



WORKSHOP MEMO/STAFF REPORT

PLANNING COMMISSION WORKSHOP OF AUGUST 14, 2013

TO: Planning Commission

FROM: Planning Department

SUBJECT: Planning Commission Workshop – #11-10 Draft Tree Conservation Ordinance

DATE: August 9, 2013

PURPOSE:

This public workshop has been called by the Planning Commission for the purpose of discussing the proposed draft Tree Conservation Ordinance update. Per comments received by each Commissioner and a few members of the public, staff has made additions and omissions to the draft Tree Ordinance that was presented to the Planning Commission at their July 23, 2013 regular meeting. The Planning Commission will review the revisions made to the draft Tree Ordinance with staff. Any questions or concerns the public and/or Planning Commission may have on the proposed draft Tree Ordinance will be discussed at this workshop.

NOTE: This is a public workshop and no action by the Planning Commission is proposed.

ATTACHED:

1. Revised/updated Draft Tree Conservation Ordinance
2. Comments received and response to comments

ORDINANCE NO.: _____

AN ORDINANCE OF THE TOWN OF LOOMIS REPEALING AND REENACTING CHAPTER 13.54 OF THE MUNICIPAL CODE RELATING TO TREE CONSERVATION

Section 1. Chapter 13.54 of the Town’s Municipal Code is hereby repealed and reenacted as follows:

TREE CONSERVATION

Sections:

- 13.54.010 Purpose and Intent.
- 13.54.020 Definitions.
- 13.54.030 Responsibility.
- 13.54.040 Town Manager duties.
- 13.54.050 Landmark, significant, heritage trees—Permit required.
- 13.54.060 Landmark, significant, heritage trees—Construction—Permit required.
- 13.54.070 Permit—Application—Decision.
- 13.54.080 Removal of trees—Mitigation and replacement.
- 13.54.090 In-lieu Fees.
- 13.54.100 Conditions for Tree Removal to Accommodate Agriculture.
- 13.54.110 Developments—Tree plan.
- 13.54.120 Mitigation of Other Trees.
- 13.54.130 Implementing Regulations.
- 13.54.140 Liability—Responsibility.
- 13.54.150 Emergency response and abatement.
- 13.54.160 Stop-work order.
- 13.54.170 Appeals.
- 13.54.180 Violation—Penalty.

13.54.010 Purpose and Intent.

The Town of Loomis is unique in the region in preserving the rural character of its town core and outlying areas. The tree canopy of both native and introduced species contributes significantly to this character and offers residents environmental, social, financial (property values), and aesthetic benefits. Trees are, in effect, green infrastructure. Public safety is a primary benefit, as healthy trees are safe trees. The goal of a tree ordinance is to promote a healthy tree canopy needed for community enjoyment and vibrant, functioning ecosystems. This ordinance covers tree management in both new development and established residential areas.

The ordinance acknowledges the delicate balance between the rights of private citizens to develop their properties, and the public interest in preserving its tree canopy. Trees are a community asset needing protection, maintenance, and continued rejuvenation. A clearly defined, fair, and effective ordinance helps provide for the long-term benefits of the citizens as well as the Town’s tree canopy.

13.54.020 Definitions.

As used in this chapter the following words and terms shall have the following meanings:

“Construction activity” means the incorporation of labor and materials to build any structure requiring permanent or temporary location.

“Critical Root Zone (CRZ)” is the area to be protected around a tree, to be measured by the longest horizontal branch plus one (1) foot shall be the radius of a circle around the protected tree.

~~“Drip line area” means the area measured from the trunk of the tree outward to a point at the perimeter of the outermost branch structure of the tree.~~

“Development project” shall be as defined at Government Code Section 65928.

“Diameter at Breast Height (DBH)” is the diameter of a tree trunk as measured at 54” (4’6”) above the ground at the base of the tree.

“Heritage tree” means any native tree with a trunk of 6 inches or more at diameter at breast height (DBH) which is of good quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape for its species.

“Landmark tree” means any tree, grove, or stand of trees which is especially prominent, stately, or which is of historical significance, as designated by resolution of the Town Council.

“Maintain” or “maintenance” means and includes major trimming or pruning, and any other similar act which promotes the life, growth, health or beauty of trees, excepting only watering, unless specifically so stated. Major trimming and pruning means the removal of branches of 3 inches in diameter or greater.

“Multi-Trunk DBH” means... *insert language and diagram.*

“Native tree” (for the purpose of this ordinance) means a living tree, or hybrids thereof, of the interior live oak (*Quercus wislizenii*), valley oak, California white oak (*Quercus lobata*), blue oak (*Quercus douglasii*), *Quercus x morehus* (Oracle Oak), and California sycamore (*Platanus racemosa*).

“Owner” means the legal owner of real property fronting upon any street as shown on the last equalized assessment roll.

“Significant tree” means any tree with a trunk of 18 inches or more at diameter at breast height (DBH) other than a heritage tree, willow, fruit tree, eucalyptus, alder, cottonwood, or pine, which is of good quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape for its species.

“T4, T6, T8 tree pot” means a tree container with a square top. A T4 tree pot is 4”x4”x14”, a T6 tree pot is 6”x6”x16”, and a T8 tree pot is 8”x8”x18”.

“Town Manager” means the Town Manager or his or her designated representative.

“Tree permit” means written authorization by the Town Manager to perform an activity on a landmark, significant or heritage tree.

13.54.030 Property Owner Responsibility.

A. It is the responsibility of the property owner to maintain all trees on his or her property. The property owner must ensure that the trees on his or her property do not pose a danger to his or her own property or the property of others. Property owners have the burden of demonstrating compliance with this Chapter.

B. Property owners that do not maintain trees on their property and, as a result, create an emergency, will be subject to the provisions of Section 13.54.150.

13.54.040 Town Manager duties.

The Town Manager shall perform the following duties:

A. Determine and take inventory of suitable and desirable species of specified trees and the areas in which and the conditions under which such trees shall be planted. The Town Manager may consult with those familiar with the subject of such plantings. The Town Manager shall report his findings in writing to the Town Council. When approved by the Town Council, the report shall be known as the “master tree list,” and shall be placed on file with the Town Clerk and shall thereafter be the official determination of the Town Manager. Revisions or changes in the master tree list may be made from time to time by the Town Manager with the approval of the Town Council.

B. Supervise and control the preservation and protection of landmark, significant or heritage trees.

C. Perform other duties as set forth in this chapter:

13.54.050 Landmark, significant, heritage trees—Tree Permit required.

It shall be unlawful to perform any of the following acts with respect to a landmark, significant or heritage tree within the Town limits without a tree removal permit issued by the Town Manager:

A. Move, remove, cut down, poison, set fire to or permit fire to burn in proximity to, or perform or fail to perform any act which results in the unnatural death or destruction of a landmark, significant or heritage tree.

B. Perform any activity that will interfere with or retard the natural growth of any landmark, significant or heritage tree.

C. Perform any work or permit any work to be performed within the **critical root zone (CRZ)** of a landmark, significant or heritage tree which would endanger the tree.

D. Trim or prune any **living** branch of a landmark, significant or heritage tree that is three (3) inches in diameter or greater.

E. Parcels with a RS-10, RS-7 or RS-5 zoning designation (approx. ¼ acre lots and smaller) that can no longer be subdivided are exempt from tree permit requirements.

F. I. **All hired work shall conform to the most current American National Standards Institute (ANSI) tree care standards.**

~~Omitted previous E: “Maintenance work on a heritage tree (i.e. use of chemical).”~~

13.54.060 Landmark, significant, heritage trees—Construction—Tree Permit required.

During construction activity on any property upon which a landmark, significant or heritage tree is located, it is unlawful for any person to perform any of the following acts without a tree permit issued by the Town Manager, which permit shall not be denied if the activities are deemed necessary for the project and proper care is taken to protect any landmark, significant or heritage tree:

A. Change the appropriate amount of irrigation or drainage water provided to any landmark, significant or heritage tree.

B. Trench, grade, pave or otherwise damage or disturb any exposed roots within one foot outside the **critical root zone (CRZ)** of a landmark, significant or heritage tree.

C. Park or operate any motor vehicle within one foot outside the **critical root zone (CRZ)** of any landmark, significant or heritage tree.

D. Place or store any equipment or construction materials within one foot outside the **critical root zone (CRZ)** of any landmark, significant or heritage tree.

E. Place, apply or attach any signs, ropes, cables or any other items to any landmark, significant or heritage tree.

F. Cut or trim any **living** branch of a landmark, significant or heritage tree that is three (3) inches in diameter or greater.

G. Place or allow to flow any oil, fuel, concrete mix or other deleterious substance into or over within one foot outside the **critical root zone (CRZ)** of any landmark, significant or heritage tree.

H. Parcels with a RS-10, RS-7 or RS-5 zoning designation (approx. ¼ acre lots and smaller) that can no longer be subdivided are exempt from tree permit requirements.

I. All hired work shall conform to the most current American National Standards Institute (ANSI) tree care standards.

13.54.070 Permit—Application—Decision.

A. Any person seeking to perform any activity for which a tree permit is required by this chapter shall contact the Town Manager to discuss the proposed activity, and, if deemed necessary by the Town manager, the Town Manager will inspect the site of the proposed activity. After initial consultation between the applicant and the Town Manager, the Town Manager shall advise the applicant whether a permit is required. If so, the applicant shall be required to make a formal written application for a tree permit and pay an application fee. The application shall be signed by the property owner or his authorized agent.

B. The application shall contain the following information:

1. Location, size and species of the tree(s);
2. The type of activity for which the permit is sought;
3. A statement of the reasons for the activity;
4. A written evaluation of the health and status of the tree(s), prepared by a registered forester or an International Society of Arborists (I.S.A.) certified arborist;
 - a. Overall rating of tree condition, by tree number, according to the following categories:

Rating #0: This indicates a tree that has no significant sign of life.

Rating #1: The problems are extreme. This rating is assigned to a tree that has a structural and/or health problems that no amount of work or effort can change. The issues may or may not be considered a dangerous situation.

Rating #2: The tree has major problems. If the option is taken to preserve the tree, its condition could be improved with corrective work including, but not limited to: Pruning, cabling, bracing, bolting, guying, spraying, mistletoe removal, vertical mulching, fertilization, etc. If the recommended actions are completed correctly, hazard can be reduced and the rating can be elevated to a 3. If no action is taken the tree is considered a liability and should be removed.

Rating #3: The tree is in fair condition. There are some minor structural or health problems that pose no immediate danger. When the recommended actions in an Arborist report are completed correctly the defect{s} can be minimized or eliminated.

Rating #4: The tree is in good condition and there are no apparent problems that an Arborist can see from a visual ground inspection. If potential structural or health problems are tended to at this stage future hazard can be reduced and more serious health problems can be averted.

Rating #5: No problems found from a visual ground inspection. Structurally, these trees have properly spaced branches and near perfect characteristics for the species. Highly rated trees are not common in natural or developed landscapes. No tree is ever perfect, especially with the unpredictability of nature, but with this highest rating, the condition should be considered excellent.

Ratings are subjective and are dependent upon both the health and structure of the tree. There is a very important line drawn between a tree rated a 3 and a 2. A tree rated 3, 4, 5 is a tree to be preserved, and a tree rated 0, 1, or 2 is recommended for removal. Trees rated a 2 may be retained and rated a 3, but only if the recommendations are followed; otherwise the tree should be removed.

5. The certified arborist preparing the report cannot be from the tree company potentially employed to remove the trees;

6. For a project requiring a **development construction** permit, the tree plan as provided by Section 13.54.110; and

7. Such other information as the Town Manager may require.

C. In reaching a decision to grant or deny a tree permit, the Town Manager shall take into account the following:

1. The condition of the tree with respect to disease, general health, damage, public nuisance, danger of falling, proximity to existing or proposed structures, and interference with utility services, and whether or not the tree acts as a host for a plant which is parasitic;

2. The species of tree (native oaks, heritage and landmark trees shall have a higher preservation priority than others);

3. The number of existing trees in the area and the effect of any proposed removal upon the public health and safety, or the prosperity, beauty and general welfare of the area;

4. Mitigation measures as proposed or replacement measures; and

5. Steps to avoid or minimize removal and destruction of trees.

~~D. Before any tree permit is denied, the Town Manager shall consider the adverse impacts of such denial on the future development of the site, including the increased costs of development and construction, the reduction in the size of the proposed structure or structures, and other adverse economic impacts on the landowner or developer.~~

E. The Town Manager ~~or his or her designated representative~~ shall render a decision granting or denying an application for a tree permit within thirty days from the date the completed application is received. As a condition of granting a tree permit, the Town Manager may require that the work be performed by a person who, ~~in the opinion of the Town Manager,~~ is qualified by education or experience to perform the work and who holds a valid business license issued by the Town for such purpose.

F. Each application and each appeal shall be accompanied by fees as prescribed by resolution of the Town Council. Such fees shall in no event exceed the actual cost to the Town to conduct the services required to satisfy the requirements of this chapter.

G. The Town Manager shall periodically present a summation of his actions to the Town Council for its review.

H. The property owner removing a landmark, significant, or heritage tree will make every effort to replace the tree on the property, in accordance with Section 13.54.080.

I. **All hired work shall conform to the most current American National Standards Institute (ANSI) tree care standards.**

13.54.080 Removal of trees—Mitigation and replacement.

When the Town Manager has granted a tree permit to remove a landmark, significant or heritage tree, said permit shall require the applicant to replace the tree with a living tree (or trees) of the same species on the property or within the Town of Loomis, in a location approved by the Town Manager. Said location will be specified in the tree permit. The replacement requirement shall be calculated as provided by Table 5-3. The property owner will replace the tree(s) and continue to replace the replacement tree(s) if the tree(s) die(s) any time within **five (5) years** of the initial planting. Replacement shall not be required if a tree is in need of removal solely because it poses a risk to persons or property or if the tree acts as a host for a plant that is parasitic.

