

## Workshop Comments

**Q1. How would you define a “mature tree,” and do you prefer a classification by size or classification by species approach?**

### Response

Classification by species makes sense to me. Plant trees where there is space for that species.

Size by species (or genus) add complication but seems the most accurate way. I would hope that small trees like scrub oaks could be protected too despite never gaining major trunk girth.

Size and age. Trunk circumference. By species seems important to make it easier to nominate Heritage Trees

By species seems appropriate.

A mature tree does not need to be large. A young tree is not always "small."  
Trees don't get old, they grow growth rings or new cambium layers. Some species grow very slow.

Size.

A mature tree might be one that is well-established in its location, i.e. its size and age. "Classification" should consider both size and species.

A tree that has survived in good health through multiple seasons.

My opinion is Classification of species 1st. Then it would be important to establish size of the tree trunk. A tier protection could apply here for the TPZ. Larger trees should have larger TPZs. Trees smaller could and should be moved within a project.

Both should be considered when planting and replacing trees.

Classification should include both species and size. Only large specimens of designated species should be included. Conversely, species presenting significant risks – either because they are highly flammable or liable to drop limbs – should be excluded.

Classification by species.

Mature Tree ordinance should not impair most properties in Encinitas. It should be classified by species with only important species included, then classified by size, with only very significant, unusual species and specimens protected. If this policy is broadly applied, there will be significant adverse impacts to residents across Encinitas, increasing risks to residents of life/safety/property damage.

**Q2. Do you believe that there are certain tree species that are particularly harmful to the City, which should not be protected under this Policy? Are there any trees species that you believe are particularly important to Encinitas?**

**Response**

I prefer trees and plants native to our environment (space, vendor availability to be considered).

Oaks are particularly important.

Oaks seem the best choice since native and tough. Encinitas means little oak. Torrey pines are problematic in some ways but loved and important. City should maintain them and not plant by the roads.

I wouldn't necessarily say "harmful," but some are problematic or of minimal value (palm trees can be avoided, for example). To determine importance I would look at whether a tree is native, drought tolerant, good for shade, can be relatively trouble-free in its location, reasonable to maintain.

Why would any certain species be harmful? Some trees can become invasive like Ash or Ailanthus. Brazilian Pepper are nice when large, but should be kept away from riparian or nature areas. Some trees break. It all depends on the situation, history, pruning styles, frequency, etc. Important trees here are all Torrey Pines, Coast Live Oaks, Scrub Oak (*Quercus berberidifolia*) and any native should be considered important. Any tree that provides shade and or ambiance could be important to any city.

Torrey Pines, Oaks, Eucalyptus.

Yes! Eucalyptus are highly invasive and should be limited but not totally banned. Low water demand is crucial. Most important would be natives. Including large scrubs (for ex: Elderberry, Toyon and others) that can be trimmed as trees. I love Torrey Pines but they are not our only native tree.

As far as new planting is concerned, species should be selected that won't cause major damage to infrastructure, provide shade, evergreen, low water needs and keep + maintain tall existing along the 101 corridor.

Protected: Oaks of different species. We teach our students that Encinitas means "Little Oak" but we do nothing to protect them. Sycamore, California Bay, Cypress, Redbud,... I'm sure you could procure a native list. Harmful: Not sure if any tree is "harmful" but I'm not a fan of Eucalyptus, Palms, and Ficus trees. Although we have migratory Cedar Waxwings that love the Ficus.

Eucalyptus trees are highly combustible and break/fall easily in high winds. If you remove already existing trees, replace with native trees. Torrey Pines are the rarest pines in North America. They should be protected in Encinitas, as they are in Del Mar. We should limit the number of palm trees planted in the future, as they absorb a lot less CO2 than broadleaf trees or conifers and provide minimal shade.

As mentioned above, high-risk species must be excluded. In high fire severity zones – i.e., all or most of Olivenhain – should be excluded from the plan due to fire risk and the need to continuously perform vegetation abatement.

The Torrey Pines, Monterey Cypress, Monterey Pines & Oak Trees.

