



MEMO: TREE ORDINANCE DRAFT TEXT AMENDMENTS

Date: July 9, 2019
To: Board of Commissioners
From: Planning Board Ordinance Committee Members; Trey Akers, Senior Planner
Re: DPO Section 9 (Trees/Landscaping Ordinance) – Draft Text Amendments

The following sections highlight the proposed text amendments history, alignment with town aims, public engagement, pros/cons, and anticipated schedule/potential action.

1. OVERVIEW

BACKGROUND

- **Purpose:** The standards promote the creation of a healthy tree canopy and landscape by establishing rules to regulate the establishment, preservation, and maintenance of natural features at the lot and site/master plan level.
- **Background:** In December 2016 the Livability Board suggested revising the standards to institute best practices, make adjustments, and clarify administration procedures. Updating the tree ordinance is listed as a high priority on the planning department workplan.

ATTACHMENTS

- **Presentation:** Provides an overview of the progress thus far, including: Work completed, remaining work, and next steps.

2. RELATED TOWN GOALS

STRATEGIC PLAN ALIGNMENT

- **Land Use Strategy:** The proposed standards consider the revision of development processes to more effectively guide the approval of landscape plans and tree permits.
- **Historic Preservation Strategy:** The proposed standards contemplate how to increase incentives for the preservation of healthy, mature trees that contribute to the town's authenticity as a historic, small college town.
- **Operations:** The standards would clarify the administrative and approval processes for DPO 9.
- **Partnerships:** The town's advisory boards have been and will continue to be involved throughout the process. Additionally, guidance has been sought from arborists with the City of Charlotte. Lastly, the proposed amendments contemplate partnering with local organizations that could help incentivize tree canopy establishment and preservation.

CORE VALUES

- **Open Communication:** Advisory board members have and will continue to play an instrumental role in reviewing/revising standards and engaging citizens.
- **Traditional Character:** The proposed standards would indirectly reinforce the historic character of existing streets throughout town while ensuring new streets are built in the same manner.
- **Healthy Environment:** The standards help to protect and enhance the town’s tree canopy.

COMPREHENSIVE PLAN

- **Enable Faithful Stewardship, Goal 2 - Preserve Natural Habitats, the Lakeshore, and the Tree Canopy:** This goal recommends a variety of approaches being contemplated by the proposed policies and amendments, including:
 - » Promote healthy pruning techniques;
 - » Set measurable goals to increase and sustain forest cover;
 - » Create incentives and/or funds to assist landowners in mitigating tree removal through care practices or replanting;
 - » Create a tree canopy replanting and management plan;
 - » Revise requirements to better preserve existing tree canopy.

CONSTITUENTS SERVED

- **All Residents:** Residents across town experience the beauty of trees on our streets and in our public spaces and are positively impacted by the improved air quality that trees provide.
- **Administration/Government:** The proposed amendments increase administrative clarity, including application of standards and processes, compared to the current standards. This benefits landowners, too, who will have a better idea of steps needed to obtain approval.

3. OPTIONS/PROS & CONS

RECAP. – HIGH-LEVEL TOPICS

At the November 13, 2018 board of commissioners meeting the following topics were discussed and policy direction sought/confirmed. Below is a status update on each:

- **Arborist Involvement:** Established in 9.2.2.B and referenced throughout Section 9.
- **Tree Fund:** Identified in 9.2.2.B; requires Board of Commissioners resolution.
- **Landscape Bonds/Warranty:** Established in 9.2.2.D-E.
- **Canopy Preservation & Establishment:** Tree canopy study completed Spring 2019; results shared at the March 12, 2019 and May 24, 2019 board of commissioner meetings and commissioners supported the use of this data to inform Table 9-1 and Table 9-2 changes and supporting criteria (i.e. calibrated approach pursued).
- **Permitting/Removal Criteria:** Clarified and increased in rigor in 9.3.
- **Remediation Provisions:** To be further explored as part of Cross-Reference/Fee Schedule work.

OVERVIEW OF COMPLETED WORK

All sections have been completed; miscellaneous topics require further refinement. The current status of work on the proposed amendments is as follows:

- **Section 9 Tree Canopy, Landscaping, & Screening:**
 - » **9.1 Purpose & Intention:** This section has been reordered to address overarching goals first, then impacts addressed through the ordinance, then issues of property and aesthetics.

