



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
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AGENDA INFORMATION SHEET

DEPARTMENT: Department of Development Services

CM: Todd Hileman

DATE: February 4, 2019

SUBJECT

Receive an update and provide a recommendation on the Conservation and Landscape Code, Subchapter 17 of the Denton Development Code.

BACKGROUND

This public hearing was opened at the November 28, 2018 Planning and Zoning Commission meeting and was continued to this date in order to provide additional opportunity for discussion and public input.

This public hearing is intended to discuss the provided draft Conservation and Landscape Code in public forum as requested previously by the Commission. Subsequent public hearings are expected to follow to allow for further discussion and recommendation by the Commission.

The tree preservation regulations are a component of Sec. 35.13.7, of the Denton Development Code (DDC), "Tree Preservation and Landscape Standards." The existing Tree Preservation and Landscape Requirements (inclusive of the tree fund) were adopted in 2004 to promote tree preservation and to facilitate site design and construction that would allow for the long-term viability of trees.

While the current tree preservation regulations served to protect some of the existing tree canopy, more is needed to manage and maintain essential tree canopy and to provide clear guidance for tree preservation and mitigation within the city.

This report outlines the history of meetings, discussions, and changes that have occurred regarding updates to the tree, landscape, and ESA standards within the DDC. Additionally, the Considerations section below describes the primary changes proposed with the consolidated draft of the new Conservation and Landscape Code. Most recently, the consolidated draft was discussed with the City Council at a Work Session on November 13, 2018. At this meeting the Council directed staff to proceed with consolidated draft and to seek public input on the draft. This public hearing is intended to provide the opportunity for the Planning and Zoning Commission and members of the public to give initial feedback on the proposed draft, which is provided as Exhibit 2.

On May 21, 2018 staff presented a number of policy questions regarding the comprehensive rewrite of DDC Subchapter 13, Tree Preservation and Landscape Standards to the Committee on the Environment (COE). Policy questions discussed included:

1. Should the city develop a comprehensive Tree Management Plan?
2. Where applicable, should the new code defer to Texas Local Government Code Section 212.905 as the governing language?

3. Should all or a percentage of tree mitigation plantings be permitted off-site or as street trees?
4. Should the planting of trees in an off-site tree bank (i.e. area set aside as a permanent receiver site for tree plantings) be explored?
5. If preserved canopy is credited towards meeting tree canopy requirements as part of the landscape requirements, should it only apply to buffer tree requirements; meaning a developing property would still be required to provide street trees and trees within the parking lot?
6. Should property owners subject to the tree preservation regulations memorialize their tree preservation plan through the use of a development agreement, conservation easements, land use or deed restrictions, or tree preserves/transfer of title to a public agency/entity or other method?

The initial policy discussion served as the foundation for the discussion draft provided as **Exhibit 2**.

Subsequently, on August 6, 2018 staff presented to the COE specific changes proposed to the Tree Code, including the following:

- Creates an intent to achieve a 30% tree canopy coverage citywide to promote a multi-aged urban forest.
- Establishes Exempt, Quality, Heritage and Historic Trees.
- Establishes a Development Impact Area within each lot being developed.
- Establishing Preserved Habitat Areas and Conservation Easements as incentives for preserving trees in close proximity to each other and to ESA habitats.

On August 22, 2018 staff presented an update on the Tree Code to the Planning and Zoning Commission during the work session. During this update, staff discussed some of the larger policy questions that had been previously reviewed with the City Council and COE. A few of the major concerns of the Planning and Zoning Commissioners included:

- Whether mesquite trees should be protected or exempted from preservation requirements.
- A desire to focus more on the preservation of high quality trees such as Post Oaks and Blackjack Oaks.
- Whether the 30% preservation goal was sufficient or whether the goal should be increased to 40%.

Staff again presented updates to the tree code and landscape code to the COE on September 17, 2018 and to the Planning and Zoning Commission on September 26, 2018 and October 10, 2018. At the September COE meeting, staff was asked to conduct further research into what types of trees are the most efficient at improving air quality, how much space in the City's right-of-way is available for planting trees if trees are donated as a result of mitigation requirements, and whether the proposed standards will be sufficient to meet the proposed canopy coverage goals.

Following the September COE meeting staff researched these topics and further refined the drafts of the tree preservations and landscape regulations. Staff presented a consolidated draft of the newly proposed Landscape and Conservation Code, which includes Environmental Sensitive Areas (ESA) regulations in addition to tree preservation and landscaping, to the COE on November 5, 2018. Subsequently, the same draft was presented to the Planning and Zoning Commission at public hearings on November 28th and December 12th. This latest draft reflects the results of staff's research as well as input received from both the COE and the Planning and Zoning Commission. Outlined below is a summary of the most recent updates and the results of staff's research.

CONSIDERATIONS

Since the last draft presented to the COE on November 5th, staff has worked with the City's Legal staff to refine the language and ensure the proposed standards are enforceable. As a result of this effort and staff's incorporation of feedback from both COE and P&Z, the following changes have been made:

- The text of the ESA subsection has been re-organized to make process such as ESA field assessments, project reviews, and map amendments easier to differentiate and follow. No

substantive changes have been made to the ESA requirements beyond the updates proposed to make this section more compatible with the proposed tree preservation requirements, including the addition of the Development Impact Area and the removal of credits given towards landscape and tree canopy requirements.

- Large Secondary Trees have been reintroduced as a tree classification that includes all healthy Bois d'Arc, Hackberry, and Cottonwood trees with a dbh of 18 inches or greater.
- Requirements for a Tree Removal Permit have been updated to more clearly define that such a permit is needed for any removal authorized under a Tree Survey and Preservation Plan.
- Enforcement provisions within the Tree Preservation subsection have been updated to reflect the same provisions currently in the DDC.
- Provisions for an Alternative Tree Preservation Plan, which are currently in the DDC, were reintroduced. This process allows a site that cannot meet the strict requirements of the code to present an alternative proposal that meets the intent of the Code to the Planning and Zoning Commission. Although these provisions have not been used under the current code, Staff felt it was important to maintain these procedures to allow for flexibility in unique circumstances.
- Tree replacement rates have been redefined as follows:
 - a. Post Oaks & Blackjack Oaks with a dbh of 4 inches or greater – Three (3) inches for every inch removed;
 - b. Heritage Tree – Three (3) inches for every inch removed;
 - c. Large Secondary – Two (2) inches for every inch removed;
 - d. Quality Tree – One and one-half (1.5) inches for every inch removed; and
 - e. Secondary Tree – Two (2) inches for every tree removed.
- Included reference to Tree Preservation relief provision in Subchapter 3.
- Provided provisions for payment in lieu of planting in instances where easements, encumbrances, physical constraints, or life safety requirements limit the ability to plant the required trees needed to meet the minimum tree canopy coverage.

This item will be presented to the Planning and Zoning Commission for formal consideration on February 20, 2019 and for City Council consideration on March 5, 2019.

EXHIBITS

1. Agenda Information Sheet
2. Consolidated Draft Conservation and Landscape Code

Respectfully submitted:
Richard D. Cannone, AICP
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