

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: VI.B.

From: Cary Teague, Community Development Director

Action
Discussion
Information

Date: April 22, 2014

Subject: Continue Public Hearing to May 6, 2014 – An Ordinance Amendment to Chapter 10, Article III of the City Code, regarding tree preservation.

Action Requested:

Continue the Public Hearing to May 6, 2014.

Information / Background:

The Planning Commission is recommending an Ordinance Amendment regarding Tree Preservation. The City Council is asked to consider the Ordinance Amendment and hold a public hearing on May 6th, 2014.

ATTACHMENTS:

- Draft Ordinance
- Planning Commission Minutes, February 26, 2014 & March 12, 2014
- Staff Memo dated March 12, summarizing the Draft Ordinance & identifying issues
- Correspondence

ORDINANCE NO. 2014-__
AN ORDINANCE AMENDMENT REGARDING TREE PRESERVATION

The City Council Of Edina Ordains:

Section 1. Chapter 10, Article III of the Edina City Code is amended to add Division 3 as follows:

DIVISION III. TREE PROTECTION

Sec. 10-82. **Preservation, protection and replacement of Protected Trees:** This ordinance applies to all demolition permits; building permit applications for a structural addition; and building permits for accessory structures including a garage, deck or a pool.

(1) Purpose: Edina is fortunate to have a robust inventory of mature trees that form an integral part of the unique character and history of the city, and that contribute to the long-term aesthetic, environmental, and economic well-being of the city. The purpose of the ordinance is to:

- a. Preserve and grow Edina's tree canopy cover by protecting mature trees throughout the city.
- b. Protect and enhance property values by conserving and adding to the distinctive and unique aesthetic character of Edina's tree population.
- c. Protect and enhance the distinctive character of Edina's neighborhoods
- d. Improve the quality of life for all stakeholders, including city residents, visitors and wildlife.
- e. Protect the environment by the filtering of air and soil pollutants, increasing oxygen levels and reducing CO₂; managing erosion and stormwater by stabilizing soils; reducing heat convection; decreasing wind speeds; reducing noise pollution and decreasing the urban heat island effect.
- f. Protect and maintain healthy trees in the development and building permit processes as set forth herein; and prevent tree loss by eliminating or reducing compacted fill and excavation near tree roots.

(2) Definitions:

- a. **Protected Tree:** Any tree of the birch, balsam fir, black walnut, buckeye, cedar, elm, hemlock, hickory, ironwood, linden, locust, maple (except silver maple), Norway pine, oak, spruce and white pine varieties.

b. Removable Tree. Any tree not defined as a Protected Tree, or as defined as an invasive species as defined by the Minnesota Department of Natural Resources.

(3) Demolition and building permit applications must include a certified tree inventory plan indicating where Protected Trees are located and, their species, caliper, and approximate height and canopy width. The plan must show how Protected Trees are preserved and protected during construction. The plan must also show if any Protected Trees are proposed to be removed and the location, species and size of all replacement tree(s).

(4) If a Protected Tree is removed, except as allowed for in paragraph (7), it must be replaced with two (2) trees, subject to the following conditions:

a. Replacement trees must be varied by species and are limited to the species listed above in (2) Definitions.

b. Replacement trees must not be subject to known epidemic diseases or infestations. Disease or infestation resistant species and cultivars are allowed.

c. Replacement trees must be at least two and one-half inches (2.5") in caliper for deciduous trees and a minimum of seven feet (7') tall for coniferous trees.

d. Replacement tree plans are subject to approval by the City Forester before implementation.

e. If a replacement tree location cannot be found on the property, it must be placed in a public area, subject to approval by the City Forester.

(5) Protected Trees may be removed, in the following areas:

a. Including, and within a ten-foot (10') radius of, the building pad of a new or remodeled building.

b. Within driveways and parking areas.

Protected Trees removed in subparagraphs a. and b. above must be replaced with one (1) tree, subject to the species listed above in (2) Definitions and the conditions listed in subparagraphs a. through e. of paragraph 4 above.

- (6) Removable Trees five inches (5") or less in caliper may be removed for any development or building permit, without replacement. If a Removable Tree greater than five inches (5") is removed, it must be replaced with one tree, and subject to the conditions in paragraph 4 above. If a Protected Tree is dead, diseased or hazardous it must be approved by the City Forester before removal.
- (7) During the demolition and building permit processes, the permit holder shall not leave any Protected Tree without sufficient guards or protections to prevent injury to the Protected Tree, in connection with such construction. The survey must indicate how the Protected Tree would be protected during construction, subject to staff review and approval. City staff monitoring is required for all projects with affected Protected Trees and/or replacement trees to ensure that all such trees are properly established and maintained for three (3) years. Tree protection during construction is subject to the city's Construction Management Plan (CMP).
- (8) If Protected Trees were removed within one (1) year prior to the date the development, demolition and building permit applications were submitted, these Protected Trees are also subject to the replacement policy set forth in paragraph (4) above.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:
Second Reading:
Published:

ATTEST:

Debra A. Mangen, City Clerk

James B. Hovland, Mayor

Please publish in the Edina Sun Current on:
Send two affidavits of publication.
Bill to Edina City Clerk

Existing text – XXXX
Stricken text – XXXX
Added text – XXXX

A discussion ensued with Commissioners expressing their hesitancy in approving a preliminary rezoning and development plan that doesn't include housing and without more detailed plans. It was further noted that there is the option to vote against the proposal as submitted. Commissioners reiterated their desire for housing and acknowledged that in the end because of the scope of this project the City will be entering into a long term relationship and partnership with the applicant. Commissioners did suggest that a statement be added indicating where appropriate housing would be included; however it was acknowledged that statement may be too general. Commissioners did state with a PUD rezoning the applicant needs to be aware that the City expects things in return. Approval should not create missed opportunities to ensure that the site has measureable metrics during the process.

Commissioner Grabiell moved to recommend preliminary rezoning from MDD-6, Mixed Development District to PUD, Planned Unit Development; and an Overall Development Plan subject to staff findings and subject to staff conditions. Commissioner Fischer seconded a motion.

A discussion ensued on how the City can ensure that the conditions for approval are met. Of concern were the recommendations of creating a recreational system that promotes walking, health and wellness and the incorporation of public art. It was noted that these measures could be completed through alignment with the approved TIF. Further discussion also noted that the City continues to reserve the right to "drill down" plans at final approval to achieve the goals outlined in the findings and conditions.

Commissioner Schroeder offered an amendment recommending that a recreational system that promotes walking, health and wellness be implemented in alignment with the TIF Plan through a development agreement between the City and the Developer.

Chair Grabiell and Commissioner Fischer accepted that amendment.

Chair Staunton called for the vote; Ayes, Scherer, Schroeder, Fischer, Potts, Carr, Forrest, Grabiell, Staunton. Abstain, Platteter. Motion to approve carried.

C. Tree Preservation Ordinance

Presentation

Planner Teague reminded the Commission they tabled this issue at their last meeting requesting minor revisions to the Ordinance. Teague stated the revisions were made. He also noted that at the last meeting the Commission requested that additional information on staffing be supplied for the enforcement of the proposed Ordinance.

Commissioner Scherer asked Planner Teague if he knows the cost of a certified tree inventory and who the enforcement officer would be.

Planner Teague said at this time he doesn't know what the cost would be for a certified tree inventory and discussions continue on who would enforce the ordinance.

Chair Staunton opened the public hearing.

Public Testimony

John Crabtree, 5408 Oaklawn Avenue said that while he understands the proposed ordinance he wonders if the City is requiring more trees than can be sustained on one lot. Crabtree also questioned how far the City is willing to go if someone doesn't comply with the new ordinance. Concluding, Crabtree said one must always be careful of unintended consequences.

Chair Staunton asked if anyone else would like to speak to the issue; being none Commissioner Scherer moved to close the public hearing. Commissioner Fischer seconded the motion. All voted aye; motion carried.

Discussion

A discussion ensued with Commissioners noting that the proposed ordinance could create difficulties in areas where trees need to be removed without penalty (i.e. utilities). Commissioner Platteter said the Commission could ask the City to work with the utility companies on tree removal or preservation in utility easement areas.

Commissioner Platteter explained that the proposed ordinance was to save trees, adding in his neighborhood specifically all trees were taken down on a tear down rebuild lot. Platteter said for a developer it may be easier to just cut the trees down and not save them. Concluding, Platteter said the way new houses are popping into certain areas of the City the tree canopy can be lost completely.

Commissioner Schroeder said as he has mentioned many times that the tree canopy is important regardless of the tree species. The trees and their canopy both contribute to the character of the City. Schroeder suggested with non-protected trees that a variance process could be implemented to address non protected tree removal, adding buckthorn is undesirable; however, does provide cover. Continuing, Schroeder said in his opinion the City Forester should make the final judgment on all trees.

Commissioner Forrest inquired who will do the monitoring of the trees and who will pick where the replacement trees go. She noted Buckthorn is an evasive species that can be removed without issue. Continuing, Forrest commented what happens if a resident wants to cut down trees to create garden area. She noted the issue is complex.

Commissioner Grabiell said on this issue he has leaned one way than another. Grabiell said there are many valid points about when a tree can be removed without issue and when it requires replacement. Grabiell said in his opinion if any tree is taken down a permit should be required and possible replacement regardless of species.

Chair Staunton said in his opinion putting tree replacement in construction context is a good start. Staunton further agreed there is a question with enforcement and how that will be calibrated.

Commissioner Platteter said that the ordinance as proposed is a start; he noted that in some City's they even require permits to trim trees and other vegetation. Platteter said this ordinance hasn't gone that far but in the future that could be a possibility.

The discussion continued with the Commission directing staff to look into the enforcement issues and cost and bring back those findings at the next meeting of the Planning Commission.