Table 5-3: Tree Removal Mitigation Table

Species of Trees to be Removed	Size of Trees DBH in inches	T4, T6 or T8 Tree Pots	OR	#15 (15 Gal.) Mitigation Trees to be Planted *	OR	24" Box Mitigation Trees to be Planted	OR	In-Lieu Fee Amount \$ per inch
Blue Oak (<i>Q. douglasii</i>)	6 – 14.9	x 10		x 8		x 6		x \$100
	15 - 24.9	x 16		x 12		x 8		x \$110
	25 – 29.9	x 18		x 14		x 10		x \$120
	30 – 34.9	x 20		X 16		x 12		x \$130
	>35	x 26		x 20		x 14		x \$140
Valley Oak (<i>Q. lobata</i>)	6 – 14.9	x 8		x 6		x 4		x \$90
	15 - 24.9	x 14		x 10		x 6		x \$100
	25 – 29.9	x 16		x 12		x 8		x \$110
	30 – 34.9	x 18		x 14		x 10		x \$120
	>35	x 24		x 18		x 12		x \$130
Interior Live Oak (<i>Q. wislizenii</i>)	6 – 14.9	x 6		x 4		x 2		x \$80
	15 - 24.9	x 10		x 6		x 4		x \$90
	25 – 29.9	x 12		x 8		x 6		x \$100
	30 – 34.9	x 14		x 10		x 8		x \$110
	>35	x 18		x 12		x 10		x \$120
All other protected species	18 - 24.9	x 6		x 4		x 2		x \$70
	25 – 32.9	x 8		x 6		x 4		x \$80
	>33	x 10		x 8		x 6		x \$90

For each species and size class, 1 or a combination of columns may be used to determine total mitigation. Up to 50% of the required replacement trees may have T4, T6, T8 tree pots (oaks) or a #5/5 gallon (other species) container size, where the Town Manager determines that long-term tree health and survival will be improved by starting with a smaller container size, and that each tree with a container size less than #15 will not be in a location where it will be more subject to damage while it is becoming established than a larger tree.

If the property owner is unable to replace the tree on his or her property or within an area approved by the Town Manager, the Town Manager shall require the property owner to pay an in-lieu fee to the Town. An in-lieu fee payment shall not be required if the tree is in need of removal solely because it poses a risk to persons or property, if it is diseased (as diagnosed by a certified arborist) and is not treatable, if the tree acts as a host for a plant that is parasitic, or, if the tree is causing or has a high degree of probability to cause significant property damage (i.e. damage to a building).

A. Small Tree Preservation Credits (STPC). The Town may consider the preservation of seedling

and sapling native trees that are smaller than 6" DBH as a credit toward the total removed inches. *For example, a 1" sapling would equal 1" of mitigation.* These smaller trees are valuable because they are already established. Retention of small blue oaks is especially encouraged. Any tree that is to be considered for preservation credit shall be evaluated, included in the arborist report, rated a 3, 4, or 5, and located in a suitable site with adequate spacing. They must be marked as protected mitigation trees (e.g. tagged or staked), and fenced during construction just as 6" or larger trees. STPC shall not count if they are in a poor growing space due to position within the CRZ of another protected tree to be preserved, or are likely to be adversely impacted by the proposed development. They will be included as protected trees in all required monitoring.

B. Large Parcel 10% Allowance. On residentially zoned parcels zoned larger than RS-10 and having at least ten protected trees, ten percent of protected trees may be removed over a ten-year period without mitigation being required. Trees within conservation easements may be counted but not removed under this provision. A dated site map, subject to staff verification, to be kept on file at Town Hall, showing size, number, and species of all protected trees is required to verify the ten percent.

13.54.090 In-lieu Fees.

In-lieu fees shall not be used for any other purposes other than for tree planting, purchasing, maintenance, preservation programs (including, but not limited to, conservation easements), public education programs regarding trees which support the purposes of this chapter (i.e. workshops on proper pruning), and activities in support of the administration of this Chapter (i.e. Town Arborist review of tree plans). Fees collected pursuant to this Chapter may be directed by the Town Council to non-profit organizations for the implementation of programs consistent with the purposes of this Section.

13.54.100 Conditions for Tree Removal to Accommodate Agriculture

A Tree Removal Permit may be granted to allow tree removal within the RA zoning district to accommodate an active commercial agricultural use without mitigation and subject to the following conditions:

- A. The agricultural use, as proposed and ultimately established, shall be limited to crop production, horticulture, orchards or vineyards, but shall not include grazing or other animal uses;
- B. Only that area that will be utilized for active commercial agriculture shall be exempt;
- C. The Tree Removal Permit shall be exercised within one year;
- D. Once tree removal is commenced, the proposed replacement agricultural use shall be in place within twenty-four months of the removal of the first tree, or mitigation shall be required in compliance with Sections 13.54.080 and 13.54.090;
- E. Once the replacement agricultural use is established, it shall be maintained for a minimum of ten (10) years. If the agricultural use is terminated before ten (10) years, and /or if a subdivision application for non-agricultural development is filed with the town within that period, mitigation shall be required in compliance with Sections 13.54.050 and 13.54.090;
- F. The approved tree removal and subsequent agricultural use shall retain existing trees:
 1. Surrounding existing buildings;
 2. Within 100' from a perennial stream;
 3. Within 10 feet of any property line or neighboring dwelling; and
 4. In significant groves, as determined by the Town Manager.

13.54.110 Developments—Tree plan.

An application for a development project shall be accompanied by a tree plan, prepared by a certified arborist, containing the following information:

A. Contour map showing extent of grading within any part of the critical root zone (CRZ), plus existing and proposed grades and the location, size, species and condition of all existing trees which are located upon the property proposed for development.

B. Identification of those trees which the applicant proposes to preserve and those landmark, significant or heritage trees which are proposed to be removed and the reason for such removal.

C. A description of measures to be followed to insure survival of landmark, significant or heritage trees during construction.

D. A program for the preservation of landmark, significant or heritage trees during and after completion of the project, which shall include the following:

1. Each tree or group of trees to be preserved shall be enclosed with a fence prior to any grading, movement of heavy equipment, approval of improvement plans or the issuance of any permits and such fence shall be removed following construction, but prior to installation of landscaping material;

2. Fencing shall be located one foot outside of critical root zone (CRZ) of the tree or trees and shall be a minimum of ~~six (6)~~ four (4) feet in height;

3. Signs shall be posted on all sides of fences surrounding each tree stating that each tree is to be preserved;

4. Any and all exposed roots shall be covered with a protective material during construction; and

E. A program for the replacement of any trees proposed to be removed.

F. All of the tree preservation measures required by the conditions of a discretionary project approval (the arborist's report and the tree permit, as applicable) shall be completed and certified by staff or the developer's arborist prior to issuance of a Certificate of Occupancy.

13.54.120 Mitigation of Other Trees.

When mitigation is required by the California Environmental Quality Act or any other regulation for the removal of any tree, such mitigation shall be provided consistent with Sections 13.54.080 and 13.54.090.

13.54.130 Implementing Regulations.

The Town Council may adopt implementing regulations to effectuate the intent of this Chapter.

13.54.140 Liability—Responsibility.

This chapter shall not be construed to impose any liability upon the Town, its officers or employees for the performance of any act or the failure to perform any act under this chapter, and shall not relieve the owner from the duty to keep any tree upon his or her property in such condition as to prevent it from causing damage or constituting a nuisance. By enactment of this chapter, the Town is not assuming responsibility for the maintenance of landmark, significant or heritage trees, nor relieving the property owner of the duty to maintain such trees at his own expense. Furthermore, it shall be the obligation and duty of each owner to demonstrate compliance with this Chapter.

13.54.150 Emergency response and abatement.

A. An owner is not precluded by this chapter from taking action, in the event of an emergency, which would otherwise violate the terms of this chapter, if such action is necessary to minimize danger. In the event such emergency action is taken, the owner shall notify the Town Manager or his representative by the next working day. The burden is on the owner to demonstrate that any action taken complies with this Section. For purposes of this section, "emergency" means imminent threat to life or property.

B. In the event that an owner has not maintained trees for which the owner is responsible and the trees pose an imminent danger to persons and/or property, constituting an emergency, the Town Manager may commence abatement proceeding pursuant to Section 7.04.020 of the municipal code. At the owner's expense, the tree shall be removed or have the dangerous condition otherwise rectified.

C. In the event that an owner has not maintained trees for which the owner is responsible and the trees and the condition does not pose an imminent threat to persons and/or property, but has the potential to pose such a threat, the Town Manager shall give the owner thirty days to eliminate the potentially dangerous condition. If the condition has not changed in thirty days the Town Manager may commence abatement proceedings pursuant to Section 7.04.020 of the municipal code.

13.54.160 Stop-work order.

Whenever the Town Manager determines that an action being taken is in conflict with this chapter, he shall cause to be issued a stop work order which shall prohibit such action. Such stop work order shall set forth the alleged violations and may list remedies to be taken to correct the violations. The person receiving the stop work order shall report in writing to the Town Manager within forty-eight hours regarding the steps to be taken to correct the violations or to appeal the posting of the stop work order. The stop work order shall remain in effect until a finding is made that the circumstances giving rise to its order no longer exist. Any party receiving a stop work order may appeal through the process outlined in Section 13.54.170.

13.54.170 Appeals.

Any person dissatisfied with the decision of the Town Manager made under this chapter may appeal such decision to the Town Council. Such appeal shall be in writing, stating the reasons therefore, and, except as otherwise provided herein, shall be filed with the Town Clerk not later than fifteen days after the date of the Town Manager's decision. All appeals shall be conducted in accordance with Chapter 13.74 of the Municipal Code. The decision of the Town Council shall be final.

13.54.180 Violation—Penalty.

Any person, corporation or other legal entity who violates or fails to comply with any chapter of this provision shall be subject to a fine of one hundred (\$100) dollars for the first offense, two hundred dollars (\$200) for the second offense, and five hundred (\$500) dollars for the third offense and each subsequent offense thereafter. Each person, corporation or other legal entity is guilty of a separate offense for each and every tree each and every day, during any portion of which violation of this chapter is committed, continued or permitted by any such person, corporation or legal entity, and such person, corporation or legal entity shall be punished accordingly.

In addition to the general penalty set forth above, any condition caused or permitted to exist in violation of this chapter shall be deemed a public nuisance and may be summarily abated by the Town in accordance with Section 7.04.020, Nuisance Abatement, and other applicable provisions of law.

Section 2. Posting. The Town Clerk shall cause this Ordinance to be published in the Loomis News and to be posted at three (3) locations within fifteen (15) days after its passage; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification to be entered in the Book of Ordinances of the Town of Loomis.

The foregoing Ordinance was introduced at a regular meeting of the Council of the Town of Loomis held on the _____, 2013, and was ADOPTED AND ORDERED published and posted at a meeting of the Council held on the ____ day of _____, 2013, by the following roll call vote:

AYES:
NOES:
ABSENT:

By: _____
Mayor

ATTEST:
By: _____
Crickett Strock, Town Clerk

THE FOLLOWING CHANGES WERE MADE BY STAFF FOLLOWING THE PLANNING COMMISSION'S DISCUSSION ON JULY 23 AS WELL AS COMMENTS RECEIVED:

ATTACHMENT 2

- 1) **13.54.030 B.** – Changed 13.54.130 to 13.54.150
- 2) **13.54.050 E.** – Omitted and changed current F. to E.
- 3) **13.54.070 B.6.** – Changed 13.54.100 to 13.54.110
- 4) **13.54.070 E.** – Omitted “or his or her designated representative” as well as “, in the opinion of the Town Manager,”
- 5) **13.54.150 A.** – Added “this” before the word “Section”
- 6) **13.54.150 B.** – Changed 7.04.030 to 7.04.020
- 7) **13.54.150 C.** – Changed 7.04.030 to 7.04.020
- 8) **13.54.160** – Changed 13.54.160 to 13.54.170
- 9) **13.54.010 Purpose and Intent** – Replaced this language with the Subcommittee’s INTRODUCTION language from their draft ordinance.
- 10) **Native Tree definition** – Added “for the purpose of this ordinance”
- 11) **T4, T6, T8 tree pots definition** – This definition has been modified per Arborist recommendation.
- 12) **Tree Rating Numbers (and definition)** – A zero (0) tree rating has been added and definitions of tree ratings (0-5) have been included in Section 13.54.020.
- 13) **13.54.020** – Critical Root Zone (CRZ) definition has been added and has replaced “drip line area” throughout the ordinance.
- 14) **13.54.020** – “Drip line area” definition has been omitted and replaced by “Critical Root Zone (CRZ) throughout the ordinance.
- 15) **13.54.020** – A definition for Diameter at Breast Height (DBH) has been added.
- 16) **13.54.020** – A definition for Multi-trunk DBH is to be included (language and diagram) as provided by the Town Arborist.
- 17) **13.54.050 D.** – Added “living” before the word “branch”.
- 18) **13.54.060 F.** – Added “living” before the word “branch”.
- 19) **13.54.070 B.1.** – Changed “tree” to “tree(s)”.
- 20) **13.54.070 A.** – Omitted from the draft Ordinance
- 21) **13.54.070 B.4.a.** – A tree rating of “0” has been added.
- 22) **13.54.070 B.6.** – Changed “development permit” to “construction permit” to be consistent with the section’s title.
- 23) **13.54.070 D.** – Omitted from the draft Ordinance.
- 24) **13.54.060 & 13.54.070** – Added ANSI Tree Care Standards language.
- 25) **13.54.080** – Establishment period for mitigation trees has been changed from “3 years” to “5 years”.
- 26) **13.54.080** – Subsection A. has been added regarding Small Tree Mitigation Credits
- 27) **13.54.080** – Subsection B. has been added regarding Large Parcel 10% Allowance Exemption
- 28) **13.54.100** – Included the Subcommittee Agriculture Accommodation language
- 29) **13.54.110 A.** – Added the following language as recommended by the Town Arborist: “Contour map showing extent of grading within any part of the Critical Root Zone (CRZ), plus existing and proposed grade and...”
- 30) **13.54.110 D.2.** – Changed “...a minimum of six feet in height” to “...a minimum of 4 feet in height”
- 31) **13.54.180** – Added the language from the current ordinance regarding withholding a Certificate of Occupancy until tree work receives final certification from the Town.