This may vary community by community. Olivenhain (or portions) needs to be excluded from this policy because this policy specifically conflicts with the recommendations in the Fitch Olivenhain Community Evacuation Analysis and Recommendations relating to Firewise communities and vegetation abatement (presented at the January 19, 2022 City Council Meeting) (See quotes under Question 7, below). There can be no constraints on vegetation abatement in High Fire Severity Zones or along evacuation routes, because all vegetation, including trees, is fuel for fires, and a risk to residents/homes.

In high fire hazard areas of City, "Plants that store volatile oils should be removed." (San Diego Union Tribune, Sunday September 4, 2022, "Preparing for Disaster, Will You Be Ready?" Insert, p. 5, attached.) Some of the "most dangerous" are "Acacia trees, cedar trees, eucalyptus trees, juniper trees, pepper trees." (Ibid.)

In recounting stories from the major 1943 Fire that came through Olivenhain, the April 2023 Olivenhain Fire Safe Council Newsletter reports: "My aunt said when the fire went through, there were a lot of lemonade berries,' [Richard] Bumann said, 'and it was as if someone had thrown gasoline on a tree because they were so combustible.'" <https://myemail.constantcontact.com/The-Firebreak-Newsletter---April-2023.html?soid=1137604298264&aid=t-DEsuUADNg> This is true of many native plants.

**Q3. Do you agree with the proposed hierarchy of mitigation strategies presented at the workshop?**

**Response**

Yes.

No land bank or off-site open space - non existent now. We do want more open space!

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| Yes, although as was brought up in the meeting, for #4 there is very little remaining open space owned or controlled by the City, and other open space is often managed for other purposes. I suppose it could be privately owned land that is planted and protected with some kind of conservation easement.  |
| What is the definition of "preserve" What is the first step in Preservation?   |
| Prefer preserve at all costs. Then 2 + 3. 4 only if in Encinitas.  |
| This may be subject to further refinement, but seems to be a reasonable approach.  |
| Mitigation should be allowed only in rare cases, if any, in order to spread the tree canopy throughout the city.   |
| Yes, I like the strategies presented. I especially like the City of Austin's level of tree Ordinance Protection. Our City does have some very special trees that need protection.  |
| I agree with the hierarchy, but the City Arborist serves at the pleasure of the City Manager. Neighbors of a project should be involved in the decision process. We have licensed arborists too and not all arborists agree.   |
| No, at least not uniformly. High fire severity zones should be excluded with no requirement to mitigate, as this would significantly hamper our habitat to remain fire safe.   |
| Yes very much.   |
| I do not believe most of these options are feasible or appropriate for Olivenhain, given fire and nuisance risks. Preservation is not a viable option in many cases, e.g., nuisance, danger, fire risks, etc. Many trees are inappropriate to mitigate on site, or may adversely affect neighbors. Wouldn't residents plant trees to minimize own impacts and maximize impacts to neighbors? Mitigation within the community is not an option where there is not much City land, like Olivenhain. Is mitigation into a land bank/open space a viable option given habitat and preservation concerns? Has this been signed off by the habitat agencies? Don't native trees tend to be smaller than many non-native trees? Are you aware of tree clearing projects, some of which were agency-approved, occurring in habitat within the City and/or sphere of influence? |
| <b>Q4: Regarding replacement of mature trees, do you prefer a simple ratio approach, a credit table approach, an online tool that calculates replacement ratio/size/type, or other?</b>  |
| <b>Response</b>  |
| Probably the online tool.  |
| Probably easier to use simple ratio but calculate value. At least 3-5 small trees replace one large one. But preservation first!   |
| Online tool gives the best results.  |
| Ratio is nice. Why replace when we can preserve?   |
| No on ratio, the online tool sounds hopeful.   |

