice of Application was issued on March 2, 2016. A 30-day public comment period was utilized. The notice was posted at Medina City Hall, the Post Office in Medina, the public notice board at Medina Park, the City’s website, and at six locations throughout the City (see NOA declaration of posting page 6); and the notice was mailed to nearby property owners consistent with MMC 20.80.140(B)(2). Trees were identified with orange ribbon to signify pruning only and white with blue polka-dotted ribbon to signify tree removal.

The notice of hearing was posted, mailed and published in *The Seattle Times* on May 25, 2016, pursuant to MMC 20.80.120. The notice was posted at Medina City Hall, the Post Office in Medina, the public notice board at Medina Park, the City’s website, and at six locations throughout the City.

GENERAL PUBLIC COMMENTS: Public comment received as of June 7, 2016. (See Exhibit 6.)

Who	Summary of Comments
Wilma and Tom Edmonds	In favor of planned tree trimming and tree removal
Connie Gerlitz	In favor of planned tree trimming, but would like care taken with a Pine tree at 2415 78 th Avenue NE
Pete Holton	Clarifying the difference indicated between the two ribbon types – one for pruning and another for removal.
Rush Riese	Clarification of trimming or removal of trees along 84 th Avenue at Midland Road; Mr. Riese would prefer to see them removed.
Heidi Seidelhuber	Requests that no additional trees be planted which would block her view of the lake from 200 84 th Avenue.
Will Parks	Remove unused utility pole at 8426 Overlake Drive and to maintain the height of the utility pole at View Point Park.

AGENCY COMMENTS: Not applicable.

Part 5 – Staff Analysis/ Findings of Fact:

GENERAL:

1. Puget Sound Energy (PSE) is a Washington State regulated utility providing electrical and natural gas services within the City of Medina. Puget Sound Energy conducts regular maintenance activity of trees and other vegetation that may affect or interfere with power lines. According to PSE, the pruning and maintenance activity is a critical component of their mission to provide safe and reliable electric services to the region. Typically, pruning cycles are every four to six years. Puget Sound Energy was last approved for a permit to conduct city-wide pruning maintenance within the City of Medina in October 2011 under permit No. T071211-3032.
2. Asplundh Tree Expert Company (Applicant) was selected by PSE as the contractor to perform tree pruning and vegetation maintenance around power lines on behalf of PSE. (See Exhibit 1, page 8.) Asplundh Tree Experts is a Washington State licensed and bonded tree services contractor who typically is used by PSE for tree maintenance activities near power lines. (See Exhibit 1. Page 8.) Josh Potter is the point of contact for Asplundh Tree Experts.
3. The applicant submitted an application for a non-administrative tree activity permit for the removal of one non-significant tree located within the Evergreen Point Road city right-of-way adjacent to 2240 Evergreen Point Road. The applicant is also proposing pruning of trees located within the City right-of-way that are growing into or are likely to grow into the wire zone of existing power lines owned and operated by PSE. The location of the rights-of-way include, but are not limited to: Evergreen Point Road, NE 32nd Street, 78th Place NE, NE 28th Street, NE, 24th Street, NE 22nd Street, NE 16th Street, NE 14th Street, NE 12th Street, NE 10th Street, NE 8th Street, Overlake Drive East and West, 77th Avenue NE, 78th Avenue NE, 79th Avenue NE, 80th Avenue NE, NE 27th, 26th, 25th and 82nd Street, 82nd Avenue NE, 83rd Avenue NE, 87th Avenue NE, NE 7th Street, 86th Avenue NE, and NE 6th Street. (See Map in Exhibit 3.)
4. Asplundh Tree Experts indicated in their application that they will follow American National Standards Institute (ANSI) A300 Standards with a specific focus on utility vegetation trimming practices. The trimming will occur within the wire zone, the area within a 10 foot radius around utility lines. The trimming will include tree limbs that are growing within the wire zone as well as branches likely grow into the wire zone and interfere with power lines in between the clearance pruning cycles of work, typically four to six years. No chemicals will be used during this work.
5. The applicant will use Uniform Traffic Control Manual procedures for Washington State and typically contracts with K&D Flagging Company for areas where flagging and traffic control is necessary. The applicant recognizes the school zones and bus stops near the proposed work. All worksites and traffic control will be set up every morning and will be taken down and cleaned up every afternoon. In order to recognize the busy times around schools work times will be limited in close proximity to all recognized schools to between 8:30am and 2:30pm.
6. The application originally included utility pole work along Overlake Drive and Evergreen Point Road which relates to the tree removal and pruning activity but which is not subject to