THE FOLLOWING PAGES ARE THE COMMENTS RECEIVED ON THE DRAFT TREE ORDINANCE FOLLOWING THE COMMISSION'S JULY 23, 2013 MEETING.
STAFF RESPONSES ARE HIGHLIGHTED.

FROM ROBERT BLACK,
QUESTIONS REGARDING THE PROPOSED CHANGES TO THE ORDINANCE

NEW ORDINANCE:

- **Applicability** – new tree ordinance doesn't state that it applies to all zoning districts or specific districts, as did the old ordinance – the same for SFR, as commercial zoning? This Ordinance covers all properties and zoning districts within the Town boundaries, except where specifically stated otherwise (i.e. draft sections 13.54.060 H. and 13.54.100).
- **13.54.020 - Definitions – Landmark Tree –**
 - What defines if a grove or stand of trees is "prominent, stately, or which is of historical significance as designated by resolution of the Town Council"? Per Town Arborist recommendation (when directed) and as designated by the Town Council.

"Owner" means the legal owner of real property fronting upon any street as shown on the last equalized assessment roll. ↓
 - What if it's an interior lot, not fronting upon a street? Or fronting on a private road? Permit not required? Not well defined. There are no landlocked parcels in Town, therefore, every parcel has a frontage upon a public or private roadway or roadway easement.
 - **Maintenance** – removal of tree branches 3 inches in diameter – at what point – measured at the tree – point of removal? Yes. Permit and Arborist report needed to prune a non-native tree? Yes if the non-native tree is a significant tree of 18 or more inches DBH. Cost? Cost varies depending on the Arborist and can range between \$50-\$200 per hour. Currently, there is no cost to apply for a Tree Removal Permit (per Council decision).
 - **13.54.030 – Property owner responsibility – B. - Property owners that do not maintain trees on their property and, as a result, create an emergency, will be subject to the provisions of Section 13.54.130** – It doesn't define what actions they'll be subject to - necessary? Staff has changed that section to 13.54.150 (Emergency response and Abatement) which states the actions they're subject to.
 - **13.54.040 – Town Manager Duties - Master tree list prepared by the Town Manager.**

A copy was circulated at the last Planning Commission meeting – is this the one the Town will use? That is the list the Town currently uses and was done by the Town Arborist. Per Ken Menzer, the Town's consulting Arborist, this list needs to be amended from its current state and will require occasional modifications over time.

- **13.54.050 – Tree permit required – D:**

- Do tree trimming companies working in Loomis inform the Town before starting? Not always but some do.
- Is a permit and arborist report required to prune a non-heritage tree? Yes, if the non-heritage tree is a significant tree and if the pruning is of a branch of 3-inches in diameter or greater.
- What is the average length of time for issuing a permit to do this work? Case by case basis as some may require a mitigation agreement and replanting plan for onsite mitigation (reviewed by the consulting Town Arborist) as opposed to a quick payment of in-lieu fees.
- Permit cost? Arborist report cost? Currently there is no cost to apply for a Tree Removal Permit. Arborist's costs depend on the arborist and can range between \$50-\$200 per hour.
- Public hearing on tree removal? Only when associated with a development project does the Commission adopt a Tree Removal Plan/Permit (i.e. roadways within a subdivision).

- **13.54.070 – Permit-application-decision:**

- **B.6 – The tree plan as provided by section 13.54.100 –** Should this reference 13.54.110 Tree plan? Correct, revision made.
- **D – Town manager shall consider the adverse impacts of such denial on future development –** And do what? Does he have the authority to waive portions of the ordinance if it's an economic hardship on the land owner? Does the Town Council? This Section has been deleted.
- **E.** Does a tree removal company from outside of Loomis, need a business license issued by the Town to do work here, if properly licensed elsewhere? Yes.
- **Homeowner Association Approval –** if Applicable CC&R's exist does a HOA need to approve the permit, and would the Town require verification? It would be subject to any CC&R provisions. Town approval would be independent of the CC&R's unless an MOU is entered into.
- Tree plan compatible in comparison with other existing or approved project in the vicinity and similar zoning?
- How long are permits issued for? 1 year? 2 years? 2 years.
- How many extensions can be granted and length of extensions? 2 1-year extensions to match large development project time limits.
- Cost of extensions? \$390 if associated with a large development project, \$0 otherwise (as there is currently no fee required for a tree removal permit).

- **13.54.080 – Removal of trees – Mitigation and replacement**
- **Applicant will replace the tree with a living tree of the same species on the property or within the Town of Loomis?**
- What if they don't have room for replacement trees? Where do they put them? They pay the in-lieu mitigation fee or plant them in a location approved by the Town Manager.
- If "owed" to the Town, time frame to plant, or indefinitely owed? Any approval which allows the mitigation to occur over time is subject to Town approval. Not a likely option in the next 10 years as the Town is currently owed 950+ trees at the moment. The most likely scenarios for mitigation will be replanting onsite or the payment of in-lieu fees. Planted on Town property – Who pays for the maintenance and watering? The Town would if planted on Town property.?
- Planted in Town owned parks? Doesn't specify. In a location approved by the Town Manager. Most of the trees owed to the Town have been planted in the Blue Anchor Park area or have been utilized as streetscape.
- I hate liquid amber trees because of the balls they drop – what if I want to replace with another variety of tree? The Ordinance may need to be more specific stating that only heritage trees need to be replaced with the same species as to allow the removal of an undesired significant tree while replacing with a more desired species. This could be covered in any replanting plan/mitigation agreement an owner may enter in to for mitigation of a protected tree.
- **Replacement shall not be required if it poses a risk to persons or property, or if the tree acts as a host for a plant that is parasitic**
- Define a risk to property – property damage - roots breaking up foundation?

Table 5-3:

- How were the replacement formulas determined? Subcommittee
- On what basis were the in lieu fees determined? Subcommittee
- What's the reasoning behind charging such high fees? The proposed in-lieu mitigation fees are in line with surroundings jurisdictions and are also used as a way to dissuade persons from removing protected trees without replanting onsite or modifying their proposed development.
- High mitigation fees deter development that would bring in needed Tax revenue.
Comment noted

13.54.090 – In-Lieu-Fees –

- Why is the Town entitled to compensation for a property owner's trees, if removed, But not as part of any **proposed construction**? Future development is always possible and that could be a way for someone to side-step the Ordinance if they intend to develop in the future. Also, the Town's General Plan values all trees in Town.

- No time frames given if the fees collected are not used, or can be used for other purposes? Fees can only be used for the purposes stated in the Ordinance. There is not a limitation on time when the Town needs to expend the funds.
- Can the Town buy trees to distribute to residents free of charge once a year with this money? Yes. We are anticipating a “tree giveaway” program to be developed in the near future.
- It would cost me \$3,240 to remove a non-native, 36 inch, fruitless mulberry tree that its roots are near my foundation, planted by the previous owner, if I didn’t want to replant another tree that would crowd my yard? Why? Alternatives? The Ordinance could be amended to add more non-protected tree species (i.e. Redwoods, etc)

• **13.54.100 – Conditions for Tree Removal to accommodate Agriculture - Proposed Language –**

- e. Why change from 5 years to 10 years – what is the reasoning behind doubling the time- frame? Subcommittee

13.54.140 – Liability – Responsibility:

It shall be the obligation and duty of each owner to demonstrate compliance with this Chapter. Demonstrate compliance in what way? By not violating the Ordinance.

13.54.160 – Stop Work Order:

Is adherence to the conditions of the tree permit part of the Town’s inspections during construction for other building inspections and signoff? Yes (i.e. protective fencing installed during grading/construction).

- **Revocation of a permit** – under what circumstances is a permit revoked? A Stop-Work Order is placed when someone is doing something without a permit that requires a permit (i.e. removing a protected tree) or someone who is working outside the approved scope of an issued permit (i.e. cutting more protected trees than approved for, not installing protective fencing during grading/construction).

13.54.180 – Violation – Penalty:

Each person, corporation, or other legal entity is guilty of a separate offense for each and every tree – It doesn’t say if these need to be heritage or classified trees, or “any tree” – or does previous language make that clear? Could be changed by including the word “protected” before tree.

- What recourse does the Town have? Can it legally withhold the Certificate of Occupancy? The old ordinance stated the CofO would be withheld until a Final Certification of Tree Work was completed by the arborist – anything like that now proposed? The language from the existing Tree Ordinance has been added to the draft Ordinance.
- Stop work order have the same effect? I believe it does.

- **What happened to the whole section – “Standard policies and procedures for approved work”? Why was it removed?** This section could be added if the Commission so chooses.
- **No final certification by the arborist once the project is completed?** That requirement is an inherent part of projects and their tree mitigation requirement relating to the replanting of trees, also includes landscape trees (included as standard conditions of approval).
- **Does the Town actively monitor all trees planted as the result of a permit to ensure they are being maintained properly?** The Town has an on-going ACTIVE TREE MITIGATION ITEMS list at the end of the Planning Status Report. In short, after 5 years from the date of planting the mitigation trees, 80% of those trees must be healthy. If not, those trees that are not healthy must be replanted and 80% of those must be healthy in another 5 years time. The property owner has an arborist report done and the Town’s consulting arborist reviews their arborists report and either confirms or denies the owners arborist’s assessment.

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COMMENTS FROM SHAWNA MARTINEZ:

My perspective on the Ordinance is both from a professional point of view as a botanist and also from the point of view of an average citizen. I am NOT well versed in Municipal Code and its ramifications. That said, I feel I have to comment on the documents regarding the tree ordinance that are before the Planning Commission. Attached are my comments regarding 1) justification for the Planning Commission’s Subcommittee draft of the Loomis Tree Ordinance, 2) comments regarding the Staff draft of the Loomis Tree Ordinance, 3) solutions for combining the 2 drafts to make a fair, easily interpreted ordinance that is not only defensible by law, but understandable and useful to the citizens of Loomis.

1.) Justification for the PC Subcommittee’s draft proposal

We read and considered the content in the International Society of Arboriculture’s “Guidelines for Developing and Evaluating Tree Ordinances” (<http://www.isa-arbor.com/tree-ord>) to allow us to become familiar with the tree ordinance process across the board. There are a lot of valuable insights in this document, some of which we chose to incorporate into our submission. Further, we investigated many tree ordinances for language, including Placer County, Ventura, Visalia, Rocklin, Folsom, Placerville, and many others. We chose the language that seemed to match the goals of Town of Loomis – especially as outlined in the General Plan. In addition, we used the Greenprint Model Urban Forest Ordinance Draft Plan as a tool for general language changes. This is where the committee utilized the “Small Tree Preservation Credits” guidelines. As you see, in the year and a half meeting weekly, our subcommittee carefully drafted an up-to-

date, well researched, carefully constructed ordinance using the latest in language from a variety of sources. We clearly defined tree measurement guidelines, ANSI standards, Best Management Practices – all can be easily interpreted by the citizens of Loomis. If we were allowed to proceed, much of the document could have been placed into an educational pamphlet or used by the Town staff as a tool for reference. **Comments noted.**

2) Comments regarding the Staff draft of the Loomis Tree Ordinance

While adhering to the Town Council's guidelines for "keeping it short", I believe the staff draft has missed the boat on the need for an update. When given an opportunity, language must be updated to the latest standards. The definitions are antiquated, the introduction seems to give more credence to protecting the developer instead of protecting trees, and the argument that the Town Manager be given full license and responsibility is worrisome. While I understand that you (Rick) most likely have the expertise in this area due to your forestry work, another manager might not. I am unsure why the Town would not utilize the services of the Town Arborist, even for consultation. The parts of the staff ordinance that are commendable is the mitigation table, the ¼ acre lot exemption, the possibility of using the agricultural exemption that was drafted by the subcommittee, and the possibility of being able to use mitigation in-lieu fees for education. **Comments noted.**

3) Solutions for combining the best parts of the 2 drafts. In comparing the 2 drafts, one can see that while similar in scope, the Staff's version is very difficult to interpret. Who is our audience in these ordinances? Town staff and lawyers, or citizens or both? The subcommittee draft was written for the citizen, while the Staff's version was written for others involved in Municipal Code. Here are a few suggestions:

a. 13.54.010 Utilize subcommittee's draft of the Introduction. The goal can be merged into the Introduction. (I believe there should be a goal). **Subcommittee's INTRODUCTION language has replaced staff's draft language under Section 13.54.010.**

b. 13.54.020 Utilize updated subcommittee's definitions list. They were vetted extensively for their accuracy according to standards. Especially these: Utilize "CRZ" as well as "dripline". "Significant Tree" should include Ken Menzer's area formulation instead of "aggregate diameters" Tree pots should include dimensions of each pot" T4: 4 x 4 x14, T6: 6 x 6 x 16, T8: 8 x 8 x 18. Remove "Landmark Tree". "Native trees" should include species listed in subcommittee version. **Definition of Critical Root Zone (CRZ) has been added and the definition for T4, T6, and T8 tree pots has also been amended.**

c. 13.54.030: "subject to the Provisions of 13.54.130" This is a dead-end link. I am not sure what it means. **Has been changed to 13.54.150**

d. 13.54.040: Sentence structure is unclear exactly what the duties are. The Town already has a "Master Tree List". Again, without the input of an arborist, I am afraid that the criteria for tree maintenance, planting, planning, etc. will be like a shot in the dark. **Comment noted. Per Ken**

Menzer, the Town’s consulting Arborist, the existing Master Tree List needs to be amended from its current state and will require occasional modifications over time.

e. **13.54.050 and 13.54.060.** I am not sure the difference. One is for protected tree removal when no construction is proposed (simple tree removal) while the other is for protected tree removal when construction is proposed (development of a vacant parcel). Is this an attempt at a minor vs. a major tree permit? If they get a tree permit are they always subject to mitigation? Yes. What if the tree is dead or hazardous? No tree removal permit required for dead/dying or hazardous trees. What if it is for woodland enhancement or under a Vegetation Management Plan – where thickets of oaks or other trees exist? That would be covered by a more comprehensive plan approved by the Town (i.e. Sierra de Montserrat’s Oak Mitigation Plan). Are there any exemptions or exceptions? Trimming and/or pruning any branches - including dead ones? Staff has added “living” before the word branch in sections 13.54.050 D and 13.54.060 F. Pruning dead branches will not require a tree removal permit.

f. **13.54.070:** Utilize subcommittee’s rating scale definitions. This has been added.