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| It should depend on the tree. A heritage tree is much more important than the younger less important species. Natives should be given   |
| By calculating the various factors of ratio, size, type etc.  |
| I believe we need to calculate replacement ratio/size/type.   |
| Definitely ratio/size/type. We're deluding ourselves if we think young trees store as much carbon as mature trees, remove as much pollution from the air, and reduce the heat emitted from hardscape.   |
| The approach selected needs to be flexible and non-prescriptive. It needs to exclude high fire severity zones.  |
| I like what Bernard said about the tree replacement.  |
| I do not believe in any of these options. Healthy trees are planted when small. Many trees thrive best when planted from 5g pots with specific, small plant diameters (for example, this has been extensively researched by the University of California in connection with California's agricultural industries). It is not good policy to require many trees to be planted to replace a large tree—this results in stunted, malformed trees. Again, these approaches are inappropriate in fire-prone areas. |
| <b>Q5: Which one of the proposed incentives (faster processing time, fee reduction, increase in lot coverage) seems the most valuable or feasible to you?</b>   |
| <b>Response</b>   |
| All of these seem important. Probably cost is a factor to be considered as we try to speed the process.   |
| Creativity and design of homes that preserve and respect mature trees should be rewarded but best to avoid more lot coverage.   |
| All seem reasonable; no preference.   |
| Faster processing may be feasible with the correct team. Increased lot coverage is key.   |
| 1) Faster Processing time, fee reduction, increase in lot coverage. But really should we not just have a policy that makes the tree valuable. Then the applicant can change their plans to accommodate the tree.  |
| Given the current state overreach on housing, I don't think incentives will be very productive. Its worth a try.  |
| Faster processing time.   |
| Fee reduction, this could be based on percentage of the value of the tree that is being protected in place with a TPZ. If the incentive was to increase lot coverage = less room for trees. Counter productive. I don't want to put more pressure on our City for faster processing times. I think our City employees are already working as hard as they can.  |
| None of the above.  |
| No opinion. The incentive system must NOT create a disincentive to abate vegetation in high fire severity zones or cut down trees that create a safety risk (e.g., by dropping limbs).  |
| None they are getting too many incentives while destroying the community with their unhealthy housing developments. Demanding what they can do to our precious community with no regard to the long time senior citizen population.   |

None of these incentives are good. Will this policy result in an expensive, slow, and involved process in the high fire risk zones where property and lives are at stake? Couldn't this policy decrease compliance with fire recommendations and increase fire risks? Would City policy encourage affected landowners with large trees to plant trees in areas of their property where impacts from trees are directed to neighbors, rather than themselves? How will policy apply when trees are damaging property or rendering houses uninhabitable? Is the City going to increase harms/costs/hurdles to neighbors already injured by trees?

**Q6: What challenges/constraints do you see with the proposed Mature Tree Preservation Policy as presented at the workshop?**

**Response**

My concern is publicity. How do private property owners know there is a presence before you can remove a "mature tree."

I know some people who own properties are saying they might cut trees down before this can force them to keep them. Before they expand or develop. We need to be sure to assess and stop that and reward the preservation.

I didn't see a specific policy presented. The big challenge regarding development I think is how to create a snapshot of the City's trees so we have a baseline from which to offer incentives. For example, what stops a developer from cutting down all trees on a site before approaching the City about development? Another challenge is how to provide incentives for private owners who are not (currently) planning to develop. Offer free tree health assessments? Some level of assistance with maintenance to help avoid problems? Could get expensive.

Who if anyone in the City staff will make sure these things are done if at all? Some arborists employed by the City "say things" but do not actually do what they say. Some of these arborists are not actually qualified in tree preservation. No one in the City that I know actually takes responsibility for upholding or enforcing the tree ordinances that we have set in place.

Only that if we have a policy that is not being enforced. We need the City to value the trees as much as the community does.

See above (#5).

Even though many of the mature trees needing preservation should be used as a model for replacement (Eucalyptus, they are important historically and should be protected).

Developers are going to start cutting trees before this goes into effect. Boundary trees are an issue with developers. The bottom line is both parties own the tree and they should be treated the same by both sides of the tree. Who is going to enforce this? Will neighbors start to report each other? We need Encinitas and the community to all get on board with saving the trees. Our City should be proud of our trees. Places like Singapore are a perfect example of their commitment to the environment. I'd like more public awareness of Encinitas saving our trees and the work being done. Toot our own horn! Set a tree planting goal for our City. I'd like to see our City schools with more trees on campus. Involve the students with the planting of these trees.