the jurisdiction of the tree activity permit. PSE's original plans were to remove and replace 40 utility poles. The current plan is to only replace power poles along Evergreen Point Road and this is causing the one Sweet Gum tree removal at 2240 Evergreen Point Road. The poles are located along the western side of Evergreen Point Road. Replacement of utility poles is subject to PSE's franchise agreement with the City and applicable state laws but the pole replacement work is currently on hold. (See Exhibit 2, page 19.)

7. MMC 2.78.070 authorizes the hearing examiner to conduct public hearings and make decisions or recommendations when authorized to do so under the Medina Municipal Code. MMC 20.72.090(C) establishes non-administrative right-of-way tree activity permits as a Type 3 decision processed pursuant to the review procedures set forth in Chapter 20.80 MMC. Table 20.80.060(C) establishes the procedures for Type 3 decisions and authorizes the hearing examiner as the decision authority for non-administrative right-of-way tree activity permit.

ANALYSIS OF THE NON-ADMINISTRATIVE ROW TREE ACTIVITY PERMIT:

8. MMC 20.52.310(D)(2)(c) requires a non-administrative right-of-way tree activity permit for pruning or removal of any tree, excluding hazard trees and hazard pruning, when the application is made by a public or private utility or their agent, and the tree is located within an open or closed city right-of-way, and the tree is six inches diameter breast height or larger. Puget Sound Energy's proposal to remove a tree and prune other trees within the city right-of-way throughout the City meets these criteria.
9. The applicant is proposing to remove one 12-inch diameter breast height Sweet Gum (*Liquidambar styraciflua*) tree located adjacent to 2240 Evergreen Point Road. According to the City of Medina List of Suitable Tree Species, the Sweet Gum tree species is not listed on List 2 as a significant tree species on City rights-of-way. This designates the tree as being "non-significant." The Sweet Gum tree is underneath power lines and has been regularly pruned to reduce its height and natural upward vertical growth.
10. MMC 20.52.400(D) requires trees to meet certain conditions to qualify for removal when the tree is located within a city right-of-way. MMC 20.52.400(D)(3) authorizes a right-of-way tree removal if the tree is not suitable under utility lines, or in the city right-of-way, as prescribed in the "City of Medina List of Suitable Tree Species. As noted above, the Sweet Gum tree is not a listed as being suitable within city rights-of-way and therefore qualifies for authorization to have it removed.
11. Table 20.52.400(E)(1) requires replacement trees to be planted when removing a right-of-way tree. A non-significant tree having a 12-inch diameter breast height size is required to have one replacement tree planted. Additionally, a contribution to the Medina Tree Fund is required for the lost public benefit at \$25 per diameter breast height inch removed. In this case a contribution of \$300 is required (12 inches multiplied by \$25).
12. Replacement trees are required to meet the standards set forth in MMC 20.52.400(E)(2). These include:
 - To be eligible as a replacement tree, the tree species must be selected from the appropriate list in the "City of Medina List of Suitable Tree Species" established in MMC 20.52.050;
 - Replacement trees shall be planted within the city right-of-way adjoining the subject lot;

- Each replacement tree shall have a minimum caliper of two inches or, if the tree is coniferous, it shall have a minimum height of six feet at the time of final inspection by the city;
- Replacement trees shall be planted in a manner of proper spacing and lighting that allows them to grow to maturity;
- At least one replacement city tree shall be of the same plant division (coniferous or deciduous) as the city tree removed;
- Approval to remove a city tree shall include conditions to make certain that replacement trees remain healthy and viable for at least five years after inspection by the city, including measures to replace those replacement trees that do not remain healthy and viable

This will be included in the conditions of approval.