13.54.070 C.1. All trees may be host for parasitic plants – should read “...trees with active plant parasites infestations”. This can be changed if the Commission so chooses.

13.54.070 Why have part D at all? Why have H? 13.54.070 D. has been removed.

g. **13.54.080:** Should read “shall require the applicant to replace the tree with an approved mitigation tree” instead of ...”shall require the applicant to replace the tree with a living tree (or trees) of the same species “. This can be done if the Commission so chooses. Not all trees are appropriate for each situation in the environment.

Incorporate Small Tree Preservation Credits from subcommittee version. The Subcommittee’s language for Small Tree Mitigation Credits has been added to the draft Ordinance.

h. **13.54.090:** Who administers the tree fund? Ultimately the Town Council.

i. **13.54.110:** Utilize subcommittee’s Tree Plan on Page 5. (13.54.040 and 13.54.060 regarding fencing) It is clearly written. This can be done if the Commission so chooses.

I have more comments, but those are the main ones. I do not mean any offense by my comments, I come from a perspective of truly protecting trees, and in this, I have spent a great deal of time and thought to this issue.

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TREE ORDINANCE COMMENTS AND SUGGESTIONS

Jean Wilson

August 1, 2013

Preliminary Notes

1. Brief History of the Loomis Tree Ordinance.

The first tree ordinance was passed in spring 1989. After the General Plan update of 2001, the Zoning Ordinance was completely revised and updated, including the tree ordinance. A few years later the Town began a consulting relationship with arborist Ken Menzer, who became the Town Arborist. He offered a complete revision of the tree ordinance, which has many excellent concepts and much information, but both the Council in general and much of the public that spoke out felt it was too much for Loomis, so the Council asked the Planning Commission to revise it to be more appropriate for Loomis. The Council later changed direction and told the Commission to drop it. It was not until the Open Space 2 report came out that the Council again looked at tree issues, along with other items in the OSC2 report. Each recommendation was accepted, tabled, or referred back to Open Space for further comment, after which the Planning Commission was again to take up revising the ordinance, incorporating Council and OSC directions along with Ken Menzer's elements that best fit Loomis. The Commission appointed a subcommittee, which met for a year and a half, from early summer 2010. They had completed most of the work and a preliminary draft (minus completion of mitigation studies, particularly by canopy coverage), and submitted a preliminary draft to the Commission for comment and direction in late fall 2011. At that point it was taken from the Commission's hands to be looked at by staff and the lawyer. A staff version was returned to the Commission in July 2113.

2. The subcommittee consisted of volunteer consultant Shawna Martinez and Commissioners Janet Thew and Jean Wilson.

Shawna Martinez teaches biology at Sierra College, focusing on botany, with a particular interest in trees. She has also worked as a forester. She founded the local Redbud Chapter of the California Native Plant Society and currently heads up the Sierra College Nature Preserve project. She is in the now working towards ISA Arborist certification.

Janet Thew has had a longtime interest in landscaping with native plants and her home was chosen for the Master Gardeners Mother Day Tour as an example of native plant landscaping. Janet also served on the PCWA canal efficiency study team and worked with Sacramento Tree Foundation on their model tree ordinance. She is a National Wildlife Federation Community Ambassador.

Jean Wilson has a farm background and a degree in Environmental Horticulture, including Native Oaks, Arboriculture, and forestry classes, in addition to Certificates in Ornamental Horticulture and Suburban Agriculture. She operated her own tree nursery for a number of years. She participated regularly in the General Plan update meetings and became a Planning Commissioner at the time the new Zoning Ordinance was to be drafted.

The subcommittee also consulted from time to time with Ken Menzer, Town Arborist; Kathy Kerdus, Planning Director; Matt Lopez, Asst. Planner; and Brian Fragio, Town Engineer,

Cover suggestion. I do **not** favor using the OSC2 report cover pictures on the tree ordinance. It is a false dichotomy. The first picture is great and represents Loomis well. But the second, the sea of roofs, shows a density that is prevented by the zoning ordinance and does not represent what Loomis will look like. It is zoning that is reflected there, not a tree ordinance. If you use a picture, use the first one only. Accentuate the positive. (This is an ordinance. Does it really need a cover? No) **No Town Ordinance will have its own cover page.**

Layout of these comments:

I worked for several days trying to “fix” the July staff version , offering detailed suggestions.. However, I still can’t say I like it any better. It does not appear to be particularly clear in its layout or user friendly, and leaves out important concepts that were included in the subcommittee’s work. It seems to have lawyerese language that may not really be necessary, which is off-putting to the public. We need an ordinance that is clear, easy to read and follow, and indicates that we are listening and understand the needs of both the Town and property owners. I have come to the conclusion that the staff draft is not the one we should use but go back to the subcommittee draft and try to streamline it. It’s just a better document, and better reflects Loomis concerns. If there are items that we need to include for legal purposes, these can be explained to us and inserted if necessary. I also notice that part of the reason the staff draft has fewer pages is formatting. The subcommittee draft tries to make things easy to read and find, and doesn’t cram so many items together without headings. The tree ordinance is very controversial in Loomis, and we want people to see it as clear, fair, and easy to understand, even where things are detailed. **Comment noted.**

I will put my work on the staff version at the end, in case we are required to use it . **(turn to page 17)**

Part I. Suggestions for Subcommittee Draft (November 2011), to be called 2011 draft.

As much as I like the language we have, I am willing to streamline some for brevity.

13.54.010 Shorten Introduction. Delete “Trees are, in effect” through “safe trees” Delete “Trees are a community asset” to the end” but after “public interest “ add: “in protecting, maintaining, and rejuvenating its tree canopy.”

13,54,020 Greenprint Goal. Keep. This goal helps the public to see that there is more intended in a tree ordinance than just regulating oaks (often seen as negative) but there is a positive overall goal, Could omit the AB32 lines if necessary.

13.54.030 Purpose All are good statements and help the public to see what this is about and why. (Please understand that the tree ordinance has some serious PR problems to overcome in Loomis.)

We were instructed to see that this document implements the General Plan so keep reference. The others are also good and balanced statements. If any must go, I suggest F and possibly E. D should remain if we anticipate needing to justify educational use of the tree fund.

13.54.040 Incentives. Good idea but up for discussion. Legally, can fund be used for this, especially in light of Koontz decision on offsite mitigation? (If kept, make it “given *the opportunity* for...”)

13.54.050. Applicability.

Should we include RS-7 and RS-5 in exemptions? (cf. staff draft.) Exempt after initial lot development? Would it be better to say clearly that “parcels zoned RS5, RS7, and RS10 are exempt from the provisions of this chapter, provided the parcel cannot be further subdivided. All other parcels are subject to this chapter for the removal....etc.” ?

A1. Suggest adding at the end, “and rated 3 or better by an arborist (see Section 13.54.070-3-g)”. Will also need to re-define aggregate DBH in definitions but not necessarily here.

A4. Streams. Yes, this is covered elsewhere but many people are not aware of it. This alerts them.

A5. ANSI Standards doesn't really fit "Protected Trees Include". Where to put?

B Exceptions. B1.Add RS 5 and RS 7?

5. Keep B5, as it has always been requested that this be specified.

13.54.60 Permits

Name Change? Might we want to call it "**Minor Tree Preservation and Removal Permit**, hereinafter called Minor Tree Permit"? Not all permits are for removal; some are for protection around construction, or enhancement, etc. (If so, do the same for Major permit.)

B1 Keep 10% Allowance. Add "This allowance takes into account that canopy growth of remaining trees can potentially mitigate for tree removal."

5. Ag. 15.54.060 B5. Agriculture

This provision has been in the Loomis tree ordinance since 1989 and was specified to be retained by both Council and Open Space. The main change is for a 10 year period instead of 5, so that a developer does not take advantage by putting in ag for a few years to avoid tree payments. I can live with either 5 or 10 years. Putting in ag is expensive so would require a sizable outlay of money and labor to establish and run it even for 5 years. I do think there might need to be provision for extension of the time to get the crop in after the first tree is cut. There is more than just cutting trees and putting in the plants, such as removing the stumps, preparing the land, installing irrigation and possible ag buildings, perhaps ordering custom grown plants or trees. This may not always be feasible within the two years of first tree cut. Suggestion: allow reasonable extension as for other permits (e.g. building permit).

The 10' from property line was to clarify previous "adjacent to parcel boundaries," which is vague and open to dispute from neighbors. The 100' perennial stream protection is covered elsewhere but might not be known by applicants; this puts them on notice, especially if it is eliminated from A4 above..

Ag Estate Planning Question that came to mind later regarding mitigation if there is a subdivision filed for. Last year the PC had a Minor Land Division case where the parents were doing estate planning and therefore wanted a lot split even though there were no current plans to sell or develop the other lot. This did not involve an ag tree situation, but if it had, would this have meant automatic mitigation payment? Or if the ag use was kept, would there be repayment only for any trees that had been removed under ag provisions and were now needed for something else, such as a new house or septic field? Would there be need for repayment if there were no change in ag use? Does subdivision here mean any land division, or only those of more than 4 lots? (We distinguish between subdivision and Minor Land Division in our processing but not in our ZO definitions.)

C. Minor Tree Removal Application Requirements XXXX

1. Wrong section number for report, not 13.54.040C. Same as Major Permit B3? Less?

1. Add after section citation, "where the CRZ of any protected tree will be affected" (or could be "any protected tree within 50').

Question: Is an Arborist report really needed for a dead tree? Currently this can also be a staff decision, or based on photographic evidence (relayed to arborist if necessary). This provision is likely to be even more ignored than it is now if people have to pay for an Arborist to tell them the dead tree is dead. Didn't we have "photographic evidence may be considered"?

Major Permit—

A1. Do we need the section 13.54.050 reference?

A2, add *where protected trees are within 50'*

Are there any problems with final paragraph about limiting permits on discretionary approval? Unintended consequences, situations (variances?) The idea is that subdivision lots wouldn't be cleared ahead of building permits. Better way to put it?

B1 make it *Planning Department*

B2c2. Grading. Perhaps omit and simply add note on 1.f above: *:Required fencing must be complete before any such activities, and no soil shall be deposited in the CRZ of any tree on the site.*

Arborist Report B3

Move: f. (tagging) to before the "contents section. It defines which trees are to be tagged.

Edit "The contents of ... , but *are* not limited to..."

Add after "information": "by tree number, for each tree." This allows elimination of "by tree number" in each of the following items in the list a through g.

Ratings: Can be shortened a bit

If **0 and 1** are combined, it could read: "The tree has no significant signs of life, or is living but the problems are extreme. This tree has structural or health problems that no amount of work can change. May or may not be hazardous."

Shorten 2. "The tree has major problems but its condition could be improved with option of corrective work, such as cabling, bracing, guying, spraying, mistletoe removal, vertical mulching, fertilization, etc. If recommendations are completed correctly, hazard can be reduced and the tree can be rated 3; without correctives, tree is a liability and should be removed.

Shorten 3: "The tree is in fair condition. Some minor structural or health problems but no immediate danger. With Arborist's recommended correctives , the defects can be minimized or eliminated." [Could drop this second sentence.]

Shorten 4: The tree is in good condition and there are no apparent problems from a visual ground inspection . Potential problems that are tended to at this stage can reduce future hazard and health problems. [Could drop second sentence.]

Shorten 5: No problems found from visual ground inspection. Excellent condition, structurally sound, proper branch spacing, near perfect for its species. This rating is uncommon in natural or developed landscapes.

If 0 is dropped for dead tree, eliminate 0 in paragraph beginning "a tree rated 3, 4, 5. Add after preserved: "or mitigated if removed"

4. Arborist Recommendations: Either 1.delete or 2.shorten succinctly to: Recommendations by tree number, based on report findings, shall be clearly defined and designed to improve the tree's condition.

Or 3.some shortening to: Recommendations by Tree Number should be made based on the report's conditions and findings for each tree. For example, cabling, bolting, or bracing for weak crotches,

Recommendations should be clearly defined and should usually improve the tree condition rating after completion. Recommendations must consider species and impact of proposed measures.

13.54.080. Mitigation

Philosophical Issue which should be understood about this ordinance: There are dual goals at work.