State laws are undermining local control and priority is being given to profit for the developer rather than what's healthy for the environment, the planet, and for the birds and wildlife that share our planet.

The current approach is overly generic and fails to consider:

- The specific risks borne in high fire severity zones
- The specific risks introduced by certain species or specimens that should be excluded from the preservation plan

Many, including Fire, Nuisance, Easements, trees that are hazards and can drop limbs at any time.

FIRE! For our portion of Olivenhain, in the high fire hazard severity zone, this policy should be drafted so it does not affect us. We already have too much vegetation to be safe or get fire insurance!

- In high fire severity zones, laws require defensible space clearing within 100' of structures, amongst other requirements and recommendations. Vegetation can affect homes hundreds of feet away!
- The City should not be passing (or considering) ordinances that conflict with appropriate fire-safe vegetation abatement requirements or recommendations or impede residents' ability to get fire insurance.

o See Encinitas Fire Department/Fitch Evacuation Report, linked below.

o In connection with the denial of insurance, maps provided by insurers reflect government-mandated landscaping on neighboring properties as a significant fire risk/basis for denial. I have documentation. (This is a completely separate issue from fire hazard severity zones, and affects residents differently.)

- Abatement requirements and recommendations are continually becoming more stringent as time goes along, and this policy must be flexible enough to adapt to changing circumstances in a global warming context without Council intervention.

Nuisance Trees: Any ordinance must permit nuisance tree removals, without additional expense or burden.

- Note that nuisance is a legal cause of action under California law and frequently trees hurt neighbors, easement holders and infrastructure, even habitability of homes

o Tree issues should still be able to be addressed in small claims court ) (<\$10,000), including tree removal or abatement expenses and any city involvement.

☐ Removal costs for a single tree can be very expensive, even \$10,000+ for large trees.

o Encinitas risks upending the entire California legal regime that privileges trees, further harming neighbors already experiencing losses not caused by them.

☐ Does City Staff understand California law and potential impacts to residents of this policy?

☐ What recourse will neighbors have who are affected by nuisance trees next door or on easements? Which City division will address? Who bears costs for inspections?

☐ What if the landowner relies on Encinitas policy to protest tree removal/remediation, while neighbors are being harmed?

☐ Will this policy shield tree owners from liability/consequences when their dangerous tree hurts others? What provisions will be put in place



☒ Will this policy shield tree owners from liability/consequences when their dangerous tree hurts others? What provisions will be put in place to protect others?

☒ Has City considered the case where landowner wants to keep tree and neighbor needs removal due to nuisance/damage/harm/risk/easement access concerns? (Property owners frequently try to oppose easements/easement holders' rights.)

☒ Trees can disrupt habitability of homes, e.g., water and sewer. How is the City preventing harm to neighbors and ensuring habitability of homes?

☒ Will this policy increase development burdens and costs and affect housing supply?

☒ How will this policy apply where there is onsite native trees/habitat given existing system of onsite/offsite mitigation negotiated with agencies? Could takings arise?

o When a problem arises with Encinitas' poorly conceived policies/requirements, Encinitas always responds, "this is a civil matter." Encinitas policies are frequently responsible for hurting existing residents' quality of life, causing property damage and losses, and adversarial neighborhood relations.

☒ Encinitas needs to stop pitting neighbors against each other!!!!

☒ Someone on Lone Jack Road in Olivenhain was already killed in a vegetation dispute.

- <https://www.sandiegoreader.com/news/2013/jul/10/citylights2-guy-bullying-me-all-time/>
- <https://www.nbcsandiego.com/news/local/john-upton-encinitas-homicide-lone-jack-michael-vilkin-san-diego/1945332/>

Sick/Damaged/Dying Trees

There can be no limits on removal.