13. MMC 20.52.400(C) requires all tree pruning activities to follow ANSI standards in their most recent form. As noted previously, PSE has indicated that all tree pruning activities will follow ANSI A300 Standards with a specific focus on utility vegetation trimming practices. Any excessive pruning activity that would be expected to harm the tree from which it cannot recover, would be considered a tree removal requiring tree replacement consistent with Table 20.52.400(E)(1) and MMC 20.52.400(C).
14. Public outreach began with the notice of application on March 2, 2016. The comments and concerns expressed by the public were generally positive of the work proposed with a concern that care should be taken when pruning the trees near the power lines adjacent to their lots. Six written comments were submitted. Approximately ten phone calls were received with conversations similar to the written comments or simple clarification for the significance of the two types of ribbon. I visited each of the houses where removals were proposed during the process of visually verifying the work proposed. In almost every case, I discussed the proposal with the neighbor's. Most neighbors preferred that the trees remain and pruning be limited to "what is necessary".

STATE ENVIRONMENTAL POLICY ACT:

15. The Responsible Official concluded that the proposal is exempt from environmental (SEPA) review and threshold determination pursuant to WAC 197-11-800(23). The maintenance of trees within the street right-of-way represents exempt utility-related actions.

Part 6 - Conclusions:

- A. Pursuant to MMC 2.78.070 and MMC 20.80.060(C), the hearing examiner has the authority to hold a hearing and decide non-administrative right-of-way tree activity permits. Adequate public notice for the public hearing has been provided. Notice was posted at six locations around the City, mailed to affected property owners, and published in the *Seattle Times* newspaper on May 25, 2016, at least 15 days prior to the date of the hearing.
- B. Pursuant to MMC 20.72.090(E), the Hearing Examiner may approve a Non-administrative Right-of-way Tree Trimming/ Removal Permit only if the following criteria are satisfied:
1. *The proposal is compatible with Chapter 3, Community Design Element, of the comprehensive plan;*

STAFF CONCLUSION: The proposal to remove the Sweet Gum tree underneath existing power lines and the maintenance pruning of trees in the city right-of-way is compatible with Chapter 3 of the Medina Comprehensive Plan. The Community Design Element contains a Landscaping Plan that lists landscaping alternatives to perpetuate the informal, natural appearance of Medina's street rights-of-way. The removal of the non-significant tree and replacing it with a more suitable tree species near power lines and within the city right-of-way is consistent with the landscaping plan. The pruning of trees near power lines is consistent with one of the goals outlined in the Medina Landscaping plan, which is to recognize restrictions imposed by overhead wires, sidewalks, and street intersections. Pruning activities following ANSI standards and replacement of the non-significant tree will not alter the existing informal and natural appearance of the city's street rights-of-way. The proposal meets this requirement.

- 2. The proposal is consistent with the public interest in maintaining an attractive and safe environment;*

STAFF CONCLUSION: The sweet gum tree is not suitable beneath power lines because it matures to a taller height than the height of the power lines. This requires PSE to regularly prune the tree to provide clearance between the power lines and the tree to reduce the risk of fire in the tree and provide consistent power distribution. Replacing the Sweet Gum tree with a tree species which mature to a lower overall height the risk of fire and inconsistent power distribution is diminished considerably. This is consistent with the public interest in reducing risk to public utilities and in maintaining a long-term, attractive and safe environment. With conditions, the proposal meets this requirement.

- 3. The tree trimming, pruning or removal will have no materially detrimental effects on nearby properties;*

STAFF CONCLUSION: The proposed tree removal and utility pruning activity will have no materially detrimental effects on nearby properties or public streets. The proposed tree activities are done by workers with extensive training to prevent electrical accidents and provide the clearance between the power lines and trees to reduce the risk of accidental fire caused by tree limbs touching power lines. The work is completed using aerial man-lifts and highly trained tree trimmers to control all tree trimmings safely to the ground. Ropes are used to control trimmed tree pieces that could potentially damage property. The tree trimming trucks and commercial vehicles involved in trimming operations will avoid any damages to lawns, driveways or other private property. The applicant will use Uniform Traffic Control Manual procedures for Washington State and, if necessary, will work near schools only between the hours of 8:30am and 2:30pm to minimize traffic delays. With conditions, the proposal meets this requirement.