One is to preserve the oaks and the other is to promote the overall tree canopy of Loomis. Oak preservation is attempted by regulating removal and activities around oaks, and requiring heavy mitigation planting. Planting at these levels it is not feasible in many cases, so that we take in money from oaks and put it in the tree fund. However, the Town has space for few oaks, so the money is used for offsite street and landscaping trees, not oak preservation or replacement. (The number of oaks to be planted in Heritage Park is relatively few compared to the tree fund cost of the land.) Is there a disconnect here? We take money on the basis of oak preservation but we are not using the fees for oak preservation; rather, for general tree planting, for the general canopy. The subcommittee realized early on that our mitigation planting requirements were more than most properties or even the Town can accommodate, so applicant will have to pay fees, often high, in addition to planting. Is this appropriate or fair? Why or why not? Should we demand so much oak money just so we can plant ornamentals? PC, discuss after looking at mitigation requirements?

Preferences. It is important to keep the mitigation preferences, even if we change the language or details. It should still be preserving onsite, then replacement planting, and only then fees.

Could **delete summary** of Mitigation Preferences and go straight to the preferences

Add : 1. Suggest: Preserve Existing Trees via Site *Plan* Modification

Preference 2 Replacement Planting. Combine the paragraphs. Shorten para. 2 to: Onsite mitigation planting will be allowed only after Preference 1 and only to the extent the Town Arborist/Consultant deems it biologically optimal for any remaining trees and overall canopy health.

Add: **Replacement Requirements :**

6. Suggest "except where..."

7. Shorten by deleting everything after Loomis Tree List. [Need reference or definition?]

9.Question on street/landscape trees: If the Town is using the tree money to plant landscape and street trees, is it logical to say that they can't be used as replacement trees onsite when we do so offsite? They are contributing to overall canopy just as the Town-planted trees are. Is there a legal problem here? (I might see parking lot trees a little differently, since they are creating an asphalt microclimate that needs particular mitigation.)

10. Make planting paragraph number 10 ("to maximize survival ...etc.")

11. Move Final Tree Audit (after Land Dedication) to be 11. Fits logically better here.

Note (above Deposits) that *trees are to be from regional stock*, and see my note below on "Tree sizes and Availability" on this difficulty in regard to larger container oaks.

B. Deposits. New concept. Discussion? (Think everyone from homeowner with single tree removal to subdivision or commercial developer. Few will be under 5 trees if it is number of replacement trees. Good? Bad? Other ways to handle?)

C. Small Tree Preservation Credits. Vital to keep this. Can ameliorate mitigation burden while providing trees that are already adapted to site and have a better chance of surviving. Also helps provide a healthier variety of tree ages.

Table 6-3 Mitigation Table. Add after T4, T6, T8 “or larger” as Ken says there are also larger ones available.

Note on Tree sizes and availability. We added the tree pots after not being able to find the larger container oaks in central valley nurseries that deal in native plants. They seem to all be moving toward growing in tree pots from the site area’s acorns, for better survival and local genetics. They are typically planted in one to two years. Ken Menzer told us recently that Valley Crest in Sunol (Livermore Valley) has plenty of oaks in larger containers, but when I called I learned they use various acorn sites but keep no records of where the acorns come from, so their trees are not likely to be those with our local genetics, or possibly anywhere near here

(Terminology: Tree “tubes” are not containers but sleeves that fit around newly planted young trees to keep them from being nibbled.)

Mitigation table discussion.

This is undoubtedly the most difficult and controversial aspect of the tree ordinance, and was the last tackled by the subcommittee. (We did not get to the canopy coverage alternative, which was to be explored next, though I have done some research.)

As noted previously, a major problem with these mitigation levels is that they demand replacement of oaks with multiples that are frequently totally impractical, which the subcommittee knew from the beginning. (And some people are OK with collecting large mitigation fees even though the planting levels are impractical.) The basis of mitigation is probably the notion that we want no net loss of oaks, but the practical reality is that in most cases there isn’t room on the property for the levels required, nor can the Town use that number of oaks either. So money is paid into a tree fund that is used primarily for ornamental trees on Town property, not oak replacement. Given these realities, are the mitigation requirements reasonable? Given that the Town can’t even use the 100 trees per year from Homewood mitigation, are these requirements justifiable? (Might replacement by canopy coverage be more tied to what is being removed, should an alternative need to be considered?)

For the chart: The In-Lieu column should put “**per inch**” in caps or in bold, as several Council member have told me they never noticed that it was *per inch* when they passed it, that they thought it was per tree removed. The public may miss this as well.

I assume the Mitigation Table will be an item of discussion.

Preference 3, line 3, Substitute “on” for “upon the matrix in”

Final Tree Audit should be earlier, suggest place as item 11 above.

13.54.090 Policies and Procedures:

Shorten to “Policies and procedures described in this section apply to all encroachments into the CRZ of protected trees. All tree permits incorporate these provisions unless otherwise specified in the permit.”

A. Protection, Fencing and Signage –may be able to shorten, such as:

1. Plan. A tree protective fencing plan shall be submitted with the proposed Tree Site Map.
2. Fencing. Fencing shall be 4’ high plastic mesh or chain link (or as approved by Arborist), installed at the outermost edge of the CRZ of each protected tree or group of trees, with posts not more than 10’ apart. Fencing must be installed prior to commencement of any grubbing, grading, excavation, or construction. Town staff or Arborist shall inspect and approve fence inspection before work begins.
3. Signage . At least two signs are required for each tree, or signs at approximately 50’ intervals around groves. Signs are to be at least 11” x 17” and weather resistant or laminated., with language as required by the Loomis Planning Department.
4. Fence Removal. After approval, fences and signs shall remain upright and in place until all construction and landscaping are completed. They may be removed only after written approval from the Town arborist or Planning Department.

C. Utility and Irrigation Trenching. Move the bulk of this out of ordinance? Such as: “The applicant must include any trenching pathway plan on the proposed site map. Contents and details of plan requirements are found at _____. “ (Where could we put it? Someplace with grading policies or other? Where will they find it?)

Keep D. E., F and G if possible even if we have to shorten.

I don’t think we mean fencing on an adjacent lot (pools). Maybe make it “any protected tree, whether on the project lot or overhanging from an adjacent lot”?

H. **On-site Tree Information.** Shorten? Such as:

Copies of the following shall be on-site while there is any construction activity requiring a major tree permit

1. Tree Permit ,
2. Proposed Tree Site Map and Fencing Plan and any Utility/Irrigation Trenching Plan
3. Arborist's Report and any modifications
4. Approved planting and irrigation plans, if applicable
5. Any other onsite permits as required by the Town

I Responsibility This is to prevent Pass the Buck syndrome (“Nobody told me”).

13.54.100 Tree Permit Approval and Denial

Approval findings seem worthy, maybe could be somewhat combined.

Application items maybe could be shortened or some combined. Important to keep solar consideration, #10, since trees and solar have a potential conflict. Some are things the reviewer may not have the expertise to evaluate well. But at least the format is clear and readable.

Some possibilities to shorten: Delete and 1 and 2, shorten 11 by dropping public hearing clause.

These sections should be cross-referenced with staff version for any other needed inclusions.

13.54.110. Re-title A as “Timing of Permit Issuance” which is what applicant wants to know.

I assume canopy improvement, etc. is included in improvement plans, not just construction?

B. **Performance Guarantee** is a new concept to us. Discuss? How to find the balance between fair to the town and overly burdensome? (We know that bonds are no longer an option.)

E/ **Revocation. Edit 5.** Delete It, capitalize Is.

Definitions: Anything from staff version which should be added?

Best management Practices—Delete since referenced in 13.54.050 A 5?

Boring—delete?

CRZ pictures—could probably be re-drawn side by side

DBH should include Aggregate DBH for multi-trunks, as simple formula as we can make for calculating it.

Add Development Activity: Any activity within the Critical Root Zone of a protected tree which could impact the health of a tree, including but not limited to cutting, grading, irrigation, trenching, compaction, and construction.”

Dripline: could eliminate all but first and last sentences.

Duff layer – Delete

Grubbing?

Native Tree. Probably needs PC discussion. Besides oaks, after much discussion, the 2011 version also includes 2 willows and cottonwood, white alder, black walnut, Calif. sycamore, and buckeye. These additional trees are protected at 18”. Foothill pine was problematic, as it can be hazardous, but those who wanted it on the list felt it could be removed as a hazard if near structures, etc., but off on its own should be left alone. Alder and black walnut are not often found here so I don’t know if they belong on the list. I have objected to anyone being required to keep buckeye because the flowers are toxic to honeybees (per UC Davis) and the leaves toxic to cattle (nerve toxin and calf abortifacient). Native Americans here used to put it in dammed up streams to stun the fish so they could be caught. Further, it is borderline as a tree, which requires a 15’ height. But again we are talking about protection at 18” DBH. Past Councils have rejected foothill pine, cottonwood, and willows. Probably this items needs PC discussion--and Council may modify. (Other trees were discussed that may grow here if brought in but are not really native to this specific area and do not reproduce naturally here.) Woodland enhancement projects, if we get some, can help promote species diversity, and education can help people appreciate not just oaks but mixed woodlands.

Protected Trees. Modify aggregate diameter to oak tree *with multiple trunks having a calculated aggregate diameter based on total trunk area at dbh of at least 10”*. Likewise, for 18” multitrunk: *or with a calculated aggregate diameter based on total trunk area at dbh of 24” or more”*

Is **Wetlands** needed here?

Some space an be saved by eliminating space under headings, double spacing, and in *some* places where there are lists or multiple letters.

Janet also made a helpful chart of what kind of permit is needed for what, not to be part of the ordinance but as something that could be available online and in brochure form from the Town.

If there are alternative locations for some parts, like arborist report content or tree policies, where would that be? Public doesn't like to have to go to many different documents to get information.

PART II; COMMENTS ON STAFF VERSION (Jean Wilson cont.)

13.54.010 Purpose and Intent.

Must we have this "Town Council finds it necessary to enact" language? Trees are already in the ordinance and has been since 1989. This language sounds high-handed, just when we are trying to get the public to look at the tree ordinance as something fair and beneficial, rather than a heavy burden imposed from above by a Council that isn't listening. Can't we scrap this? Also: 1. Increasing oxygen doesn't combat air pollution, so omit. 2. Without the 10% rule, which was dropped, only the quarter acre lots are likely to perceive any accommodation to property rights; it looks like the Town mostly taketh away rights. Strongly prefer subcommittee version of purpose (maybe shortened). Staff has replaced the Purpose and Intent language with the INTRODUCTION language as provided by the Subcommittee.

Greenprint Goal. It is important to keep the Greenprint Goal as part of this section. It gives the public an idea of the overall tree goal in Loomis, which may help deflect some of the animosity against the tree ordinance. It also may help to explain the use of tree funds for offsite uses, since we are taking oak money and not even using it to plant oaks but for landscape trees. (And if that is the case, maybe the policies on public landscape use of the tree money should include preference for trees with larger canopies rather than small ornamentals like crape myrtle.) This can be added if the Commission so chooses.

13.54.020 Definitions. Can be added or modified if the Commission so chooses.

Placement of definitions. The committee put the definitions at the end so that people wouldn't have to wade through them all first. Staff version puts them first. Either can work but a compromise might be to put them at the end with a note near the beginning (perhaps after the contents list and before purpose) that says: "Definitions relating to trees are found at the end of the chapter, at 15.54.140." Comment noted.

Throughout, it was our goal to make the ordinance user friendly. One public objection we have heard is having to go to numerous documents to find needed information. Also we should make sure that definitions here are consistent with the ZO definitions as well. Comment noted.

Change: Construction activity is too vague and could refer to any number of projects with little or no relevance to this ordinance, such as fencing, sandbox, swing set, pitching a tent. Suggestion: Modify Placer County's **Development Activity** instead to: "Any activity within the Critical Root Zone of a protected tree which could impact the health of a tree, including but not limited to cutting, grading, irrigation, trenching, compaction, and construction."

Add: "CRZ/Critical Root Zone is a circular area around a protected tree with a radius measured to the *longest dripline plus one foot*. See diagram. This is the area where a tree's root system is most easily and seriously damaged." [This definition and diagram need to be added; most people understand

dripline but not CRZ , which is becoming the standard. We can probably re-do the diagrams if needed, get them side by side.] A Critical Root Zone (CRZ) definition has been added to the draft ordinance and “drip line area” has been omitted.

DBH/Diameter at Breast Height is the diameter of a tree trunk measured at 54” (4’6”) above the average ground level. Diameter is calculated as circumference divided by 3.14. Diameter at Breast Height (DBH) definition has been added to the draft Ordinance.

For **Multi-trunk DBH**, the aggregate *area* of the trunks at DBH is used to calculate a mitigation diameter based on the total trunk areas, not the sum of the diameters. [Needs as simple a formula as we can make, plus an example.] A definition (and diagram) for Multi-Trunk DBH is to be added to the draft Ordinance with diagram and language provided by the Town Arborist.

Development. (see next page *Development Project*). For consistency, should we use the **ZO definition of development**? I.e. “Development means any construction activity or alteration of the landscape, its terrain contour or vegetation, including the erection or alteration of structures.” Pretty broad, but internally consistent

Add **Development Permit**? Term is used on p. 4, B.6. Not defined. What kinds of permits are intended? Anything or only certain kinds? Discretionary permits? Major and Minor Permits clarified this. Are you thinking building a house or shed, or a subdivision? Clarify.
“development permit” has been changed to state “construction permit” to be consistent with the title of the section and definitions.