Tree trimming can be nearly as expensive as tree removal, and may need to occur every few years. What if residents are not able to afford or will not pay for appropriate ongoing tree care? What happens if these trees are a risk to others?

Easements

• If an owner is involved in designation of a mature tree in conjunction with the City (as contemplated in the presentation materials), the City also needs to obtain approval from any easement holders. (The City should not be involved in violations of law, e.g., interference with easement.)

• Easement holder rights and ability to use easements, including for existing homes/infrastructure, need to be protected.

o Olivenhain has homes with spaghetti lines of private utilities running for 1800'+ on private easements. When roots break pipes from tree roots (and I've seen this happen), trees will have to be removed and policy needs to accommodate these real-world concerns without cost to the already harmed neighbor.

o Neighbors are planting trees on top of and right next to existing utility lines that in time will cause damage. How will this policy address?  
o Olivenhain relies on many private roadways, with many described as “non-survivable” by the Fire Department in recent City meetings. As residents realize fire risks, there cannot be limitations on tree removal along our roadways.

- Habitability of homes. Make it too expensive to take down trees, make repairs or get permits, many Encinitas residents will not be able to afford costs. (There are many low-income long-time homeowners remaining in Encinitas!)
- There is existing California Law concerning trees, liability, easement rights, etc. Does City staff understand impacts of City policies to these regimes?
- Have Federal and State Wildlife agencies been consulted regarding this policy? Do they want limits on tree/vegetation removal in habitat areas? Do they want mitigation of trees into a land bank/open space/a disruption to existing native habitat?
- Have utilities been consulted (they often have to remove or prune trees that pose risks to infrastructure). Any concerns and carve-outs must be shared by property owners who have private infrastructure on private easements!
- Obviously, this policy should not apply to areas with habitat where habitat take permits are negotiated with agencies, either involving onsite or offsite conservation.

Many trees should be excluded from the policy:

- Exclude trees threatening or causing damage to property, including neighboring homes, structures, utilities and roads.
- Sick/injured/damaged trees.
- Exclude trees at risk of falling limbs or trees falling over.

o Homes/property can be damaged or destroyed.

☑ Falling limbs are not speculative or rare. I have had 5-10 potentially fatal limbs/trees falling from neighbor’s trees onto my access road within approximately the last year alone. (Happy to provide photos.)

o Lives are at risk

☑ Eucalyptus trees are called widowmakers, given risks of falling limbs.

☑ News agencies reported significant California deaths in recent storms.

☑ Note huge numbers of eucalyptus trees that fell over in Balboa Park in 2023 storms.

- One fell on woman, injuring her:

o <https://www.nbcsandiego.com/news/local/eucalyptus-tree-falls-on-woman-in-balboa-park-amid-gusty-santa-ana-winds/3152472/#:~:text=Balboa%20Park%20was%20back%20open%20to%20woman%20and%20injured%20her>

with/5152472/#.text-balboa%20of%20the%20back%20open,a%20with%20the%20injured%20tree.

- NBC article above cites at least 36 downed Balboa Park eucalyptus trees in the 80-100' high range.
- Exclude trees impacting roadways given risks to road users (public and private).
- Exclude trees with invasive roots
  - o Roots are proven to seek out couplings and disrupt water and sewer lines.
- ☑ E.g., Roots from pepper trees can travel 50-100'+!
- ☑ <https://radiolab.org/podcast/smarty-plants>
  - Describes root invasion into pipes and studies that confirm that roots seek out pipes with water inside.
- o Trees planted too close to foundations can destroy foundations.
- o Roots damage roadways, public and private (much of Olivenhain is on private road accesses).
- Exclude trees that harm quality of life of neighboring homes
  - o trees continue growing so they block sun and views, cause neighbors expenses, damage, debris increases fire risks relating to falling debris etc.
  - o What about neighbor's trees that are planted in front of or grow to block solar panel systems?
    - Etc. Nuisance is a very broad category, and all nuisance trees need to be excluded
    - (I have written many of these concerns to Planners in past, please refer to my letters dated August 8, 2022 and September 11, 2022.)