- » **9.2 Applicability & Administration:** This section has been revised to designate an Arborist as a key figure in the approval of plans and permits. And, various changes have been made to clarify the documentation requirements for landscape plans as well as the criteria governing landscape bonds, inspections, and the replacement of damaged vegetation.
- » **9.3 Tree Coverage & Preservation:** This section includes the following revisions:
 - 9.3.1, Table 9-1 Minimum Canopy Coverage:
 - An establishment requirement has been added and a limit on the amount of coverage that can come from preserved areas is proposed (meaning that new trees are required in each development);
 - the coverage requirements have been made prescriptive (rather than non-binding as in the current DPO) and, as a result, many coverages have increased;
 - the coverage requirements have been revised to be based on project area, which results in greater canopy coverage;
 - the coverage requirements have been informed by local data (tree canopy study); caliper planting sizes have been increased;
 - a minimum height requirement has been added;
 - and, a payment-in-lieu option has been proposed (which acknowledges growth in built-up areas and directs resources to areas intended for preservation. Street tree and parking lot planting requirements must still be met). The proposed value is \$8/square foot and is derived from local data in the Street Tree Inventory. This is based on a mid-point between a pure environmental services value of a tree (\$4-\$5/square foot) and the average asset value of a large maturing tree (\$10-12/square foot).
 - 9.3.2, Table 9-2 Preservation: Preservation requirements ranging from 10%-40% have been calibrated based on Planning Area, rather than a generic requirement that currently exists in the current ordinance (20%). Additionally, a payment-in-lieu option has been proposed as described above.
 - 9.3.3, Permitting: A clearer, more rigorous permitting process has been established and requires involvement by a professional arborist to facilitate tree care and preservation. The area covered by permitting has increased from setback areas only to the entire lot, while the minimum size of a tree requiring a permit for removal has increased from eight inches to twelve inches. Note: The permitting process does not prohibit the removal of trees.
- » **9.4 Street Tree Plantings:** This section has been revised in a few minor but important ways – namely, instituting standards to ensure robust plantings along streets but with flexibility accorded to the arborist in making sure the intent of the requirements are met. References to third-party standards are included as a best practice.
- » **9.5 Site Landscaping:** Minimal adjustments have been made to this section, which establishes clear standards for depicting landscape/vegetation on site plans and minimum planting standards for areas around buildings.
- » **9.6 Parking Area Landscaping:** This section covers planting and design requirements for existing as well as new parking lots. Minimal adjustments to this section were needed.
- » **9.7 Screening:** This section covers special use circumstances. Minimal adjustments to this section were needed; redundancies with Section 4.3.1.E of the ordinance were eliminated.
- » **9.8 Installation & Maintenance Standards:** This section covers miscellaneous topics ranging from soil compaction to fencing to encroachments. Minimal adjustments to this section were needed.
- » **9.9 Alt. Methods of Compliance:** This is a new section that includes text relocated from earlier in the ordinance. Titles and documentation references have been added for clarity,

and relocating this section from the beginning to the end reinforces the notion that the meeting ordinance's requirements is the first priority – with alternative compliance reserved for select cases.

- » **9.10 Planting Specifications & Appendices:** This is a new section that contains various reference documents such as what types of trees/vegetation to plant, the appropriate mix of species, and third-party guidance on landscape practices.
- **Section 15.3.1 Landscaping Violations:**
 - » **A. Applicability:** This section has been revised to be more clearly organized.
 - » **B. Replacement:** This section has been revised to be more clearly organized. Additionally, replanting requirements specific to specimen trees have been added, along with more flexibility on when replantings can occur (i.e. a mutually-agreed-to timeframe based on planting season).
 - » **C. Penalties:** This section has been reorganized and features a number of changes:
 - each responsible party can be subject to a civil penalty (i.e. not just the landowner but the entity performing the work);
 - failing to plant original or replacement trees may be subject to a penalty;
 - penalties have been calibrated based on total or partial loss as well as whether the affected tree/area is a specimen tree, part of an approved plan, or in the right-of-way;
 - non-monetary penalties have been introduced to allow for flexibility in assessing violations where financial hardship exists or unintentional/not grossly negligent actions result in a violation; and
 - the process for issuing a violation has been clarified.
 - » **D. Appeals & Variances:** This section has been added to make the process for disputing violations clear, fair, and linked to existing ordinance procedures (i.e. the Board of Adjustment proceedings).

4. FYI/RECOMMENDED ACTION

- **Feedback:** The July 9, 2019 meeting is an opportunity for commissioners to understand the proposed revisions as well as to provide guidance concerning the high-level policy approach to the fee schedule.

5. NEXT STEPS

- **July 2019:**
 - » Board of Commissioners Work Session
 - » Board of Commissioners Hearing
 - » Planning Board Recommendation
- **August 2019:**
 - » Livability Board Recommendation
 - » Commissioner Consideration of Approval