Development Project. Revise. People should not have to go to another document for a definition. While the State code definition sounds simple enough, “development” is further defined next to it with a lengthy and extended definition. Suggestion: let’s just say what we mean. Term is used in 13.54.10 “Developments—Tree Plan” (p.6). What kinds of development do we mean? Anything with building permit, grading permit, ministerial permit, discretionary permit? Something else? ZO Development definition? 2011 draft has two levels of permit, Major and Minor, to help keep requirements in line with the activity. Suggest we reconsider using Major and Minor.

Add: Director means the Planning Director.

There is no mention of the Director or Planning Director in the draft Ordinance.

Change: Dripline (not dripline area). Prefer to use CRZ for area, dripline for length. See 2011 draft definition (shortened): “Dripline means the outermost edge of a tree’s canopy...Longest dripline radius is the distance from the trunk of the tree to the end of the longest branch. Compare CRZ.”

“Dripline” has been changed to “Critical Root Zone (CRZ)”. Definition for Critical Root Zone (CRZ) has also been added and the “drip line area” definition has been omitted.

Heritage, landmark and significant trees

- A. Suggest eliminating Landmark trees** (per report), as none have ever been identified nor has there been interest. If trees are on public land they can be protected already; if on private land, there can be landowner objection. Comment noted.
- B. Suggest calling the others Protected Trees**, per 2011 draft. (Again, multi-trunk diameters will need revision.). We are working toward public goodwill to make this work. While the result may be the same whether we call it a protected tree or a heritage/significant tree, there are a lot of people who

absolutely scoff at the Heritage designation of a 6" oak, while Protected is more neutral. As long as they are protected, does it matter that they have specific terms? **Comment noted.**

Maintain. While the three inch pruning rule is good in concept, just be aware that in Loomis it is going to be largely ignored except in cases where there are Town eyes on a development project from the beginning. The pruning rule was one item that aroused much anger at the first airing of Ken Menzer's ordinance proposal. The 2011 draft did not include it as requiring a permit but hoped to be able to educate the educable people on pruning, including need for professionals. Ken would prefer that it be regulated. Is this item needed? **Comment noted.**

Native Tree—Edit: Make it Valley Oak/California White Oak. Or just leave it as Valley Oak, the term most familiar. Most ordinances here do not call it Calif.White Oak. **Comment noted.**

Native Tree discussion: Probably needs PC discussion. I am personally OK with the trees in your list. But after round and round discussion, the Report also includes 2 willows and cottonwood (Shawna's suggestions), white alder, black walnut, and buckeye. These additional trees are only protected at 18". Foothill pine was problematic, as it can be hazardous, but those who wanted it on the list felt it could be removed as a hazard if affecting structures, etc., but off on its own should be left alone. Alder and black walnut are not often found here so I don't know if they belong on the list. I have objected to anyone being required to keep buckeye because the flowers are toxic to honeybees (per UC Davis) and the leaves toxic to cattle (nerve toxin and calf abortifacient). Native Americans here used to throw it in dammed up streams to stun the fish so they could be caught. Further, it is borderline as a tree, which requires a 15' height. But again we are talking about protection at 18" DBH. Past Councils have rejected foothill pine, cottonwood, and willows. Probably this item needs PC discussion--and Council may modify. (Other trees were discussed that may grow here if brought in but are not really native and do not reproduce naturally here. **Under the current Tree Ordinance and staff's draft Ordinance, willows, fruit trees, eucalyptus', alders, cottonwoods, and pines are not protected trees and don't require a permit for their removal. It has been mentioned that more trees should be listed as not protected (i.e. Redwoods).**

My suggestion for Natives is to use the 2011 draft definitions of Native Oak and Native tree, or combine the two. If combined, do it as:

Native Tree shall include the oaks (or their hybrids) *Quercus lobata* (Valley Oak), *Quercus douglasii* (Blue Oak), *Quercus wislizenii* (Interior Live Oak) and *Quercus x morehus* (Oracle Oak), all protected at 6" DBH, as well as [...use Report list for willows, etc. as determined by Commission after discussion], protected at 18" DBH. [I am not sure about the "not limited to" phrase. Is it too open/fuzzy? What will it mean to a landowner?]

Add from 2011 draft: **Review Authority**, adding also "which can vary with the type of activity or permit." **Review Authority has been changed to Town Manager the draft ordinance.**

Modify:"**T-4, T-6, T-8 tree pots** means standard deep tree containers measuring 4" by 4", 6" by 6", and 8" by 8" at the top and 14", 16", and 18" deep respectively. Larger sizes also acceptable." **Staff has modified the definition language for T4, T6, and T8 tree pots as recommended here and by the Town Arborist..**

Delete: Town Manager. As I see it , the duties given to the Manager in the staff version should for the most part be those of the Planning Director. There may be areas such as those involved with levels of enforcement that involve the Manager, and of reporting to the Council (e.g. Manager’s monthly report or other reports) but the responsibilities throughout the staff version I see as belonging to the Planning Director rather than the Manager. At the moment these happen to be the same person, but presumably this will not always be the case and the ordinance should not be written for our current special case. It can be assumed that the Town will always have a Manager, however, the Director position has been “vacant” for over 2 years and currently is funded for only 2 months out of 12. It is becoming increasingly difficult to keep the position in the budget.

Tree List. We already have a Master Tree List (also called the Looms Tree List in the 2011 draft, and previously called the Loomis Tree Matrix). I would prefer Looms Tree List but can live with Master Tree list. (Matrix should be dropped as people don’t know what it means and it may have negative regulatory connotations from the movie.) This list was suggested by Ken Menzer and has much useful information. He also advises that it needs periodic update to keep up with trees that may not be working as well here as they once did or are no longer recommended because of limited water, disease. etc. I would prefer getting those proposed changes from an arborist to leaving it in the hands of the Manager alone. Again, the Director should handle these recommendations, with approval by Commission and/or Council. Comment noted. The Town Manager will not be updating this list without first receiving input from the Town’s consulting arborist or any other I.S.A. certified arborist.

Add from 2011 draft: Vegetation Management Plan (VMP), but perhaps shorten, such as:

Vegetation Management Plan (VMP) is a plan for assessing, implementing, and maintaining a project or geographical area to mitigate the potential hazards of wildfire. Vegetation Management Plan (VMP) is not mentioned in the draft ordinance so a definition is not needed at this time.

Perhaps there is another place (outside the ordinance? policies?) to further define, if needed.
Comment noted.

13.54.030. Minor edit: B. Change “that” to “who” since people are usually “who” and things are “that.”
Comment noted.

13.54.040 Town Manager. Delete per discussion above. Substitute Director in ordinance everywhere appropriate. See response at top of page.

13.54.050 Change to: Protected Tree Activities—Tree permit Required. Change landmark, significant, heritage to “protected tree” throughout. Comment noted.

Change Manager to Director. See response at top of page.

B is too broad, would include pruning that could be healthy for the tree, as crossing branches, mistletoe branch. All natural growth is not healthy or we wouldn’t have so many trees with structural problems. Solution? Is this needed? We could put specific prohibitions instead, such as no topping, no removal of more than X% of canopy, and the like. But this section seems to be giving permissions, not prohibitions. Is it needed?

C. **Change dripline to CRZ** All “dripline” have been replaced with Critical Root Zone (CRZ) in the draft ordinance.

D. **Pruning regulation** will be resisted by the public and difficult to enforce. Also, if kept should refer to *living* branch. The word “living” has been added to sections 13.54.050 D. and 13.54.060 F.

E. **Explain please. Unclear.** This subsection has been omitted from the draft Ordinance.

F. **Add as: Exemptions:**

1. **Parcels with a RS-10, RS-7, or RS-5 zoning designation (approx. ¼ acre...etc.**

(Note: Subcommittee did not include R7 and R5. Why? Maybe because undeveloped?) If the Subcommittee’s intent was to exempt single-family residential lots of 10,000 sf. or less in size, then RS-7 and RS-5 need to be included (or the language could simply state: “Parcels with a RS zoning district, approximately 1/4th acre and smaller...” As RS-10 properties (1/4th acre lot minimums) were proposed to be exempt from permit requirements by the Subcommittee, smaller lot RS zoning districts (RS-7 and RS-5) should be exempt as well. Otherwise, you’d be exempting 10,000 sf. lots from permit requirements (RS-10) but not exempting 7,000 sf. (RS-7) or 5,000 sf. (RS-5) lots from permit requirements. RS-7 is roughly 1/6th acre lot minimums and RS-5 is roughly 1/8th acre lot minimums. RS stands for Single-Family Residential.

2. **Add: Large parcel 10% allowance from 2011 draft.** This was to correct and expand intended allowance meant in current ordinance. This can be added if the Commission so chooses.

13.54.060 Change: Tree Permit Requirement for Construction Activities. This can be revised if the Commission so chooses.

Change from landmark, etc to “protected tree” throughout and Town Manager to Director. Comment noted.

Change all references to dripline to CRZ. All “dripline” have been replaced with Critical Root Zone (CRZ) in the draft ordinance.

F should refer to any “living” branch. Again, pruning will be a difficult sell. The word “living” has been added to sections 13.54.050 D. and 13.54.060 F.

13.54.070 Permit Application and Decision

Add back in somewhere: HOA approval where applicable (per 2011 version). The language from the current Tree Ordinance has been added to the draft Ordinance.

Change Town Manager to Planning Department all 5 times. The Director may or may not need to be involved at every stage. Comment noted, answered on previous page.

Shorten the sentence thus: “If so, the applicant shall fill out the application form and pay any required application fee.” All language in the paragraph of Section 13.54.070 A. has been removed.

Again, prefer the Major and Minor permit approach so that small projects do not require as much as larger ones. This will help the applicant as well as staff time. In general, this section is cluttered and more difficult to follow and find things. It should be broken into easily followed sections such as the 2011 draft version. Comment noted.

But comments on it as:

B1. Edit: make it *tree(s)* **Revision made.**

B 2. Add examples for clarity: “e.g. protection, removal, trenching” **Comment noted.**

B4 Edit letter a is not needed as there is no b. **The a. is needed.**

Rating system needs more definition or it is no better than what we have. We can shorten Ken’s. See my notes on 2011 version. (Ken prefers 0 for dead but 1 should work.) **The tree rating definitions proposed by the Subcommittee have been added to the draft Ordinance.**

Important to add: “Trees rated 3 or above are subject to mitigation per 13.54.080” or **Preferable**

Alternative: “Trees rated 1 or 2, and trees deemed hazardous by an arborist, certified forester, safety official or the Director may be removed without mitigation.” It was never our intent to make people replace or mitigate for dead, dying, poor, and hazardous trees. Procedures described for protecting trees need not apply in these cases either. **Comment noted.**

B6.Edit:13.54.100 should be 110. **Revision has been made.**

Clarify.What is 6. development permit ? What kinds of development? That is a broad term which can mean anything from an activity not requiring a building permit to a subdivision. Clarify what you mean. (To many people, “development” only means commercial or a subdivision.) **The word “development” has been changed to the word construction to be consistent with the Section title.**

C.1. parasite host plant is too inclusive—maybe infested? But this is a situation that should already be covered in arborist report on the tree’s health and whether or not it is treatable. (E.g. Hypoxylon canker is not treatable, mistletoe may be.). **Suggest delete. Comment noted.**

This **section should be shortened.** Report to Council is probably not part of the Application-Decision process—policy, not regulation?

D. Denial. Does this mean carte blanche ability to “give away the store” in regard to trees if there is an economic interest involved? (Isn’t there always?). Explain. Balance? **This entire paragraph has been removed from the draft Ordinance.**

E. Suggest drop business license. Unenforceable, will be ignored, not meaningful or needed. Added \$119 expense to anyone coming in to do work. Our business license (see form) seems particularly intended for businesses located in Loomis ; these should already have such licenses. A business license does not guarantee good work or qualifications (It is specifically just a tax.) Also, to what extent should Director/Manger be allowed to require certain workers or companies? Is intent to have Director dictate who can do the work, or rather to check qualifications of person applicant wants? **The Town’s Municipal Code requires any and all companies/businesses who do work in the Town to procure a business license from the Town.**

13.54.080 Removal of trees—Mitigation and Replacement

Make the language simple and straightforward, as drop the “said permit” stuff: **Suggestion:** “When a tree permit has been granted to remove *a protected tree rated 3 or better*, the applicant is required to replace the tree with an *approved mitigation tree or trees* of the same species on the property *where feasible*, or within the town of Loomis in a location approved by

the Town. “ [There needs to be some flexibility in where trees are placed. It may be Manager or Director approval here, but often it will be Brian who has major input, depending on what projects are in process.] **Comment noted.**

Suggest: Trees should be replaced if they die within **5 years**, not three. Also, recommend allowance for **80% survival in healthy condition at 5 years**. Again, **move** hazard trees to B4 . **The new draft Ordinance states 5 years instead of 3 years.**

Change Tree Pots column to read “T4, T6, T8 or larger Tree Pots”, as Ken Menzer says there are also larger ones available. **Comment noted.** It is inherent that the Town would accept larger tree pots if desired by an applicant. **Could also just say “T4 or larger Tree Pots” if a revision is desired by the Commission.**

Discussion: Unfortunately, most Town trees will be ornamentals, not the same species as removed. Do we need to clarify, since it is unlikely the Town can plant the same species? A major problem with these mitigation levels is that they demand replacement of oaks with multiples that are frequently totally impractical. We base mitigation on a notion that we want no net loss of oaks, but the practical reality is that in most cases there isn’t room on the property for the levels required, nor can the Town use that number of mitigation species. So money is paid into a tree fund that is used primarily for ornamental trees on Town property, not oak replacement. Is this justifiable? Given that the Town can’t even use the 100 trees per year from Homewood mitigation, are these requirements justifiable?