**Q7: Any additional comments?**

**Response**

Thank you for tackling this problem. We have been offered 2 trees for our sidewalks on Samford. St. Two of the tree choices are walk appropriate for the space available.

Thank you for this new ordinance! Please include boundary trees between neighbors and developers. The development should have to follow some standards as for City trees. Shared ownership between parties means developers should not trump the existing neighbors. Developers should not write their own rules.

This kind of policy is important but making something effective will not be easy.

Just talk to me. Lets work together to get our trees valued as an asset to our community. Preservation is most important.

Thank you for the workshop. Please consider relying on volunteers for help. I think there are many residents interested in preserving what trees are left and increasing our "urban forest" where we can. Torrey Pines originally were found mostly in the T.P. reserve and Del Mar, as they got water from coastal fog for the most part. I may be wrong, but I think they were less common from Solana Beach north for this reason. Encinitas also needs to encourage and support restoration of our coastal chapparal area, including in home landscaping where it is feasible. This will also benefit the ecology supporting the urban forest.

I really appreciate your holding a public workshop on this and hope there will be future workshops where staff truly listen to residents, as I believe you did at this one.

Thank you!

I would love for you to look at this San Luis Obispo's tree policy please.

<https://sanluisobispo.municipal.codes/Code/12.24.090>

Planning Staff Should be Aware of the following (this is material to planning for the Native Plant Ordinance and Transportation Element, too.)

Olivenhain Fire Issues

- Much of Olivenhain is in a High Fire Severity Zone: <https://osfm.fire.ca.gov/media/5960/encinitas.pdf>

- The Insurance Affordability Crisis presentation for the Olivenhain Fire Safe Council.

<https://www.youtube.com/watch?v=jPGBIaxswm8&pp=ygUcb2xpdmVuaGFpbiBmaXJlIHhZmUgY291bmNpbA%3D%3D>

- o People are losing insurance in Encinitas, replacement options are unavailable or extremely expensive, homeowners' ability to get insurance depends on neighbor's vegetation.

- Olivenhain Fire Evacuation Meeting involving Encinitas Fire Department and outside consultants, discussing non-survivable events in Olivenhain (posted by the Olivenhain Town Council) and need for vegetation abatement and better evacuation routes:

<https://www.youtube.com/watch?v=luNWyp-sI2k>

- Fitch Olivenhain Evacuation Report and Recommendations, available at

[https://encinitas.granicus.com/GeneratedAgendaViewer.php?view\\_id=7&clip\\_id=2632](https://encinitas.granicus.com/GeneratedAgendaViewer.php?view_id=7&clip_id=2632)

- o Recommendations include:

- "Adopt enhanced and targeted vegetation management ordinances." (emphasis added)

- "Enhance the defensible space inspection program." (emphasis added)

- "Ensure Encinitas Planning Standards are aligned with a Firewise Community concept."

- Why isn't City of Encinitas planning integrated with the Fire Department, i.e., why are City Planners proposing to do the opposite of what Olivenhain is being advised to do?

- Other recommendations regarding Firewise Community concept and ongoing fuels management.

- Note that Firewise Communities address vegetation abatement/fuels management concerns!

- CalFire website. Recommendations regarding fuels mitigation are available under the Prepare tab.

- o [www.readyforwildfire.org](http://www.readyforwildfire.org)

- Olivenhain Fire Safe Council Newsletters

- Olivenhain Fire Safe Council newsletters

- o <https://www.olivenhainfsc.org/newsletters>

Podcast discussion on plant roots seeking out water/sewer pipes

- <https://radiolab.org/podcast/smarty-plants>

It appears the future holds significant limits on water consumption in California; for example, there are recent unprecedented proposals by the Biden Administration, potentially upending the hundred-year-old Colorado River Compact and proposing a 25% cut to water allocated to California. Most non-native trees in Encinitas can not be sustained solely by natural rainfall and are ecologically unsustainable in the long-term.

☒ See, e.g., <https://www.nbc11news.com/2023/04/12/feds-propose-cuts-colorado-river-use/>