- 4. Removal of a city tree is permitted pursuant to MMC 20.52.400(D);*

STAFF CONCLUSION: The removal of the Sweet Gum tree is permitted pursuant to MMC 20.52.400(D)(3) because the tree is not listed as a significant tree within city rights-of-way. The proposal meets this requirement.

- 5. Tree mitigation is provided in accordance with MMC 20.52.400(E) for removed trees;*

STAFF CONCLUSION: The removed tree is proposed to be mitigated with a replacement tree selected from list 7 of the Suitable Tree Species Lists which includes

only species suitable for planting beneath overhead power lines. The tree removal mitigation will also include a contribution to the Medina Tree Fund for lost public benefit between the larger tree being removed and smaller tree being planted. The proposal meets this requirement.

6. *Tree trimming or pruning is done in accordance with the following:*
- *The trimming or pruning does not exceed 25 percent of the canopy of the tree in the area, unless supported by ANSI Standard A300;*
 - *The trimming or pruning does not adversely affect adjoining and nearby properties regarding erosion control, noise control, shade, or other existing landscaping within the unimproved areas of the right-of-way; and*
 - *The trimming or pruning complies with ANSI Standard A300 and does not cause unnecessary mutilation or damage to the tree.*

STAFF CONCLUSION: The tree trimming satisfies these requirements. The trimming is currently targets removing 25% of a trees canopy or less. All pruning will be performed per ANSI A300 standards for pruning with a specific goal of utility clearance pruning using primarily side pruning and crown reduction pruning methods. The pruning is unlikely to increase erosion or noise levels or reduce shade in unimproved areas of the right-of-way. The proposal meets this requirement.

7. *All other requirements set forth in MMC 20.52.400 are satisfied;*

STAFF CONCLUSION: The requirements set forth in MMC 20.52.400, with conditions, will be satisfied. The pruning activity is allowed with approval of this permit. The removal of the non-significant tree will be pursuant to the replacement and Medina Tree Fund contributions set forth in this section. Because the replacement tree has not yet been selected, conditions are necessary to ensure the replacement tree follows the replacement standards set forth in this section. With conditions, the proposal meets this requirement.

Pursuant to MMC 20.72.090(F), the Hearing Examiner may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.

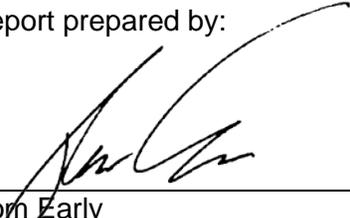
Part 7 – Staff Recommendation:

Staff recommends approval of the non-administrative tree activity permit for the removal of one non-significant tree and utility maintenance tree pruning within the City’s rights-of-way, subject to the following conditions:

1. The applicant shall provide one tree replacement selected from list 7 of the City of Medina Lists of Suitable Trees prior to completing work authorized under this non-administrative right-of-way tree activity permit. The replacement tree shall meet all of the standards set forth in MMC 20.52.400(E)(2). The applicant shall coordinate selection and the planting location of the replacement tree with the City tree consultant.
2. A contribution of \$300 shall be made to the Medina Tree Fund prior to removal of the Sweet Gum tree. If additional trees are removed, contributions to the Medina Tree Fund consistent with MMC 20.52.400(E)(3) shall be made prior to completing the work authorized under this non-administrative right-of-way tree activity permit.

3. The applicant shall be responsible for all costs associated with removal of the existing trees within the right-of-way.
4. If the right-of-way must be blocked at any time as a result of tree pruning or removal activities, a right-of-way permit authorizing the blockage is required. If a right-of-way permit is required, tree removal or pruning affected by the blockage is not authorized until such time that the right-of-way permit is approved by the City.
5. If additional right-of-way trees are proposed for removal, the applicant is required to submit the revisions to the City prior to their removal. A new public notice and hearing before the Medina hearing examiner is required for the revisions.
6. This administrative right-of-way tree trimming/removal permit shall expire after 18 months from the later date of the decision being issued or an appeal becoming final. Expiration of the administrative right-of-way tree trimming/removal permit is automatic and notice is not required. No extension of the time period for the permit is allowed.

Report prepared by:



Tom Early
City Tree Consultant

June 7, 2016

Date