The Small Tree Preservation Credit from Report should be retained. Trees already naturally growing on the property have already proven themselves and are more likely to survive on their own. They come from local genetic stock, unlike nursery trees that have not come from local acorns. They also provide a diversity of tree ages for the site. **Staff has added the “Small Tree Preservation Credit” in the draft Ordinance.**

Note on Tree sizes and availability. We added the tree pots after not being able to find the larger container oaks in central valley nurseries that deal in native plants. They seem to all be moving toward growing in tree pots from the site’s acorns, for better survival and local genetics. They are typically planted in one to two years. Ken Menzer told us recently that Valley Crest in Sunol (Livermore Valley) has plenty of oaks in larger containers, but when I called I learned that they keep no records of where the acorns come from, so theirs are not likely to be those with our local genetics. (Tree “tubes” are not containers but sleeves that fit around newly planted trees to keep them from being nibbled.)

The 2011 draft was clearer about order of preference, as is the current ordinance. This should be retained. Delete: in lieu fee not required for hazard tree if it was moved to earlier position. **Dead, dying and hazardous/dangerous trees are not protected therefore no mitigation will be required if one is removed.**

13.54.090 In Lieu Fees

Add: land purchase to uses.

Question: Is it legal to use the fund for ongoing maintenance after the initial installation and

monitoring period? We have frequently been reminded that park funds can only be used for putting in parks but not maintaining them, and that the Town must fund the ongoing maintenance in other ways (assessments, general fund, school district, etc.) How is this different? (And tree removal will be a diminishing source of revenue as land is developed. Is it a good idea to count on this for ongoing maintenance revenue?)

Non-Profits. Needs discussion and give us examples. At the least it should be only for projects within Loomis, not Sac Tree in general or Traylor Ranch. What's collected for Loomis oaks should stay in Loomis. (Will Council want this provision?) Council can omit this provision if they do not wish to include it as staff does not know their position, nor will we know their position until they have a draft Ordinance in front of them.

Legal question: Off-site use of tree funds. What is effect of recent Koontz decision on how we use funds off-site? How do we establish nexus between charging for oaks and mitigating elsewhere with landscape trees? Is that a problem? What if we allow oaks to be planted on other private property, as some jurisdictions do? Legally allowable? Would allow us to actually replace some oaks with oaks. (Just because some jurisdiction allows it doesn't mean it is always legally defensible, I realize.)

15.54.100 Agriculture

This provision has been in the Loomis tree ordinance from the beginning and was specified to be retained by both Council and Open Space. The main change is for a 10 year period instead of 5, so that a developer does not take advantage by putting in ag for a few years to avoid tree payments. I can live with either 5 or 10 years. Putting in ag is expensive so would require a sizable outlay of money and labor to establish and run it even for 5 years. I do think there might need to be provision for extension of the time to get the crop in after the first tree is cut. There is more than just cutting trees and putting in the plants, such as grubbing out the stumps, preparing the land, installing irrigation and possible ag buildings, perhaps ordering custom grown trees. This may not always be feasible within the two years of first tree cut. Suggestion: allow reasonable extension as for other permits (e.g. building permit). Staff has added the Subcommittee language on this section as directed at the July 23 meeting.

Estate Planning Question that came to mind later regarding mitigation if there is a subdivision (including MLD?) filed for. Last year the PC had a Minor Land Division case where the parents were doing estate planning and therefore wanted a lot split even though there were no plans to sell the other lot. This did not involve an ag tree situation, but if it had, would this have meant automatic mitigation payment? Or if the ag use was kept, would there be repayment only for any trees that had been removed under ag provisions and were now needed for something else, such as a new house or septic field? Would there be need for repayment if there were no change in amount of ag use? Does subdivision here mean any land division, or only those of more than 4 lots? (We distinguish between subdivision and Minor Land Division in our processing but not in our ZO definitions.)

13.54.130

Change to: Town Council may adopt regulations to implement the intent of this chapter. (Effectuate and implement are somewhat redundant. People want to know we understand plain English when we write laws.) Comment noted.

Re: Implementation regulations. Is this really necessary? There was a lot of implementation in our report that we were then told didn't belong in a regulation. Now we are told there will be more regulations added? By the way, if ZO regulations, these will come back to the PC before Council adopts them anyway. Why make everyone go through it again? If adopting by resolution only, it doesn't need to come to Planning Commission, but we often have more experience in some areas than Council. I thought we were told some of what we had in the 2011 draft for implementation should go into policies somewhere, not regulations. Please explain.????

13.54.150 Emergency response and Abatement.

This is new for Loomis.

A. Is this also required of owner when the trees are cut down by fire dept or PG&E,? A fire started at road at our place and the firemen cut down some horizontal oaks that would have been ladder fuel. Were we supposed to report it? Maybe needs some clarification.

B. What does this mean? Can you give some examples? Would this primarily be trees along streets, affecting public safety, or is the Town projecting coming on private property for maintenance inspections? Same for C.

Don't Sections B and C belong in the Town's regular Abatement regulations, rather than in the tree ordinance? (Do we really need to incur more citizen fear of government intrusion when we bring this ordinance to the public?)

13.52.160 Edit: Director for Town Manager. **Comment noted.** End reference should be to appeals at 13.54.170. **This has been amended.** In practice, a stop work order could be issued by someone with authorization from the director, such as Code Enforcement person, Asst. Director, building inspector, Town Arborist.

13.52.170 Appeals.

Using Director as first line of approval would also give the applicant a line of appeal to the Manager before the matter would have to be appealed to Council. Could be made a little less legalese perhaps: Suggestion:

Any person dissatisfied with the decision of the Director made under this chapter may make a written appeal to the Town Manager, stating the reasons for appeal. Such appeal must be filed with the Town Clerk no later than 15 days after the Director's appeal. If still dissatisfied with the Manager's decision, the matter may be appealed to the Town Council in accordance with Municipal Code 13.74 provisions. The decision of the Town Council shall be final. **Comment noted.**

If the Manager does not wish to be involved at the intermediate level, that can be eliminated. But in the past, the Town manager has often been a key negotiator in bringing parties together to find an agreeable settlement.

13.54.180 Violation—Penalty.

Can this be made clearer and more direct, such as:

Suggestion: "In addition to any mitigation plantings or fees owed, any person, corporation, or other legal entity who violates or fails to comply with any chapter of this provision shall be subject to a fine of \$100 for the first offense, \$200 for the second offense, and \$500 each for the

third and subsequent offenses. Each tree affected during each day during which a portion of this chapter is violated or the violation continued shall constitute a separate offense.” [It needs to be very clear that this penalty is not an easy way to avoid mitigation.] Can be modified if the Commission so chooses.

Note on Comparison charts:

While these comparison are of some general help, it should be recognized that the details can make a big difference in comparability. Some details of differences are given here; others not, such as exempting single family that can't be subdivided , or tree permit triggered by over 50% removal. So the details can make a big difference.



ROGER SMITH'S COMMENTS

1. Prefers the “agriculture” wording advanced by the subcommittee. Included in draft ordinance at the Commission’s direction. He would like to see the exclusion of vineyards from any exemptions. Comment noted.
2. The “significant tree” definition should be DBH of 8” or greater. He wants to preserve semi-mature trees. Comment noted.
3. City of Rocklin’s ordinance should not be used for comparison.



MIKE HOGAN'S COMMENTS

Section 13.54.020 Definitions:

Heritage tree definition is too tough, particularly for multi trunk trees. The old ordinance took the smallest diameter of the multi trunks. Both proposed ordinances use the sum of all trunks. A definition (and diagram) for Multi-Trunk DBH is to be included in the draft ordinance. The Town Arborist will provide the language and diagram.

Maintain or Maintenance includes trimming of any branch 3” or greater in diameter. A single branch over 3” diameter is not necessarily worthy of a tree permit. How about trimming of 3 or more branches of 3” or greater diameter? This can be revised as the Commission so chooses.

Plant pot sizes should be per ANSI standards as recommended by Town Arborist. Comment noted.

To be a Heritage tree, Landmark tree, or Significant tree, the tree should be in good (#3 or better) condition. Comment noted.

Why all the categories of trees: Landmark, Heritage, and Significant? Why not just Protected trees vs. all other trees?

Section 13.54.060 Exemptions:

Additional categories of lots which cannot be subdivided should be exempt, not just ¼ acre lots. Comment noted. Revisions to this exemption can be made if the Commission so chooses.

Section 13.54.070

Section D, factors for consideration prior to denial should remain as is. Comment noted.

The rating system should be in the Definitions Section, 13.54.020 The Subcommittee's proposed definitions for tree ratings have been included in Section 13.54.020.

Section 13.54.080

Section should have a reference to 13.54.090 In-lieu Fees and Table 5-3. 13.54.080 does reference Table 5-3. It does not need to reference 13.54.090 as the title of 13.54.080 is Removal of trees – Mitigation and replacement.

Size designation as recommended by Town Arborist, with a reference to common terminology.

Top of page 6, third line: what is diseased? Use a number designation.

Section 13.54.110, Section D 2

Tree protection fence should be 4' or perhaps post & cable. Not 6'. This has been changed to the Arborist recommendation of "shall be a minimum of four feet in height"

Section 13.54.130

Implementing Regulations should include a manual of details and interpretations of the ordinance for implementation. Keep the ordinance general, put specifics in the regulations and/or manual.

Section 13.54.180 Violation-Penalty

The proposed penalties are cumulative and additive making them very large, very fast, to the point where they could be unenforceable. Town Arborist suggests two times mitigation fees. Comment noted.

Mitigation credit should exist for preserving small trees and helping distressed trees improve. The Subcommittee's Small Tree Mitigation Credits section has been added to the draft ordinance.

Lower mitigations for Minor land divisions and/or parcels not eligible for subdivision? Comment noted.

The existing ordinance specifically excludes mitigation of tree removal for roads, sight distance, and fire district requirements. The proposed ordinance does this also but this should be clearly stated in the new ordinance along with an exemption for activities of the public works department. Comment noted.

The "10% exemption" should remain for large parcels. This can be added if the Commission so chooses.

The existing ordinance definition of agriculture use should remain, but the time period of 10 years as proposed is acceptable. Comment noted.

I favor exemption of parcels which can not be further subdivided. Comment noted. Draft sections 13.54.050 and 13.54.060 both exempt RS zoned parcels that cannot be further subdivided. A blanket exemption for ALL parcels that cannot be further subdivided would exempt a large number of parcels from permit requirements.

Also consider an exemption to allow recreational use of a tree for a rope swing or tree house. Comment noted and can be added if the Commission so chooses.



Proposed tree ordinance comments - Janet Thew

I have so many concerns about this ordinance that it's hard to know where to start. Our subcommittee spent countless hours researching ordinance practices, applicable laws, and tree care standards. We read many pages of comments from the public and others. Our proposed ordinance was not written on a whim. We parsed every word, some multiple times, in order to arrive at an ordinance that we believe reflects Loomis and our General Plan. Our GP places high value on our trees. Why did staff basically rewrite and gut our ordinance, which was given to PC for revision by council? It was not given to staff. Their revision has so many loopholes, vague phrases, and omissions that we might as well not have a tree ordinance. Comment noted.

The phrase 'Town Manager' is used 25 times in the minimal 6 pages. The TM, with no expertise required, is given extremely wide latitude to enforce or not enforce in the following sections:

Definitions – Town Manager - may designate a “representative” in his place, with no restrictions or standards for who that representative may be. With this wording, he could tell the janitor to go out and look at trees, write a tree permit, or give a developer exemptions from all requirements. Comment noted.

13.54.040 – TM gets to inventory and determine what “suitable and desirable” species are, as well as appropriate areas and conditions for planting. This responsibility is only appropriate for the town arborist. TM “MAY consult with those familiar with the subject of such plantings.” Strange wording, huge loophole. He could choose to consult no one, or his Uncle Bill who's allergic to oaks and wants them all eliminated. Once approved by council, he has sole control over that master tree list. Does the TM have any training in horticulture, tree care, etc.? Comment noted.

He is given total supervision and control over protected trees in B and C.

13.54.050 – Only TM issues tree permits, which have not been defined. With this wording, it could be a Post-It note with the TM's signature saying “Joe Smith is exempt from the tree ordinance.” There is no explanation of what constitutes a permit. The Town has had a Tree Removal Permit application since incorporation which will continue to be used for all tree removal that requires a Tree Removal Permit. No permits are issued on Post-It notes at the government level.

Under the above introductory wording, anything in A. through D. could be done with this open-ended permit, including burning and poison. There is no restriction on the TM's authority to issue such permits. What does “any activity that will interfere with or retard the natural growth” mean exactly? Planting

lawn under an oak technically retards natural growth, and health, of oaks, so will he be telling some folks they can't have lawns? That choice would be solely his, with no justification or accountability.

13.54.060 –

A. TM is to decide what the “appropriate amount of water” is for protected trees. Using what criteria?

G. TM gets to decide what “deleterious substance” means. Using what criteria?

13.54.070 A. – Applicants need only “contact the TM” to “discuss the proposed activity”, and the TM gets to decide if he wants to do a site visit. There is no requirement that anyone actually see the trees in question. No consultation with the town arborist is even mentioned, much less required. This entire paragraph has been removed from the draft Ordinance.

C. 2. and 3. - Certain species in the protected categories shall have a “higher preservation priority than others”. What is this undefined priority? Only the “native oaks, heritage, and landmark trees” are even covered in the ordinance, and they're mentioned here. So what other species are applicable here, and why? What are the definitions of “prosperity, beauty and general welfare of the area”? With this wording, only the opinion of the TM is applicable.

D. This is a get out of jail free card. The TM “SHALL consider” pretty much anything a developer would complain about. There are no standards for deciding “adverse impacts” on “future development”, potential reduction in project size, or “adverse economic impacts”. To a developer, any cost is an adverse economic impact. No documentation is required here. With this wording, a developer could simply say he can't afford to protect trees and the TM could waive all permit requirements and mitigation with no justification required from either party. With this paragraph, we might as well not have a tree ordinance.

E. The TM “MAY” require that the work be performed by anyone who in the TM's “opinion” is qualified. “In the opinion of the Town Manager” has been removed. How is the TM to make that determination? Pretty much any way he likes, with this wording. Does the word 'opinion' belong in an ordinance?

G. The TM will “periodically present a summation of his actions” to council. Monthly? Annually? Every decade? Not specified. As determined by the Town Manager or Town Council.

13.54.080 – The TM gets to decide what appropriate planting locations are. No mention of consulting with the town arborist, or anyone. How will the TM determine this? By what standards? Personal taste? Political pressure? With this wording, he has total control. It is inherent that the Manager (or his or her designee) will seek professional advice from the Town Arborist regards appropriate locations for replanting.

OTHER CONCERNS:

All mention of Greenprint, WELO, and AB 32 were removed. We included them because they provide more justification for the ordinance in the eyes of the state. We should be trying to comply with them, especially since we signed on to Greenprint. Trees provide benefits related to climate change, and AB 32 is the applicable state law we should be following. WELO is also relevant to AB 32.

The Subcommittee's proposed GOAL section can be added if the Commission so chooses.

Our Introduction, Purpose, and Goals were removed. A token amount of our wording was left in staff's Purpose and Intent section, but a phrase referencing property rights was added. Why is this necessary? Would the ordinance truly be less legally defensible without it? The Subcommittee's INTRODUCTION language is now the PURPOSE AND INTENT language as recommended by the Commission in July. The Subcommittee's Goals section can be added if the Commission so chooses.

We took out any reference to landmark trees for a reason. Council has never designated one, and isn't likely to in the future. Property owners would be concerned about their rights being somehow threatened, so we left it out. Why was it added back in? . If the Council wishes to in the future, there will be a section already in the Ordinance for such trees (as is the case with the Town's existing Tree Ordinance).

Our small tree credit and habitat enhancement options, which were designed to make the public feel more receptive to the ordinance, are gone. We tried to provide carrots as well as sticks. The Subcommittee's proposed Small Tree Mitigation Credits has been added to the draft ordinance.

No mention is made of who exactly administers the tree fund. The Town Council.

Why were Definitions reduced and put up front? We had a more comprehensive and useful list of definitions, and put it in the back so people didn't have to wade through it if all they needed was the ordinance.

13.54.020 - "Development project" sends reader to a govt. code, assumed to be state code, but not specified. Readers should not have to go find state codes to know what is required of them. Comment noted.

We specified CRZ instead of drip lines for numerous reasons. It's the standard used by arborists, and better protects trees. Drip line is not adequate. Why was it substituted? Critical Root Zone (CRZ) has replaced "dripline" throughout the ordinance and a definition of CRZ has been added.

"Maintain" includes any pruning of branches 3" or larger. With this wording, that includes dead branches. I assume that was not intended. The word "living" has been added to sections 13.54.050 D. and 13.54.060 F.

"Native tree" should include Foothill Pine, as the PC approved including them in the list of protected trees at the April 20, 2010 meeting. It's in the minutes. We also decided redwoods were not to be protected, no matter how large. Also in the minutes, yet they are not excluded, nor are the invasive trash species such as mulberry and tree of heaven. The Commission may revise protected native species and exempt native species as they so choose.

I don't understand why 13.54.050 and 13.54.060 were not combined. There's redundancy. Section 13.54.050 is for tree removal where there is no construction proposed and section 13.54.060 is for tree removal where construction is proposed.

13.54.070 – B. Our tree rating system was more informative and left less room for interpretation. The Subcommittee's tree rating system and definitions have been added to the draft ordinance.

- C. 1 – Any tree is a potential host for parasitic plants. With this wording, the TM could decide a small patch of mistletoe is reason enough to waive mitigation for a heritage oak. A developer could request and receive a waiver simply because he doesn't like

mistletoe. No corroboration from a professional is required.

2. - Certain species in the protected categories shall have a "higher preservation priority than others". What is this undefined priority? Only the "native oaks, heritage, and landmark trees" are even covered in the ordinance, and they're mentioned here. So what other species are applicable here, and why?

13.54.090 – We included land acquisition as a potential use for tree fees. This was removed.

What specific non-profits would be eligible for fees? There is no requirement here for a written request, arborist statement, or grant proposal. No requirement for their project being within the town or even on public property. With this wording, any group could claim tree fees.

13.54.110 – We provided more flexibility for tree plans to allow for smaller projects and special circumstances. Why should someone building a tool shed have to submit a full tree plan for all the trees on their property? We allowed for mapping only those affected by the project. Language could be added that requires the site plan to only include all protected trees within, let's say, 50-feet of development so staff can make sure to note on the site plan that those trees' CRZ's need to be fenced. 100-feet maybe?

D.2 – We required 4' high fencing for a reason. That is what's readily available and affordable. 6' would require chain link, which is prohibitively expensive.

"6-feet" has been changed to "4-feet".

D.4 – Only an arborist should decide protections for any roots over 2". With this wording, the applicant could put black plastic over them and roast them to death.

13.54.130 – What does this mean?

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Recommended changes by Ken Menzer, ABACUS, Loomis Town Arborist (8-6-13):

13.54.020 [Add] "Critical Root Zone" (CRZ) The area to be protected around a tree, to be by horizontal branch plus one foot shall be the radius of a circle around the protected tree. CRZ has been added to the definitions.

T4, T6, T8 has a square top ... 4" x 4" x 14" (T4), 6" x 6" x 16" (T6), 8" x 8" x18" (T8) This definition has been modified as recommended.

13.54.070 (B) (a) [Add] Rating #0: Dead Added

[Add] definitions for each of the ratings as in prior versions of this code section The Subcommittee's proposed definitions for each tree rating has been added to the draft ordinance.

(E) [Change]" ... that the work be performed by a person who, in the opinion of the Town Manager, is qualified ... " [as this is really poor wording] Comment noted.

13.54.080 [change] from 3 years to 5 years, as 3 years is NOT an adequate establishment period for native trees. It is ok for lawn planted trees, but not for the native oaks. 3 years has been changed to 5 years in the draft ordinanc.

13.54.110 (A) [Add] "Contour map showing extent of grading within any part of the Critical Root Zone (CRZ), plus existing and proposed grades and ... " This language has been added to 13.54.110 A.

(B) [Change] wording should read Critical Root Zone (CRZ), rather than drip line, plus minimum fence height of 4' rather than 6' These changes have been made to the draft ordinance.

13.54.180 The cost of the fee (NOT a fine) for a tree permit should be 10 times higher plus minimally 2 x the normal mitigation otherwise it is better to take a chance and just cut down the trees, as this fine structure is less than the mitigation. Comment noted.

Small Tree Preservation Credits are missing This Subcommittee recommendation has been added to the draft ordinance.

All hired tree work shall conform to the most current ANSI Tree Care Standards.
Has been added to 13.54.070

Multi-stemmed or multi-trunked trees shall be measured by the extrapolated method and NOT by the aggregate trunk diameters. Staff has included a location to define a Multi-Trunk tree DBH and will include language as well as a diagram (as provided by the Town Arborist).



Re: Proposed tree ordinance by Town Planning Department Comments by Pat Miller

I greatly respect the work of those folks who have greater expertise than I, and would like to thank those who have spent many, many hours in reviewing and re-working this ordinance. I have some comments, though.

Sec 13.54.010 Purpose: I strongly prefer the ordinance subcommittee's intro statement. This Planning Department version seems to emphasize developer's interests more than in the past, and while it may have been an effort at "balance", my primary motivation as a commissioner, and I believe what's truly in the best interest of the town itself, is the interest of our residents. I strongly believe they have told me quite honestly, that they like/love Loomis the way it is - don't want it to change -and/or came here for the way it is now. So I believe the Tree CONSERVATION Ordinance should be focused on tree conservation. I'd like to see the subcommittee's intro here instead. I believe it better conveys the values of the town's residents. The Subcommittee's INTRODUCTION statement has replaced the Purpose and Intent in the draft ordinance.

13.54.020 Definitions: Add "protected trees" Comment noted.

Re Landmark trees, are there any? Not at this time.

Re Native trees: excludes many natives such as Fremont cottonwood, big leaf maple, vine maple, ponderosa pine, Douglas fir, incense cedar, white alder and any willows. Why are they excluded? (is it the color of their bark?) Those native trees are not desired to be protected (not protected in current ordinance). Commission may change protected and non-protected trees as they so desire.

"Tree Permit" should be renamed to Tree DESTRUCTION Permit, officially. Comment noted.

13.54.040 Town manager duties: This has been "planning director" in the past. Why change? Also, as written it allows a "designee". Can this be a consultant, expert in the field? As knowledgeable as our town manager is, he is not arborally qualified for all cases. **Comment noted.**

Re Master tree list; See the Loomis Tree Matrix. How is this different from the existing Loomis Tree Matrix? The current tree matrix is pretty complete and quite useful. **Per the Town's Consulting Arborist, Ken Menzer, the current tree list needs to be updated.**

Revisions should include input from a professional arborist. **All revisions will be recommended by the Town Arborist.**

Also says Town manager will supervise and control the preservation and protection of ... trees. How is this done now, and how will it be different? **This is currently accomplished by staff reviewing all tree removal requests and requiring mitigation when necessary. May include PC review/approval when associated with a development/land use application.**

Wherever it says "town manager", it should be followed by "or designee". **Already included in the definition of Town Manger.**

13.54.050 Add, "protected" to landmark, significant or heritage trees. **Comment noted.**

13.54.070 Decisions on tree permits: again, town manager is not really qualified for all cases. **Comment noted. See definition of Town Manager.**

It appears that all requests for a tree destruction permit are treated the same whether it be a single homeowner or a commercial developer. I appreciate the goal of equal treatment, but perhaps we could consider a tier system in order to accommodate small jobs.

Erroneously listed here as 13.54.100 cited under #6, but actually is the same number as the ag exemption. Needs re-numbering? **This has been changed to 13.54.110**

In considering a decision on a tree destruction permit, the manager has listed a number of items to consider. Add to the items, effects on wildlife habitat and corridors, and tree canopy goals. **Comment noted. Can be included if the Commission so chooses.**

#D: Delete item completely. Rather, consider the "adverse impacts" on our General Plan goals, such as the protection of wildlife areas, and maintaining our semi-rural and ag community. **This has been deleted from the draft ordinance.**

13.54.090 Fees: Allows non-profit organizations to do programs; should allow community groups also. **Comment noted.**

Table 5-3: says T4, T6, or T8 tree pots. Who chooses the final size? Why have tree tubes been eliminated? The subcommittee gave convincing reason to use them. **Staff has recommended the Subcommittee's proposed mitigation table. "Tubes" was never in their proposed mitigation table, it is pots. This can be changed to tubes if the Commission so chooses.**

13.54.100 Ag exemption; Use the subcommittee's version. **This has been added to the draft ordinance as directed by the Commission in July.**

13.54.130 Council adopts regs?? I thought the ordinance was the very definition of the regulations. How is this different?

13.54.140 Liab/resp; Please explain that last sentence.

13.54.160 Stop work order: Couldn't a person just stop? Simply chose to leave the tree in place? Staff is not sure what you mean here. A Stop Work Order would be issued if someone is taking an action in conflict with the Tree Ordinance. This is the first step in the process of enforcement for an ongoing illegal activity, be it construction without a building permit or removing a protected tree without a permit.

13.54.180 Penalty: If a person cut a protected tree, do they pay \$100, or \$100 plus the mitigation? If the later, the ordinance should say so. If the former, adamantly do not agree. A violator will be required to pay civil penalties in addition to providing the required mitigation for any protected tree removed without a permit.

Generally, this draft seems briefer, which is a good goal, but both the original and the subcommittee draft have things that are really helpful and important, especially, but not limited to:

a better explanation of the tree condition rating system, Subcommittee definitions added drawings to illustrate meanings, diagram for Multi-Trunk DBH is to be included items 4,5,6,7(relates to utilities, pools, landscape materials, irrigation), 9, informing subs and workers, arborist-visit incentives, surety bonds, STPC (small tree preservation credits) .

Subcommittee draft Sec 13.54.080: Post Approval Procedures (need to keep all of it, very important) Comment noted. This can be include if the Commission so chooses.

I'm somewhat worried about giving any town manager total control/responsibility for all this. It seems a huge lopsided burden. We need the input of professional, qualified people in the field to balance the issues. Comment noted. See definition of Town Manager.

Does this draft eliminate the various tree funds such as the Oak Tree Propagation Fund and Non-Native Tree Fund, and replace them with only one Tree Mitigation Fund? No

Overall:

1. The original ordinance was written with lots of community input, including a very thoughtful and reasoned professional arborist with lots of expertise and experience. Many people were involved with the creation of the brand new town of Loomis and what they thought it should be. It reflects the values of the community. It should NOT be repealed wholesale. Comment noted.
2. The subcommittee has put in hours and hours of debate, negotiation, mutual regard for compromise, and consideration of many and varied issues by knowledgeable people. Their work is distilled in their draft and contains many, many aspects that address various issues 'Loomis has faced and will continue to face. We sorely need that kind of participation from residents. Agreed.
3. The staff draft seems an attempt to simplify, but has left out too may things that need to be included. It may seem tedious, but these things are too important to leave out and, if left out now, will create more problems in the future by leaving too many unanswered questions and un-addressed details. This is NOT ready for town council. Comment noted.