Planner Teague said in response to comments that there would be additional fees for a resident to provide a certified tree survey, adding much would depend on who does the inventory. Teague said in

his opinion a surveyor would probably do the inventory because the City is requiring a certified inventory. Teague said enforcement would be another issue and pointed out currently the forester is a part time position that focuses on the City's public land. Teague concluded that the Council would ultimately decide on the staffing issues.

Chair Staunton asked Planner Teague to bring the Tree Preservation Ordinance back to the Commission at their next meeting providing some background on enforcement issues and make minor changes to the ordinance.

VII. CORRESPONDENCE AND PETITIONS

Chair Staunton acknowledged back of packet materials.

VIII. CHAIR AND COMMISSION COMMENTS

Chair Staunton reminded the Commission that on March 22nd at the Senior Center from 9-11 am City Attorney Roger Knutson will present a workshop. Staunton said if any Commissioner has questions or ideas to send those questions/ideas to Planner Teague so he can forward them to Knutson.

Chair Staunton said it is now time to say another goodbye to Commissioner Fischer who stepped in to fill out Commissioner Carpenter's term when he retired. Chair Staunton and the Commission thanked Commissioner Fisher for stepping in to fill out Carpenters term. Commissioner Fischer said in was an honor serving the City and working with the Commission and Staff for all these years.

Commissioner Staunton said it is also time to say goodbye to Commissioner Grabel for his 9-years of service on the Planning Commission. Staunton said Commissioner Grabel would be sorely missed. Staunton concluded that he would dearly miss Commissioner Grabel. Commissioner Grabel thanked Chair Staunton for his words and said it was his honor and privilege to serve the City and to work with the quality of people that served on the Planning Commission and with City Staff. Grabel said the City is blessed with talented residents and stated it was a pleasure to serve.

IX. ADJOURNMENT

Commissioner Fischer moved meeting adjournment at 11:35 PM. Commissioner Grabel seconded the motion. All voted aye; motion to adjourn carried.

Jackie Hoogenakker
Respectfully submitted

carried.

Commissioner Lee commented in being new to this process that she has a concern with the overall volume of the subject structure. She noted the subject house has a hipped roof which reduces the mass by offering the feeling that the structure is moving away from the setback line. A straight up expansion without acknowledging the architectural features of the existing home that reduce volume may not be wise. Volume should also be considered.

VII. REPORTS AND RECOMMENDATIONS

A. City Code Amendment – Tree Preservation

Chair Staunton asked Planner Teague to give a brief overview on the Commissions progress on the proposed Tree Preservation Ordinance.

Planner Presentation

Planner Teague reminded the Commission the Tree Preservation Ordinance adoption was continued to allow for suggested revisions to the Ordinance. Teague summarized the following revisions and requirements:

- The ordinance applies to all demolition permits including those for accessory structures including a garage, deck or pool.
- All permits are required to include a certified tree inventory plan
- Protected trees include birch, balsam fir, black walnut, buckeye, cedar, elm, hemlock, hickory, ironwood, linden locust, maple (except silver maple) Norway pine, oak, spruce and white pine varieties.
- Healthy protected trees that are removed within a building pad, or a 10-foot radius of the building pad or within a driveway or parking area must be replaced 1 to 1.
- Any protected healthy tree that is removed within 10-feet of the building pad or within the driveway or parking area must be replaced 2 to 1.
- Protected trees must be protected during construction; and
- Staff is required to monitor all construction projects with protected trees and/or replacement trees to ensure that all trees are properly established for three years.

Concluding, Teague also noted there would be staffing concerns; however, this would be a decision of the City Council in regard to staffing.

Discussion

Chair Staunton commented that the Ordinance only applies to tree removal one year prior to construction not after. He noted that trees could be removed after the final CO was issued. Commissioners agreed with that statement.

A discussion ensued with Commissioners supporting the revisions as referenced. Commissioners did express hesitation on #4 of the proposed Ordinance and compatibility

between numbers 5 and 7. It was further discussed that a variance process should be considered if for any reason a property owner cannot comply with the proposed Tree Preservation Ordinance. Further discussion focused on cost issues for the City (staffing) and property owners. It was further pointed out that “relocating” a tree may be more expensive than replacing a tree; and if a property owner could have an option.

Motion

Commissioner Platteter moved to recommend approval of the Tree Preservation Ordinance with the following revisions:

- **Delete paragraph #4**
- **#7 – Remove underlined text and replace it with like text found in #5.**
- **Add a paragraph that establishes a variance process.**

Commissioner Forrest seconded the motion. All voted aye; motion carried.

Commissioner Platteter stated he is also waiting for comment from the Energy and Environment Commission on the proposed Tree Preservation Ordinance. Platteter said he hopes to have their response by the time the City Council hears the Ordinance. Platteter stated he anticipates that the City Council will review the proposed Tree Ordinance at their April 22, 2014, meeting.

Chair Staunton thanked everyone for their effort during this process adding Tree Preservation can now be removed from the Commission’s Work Plan.

B. Wooddale and Valley View Road/Small Area Plan

Chair Staunton told the Commission Commissioners Platteter and Forrest are working with City Staff on implementing a small area plan for the Wooddale and Valley View area. Staunton noted that the small area plan for this area is included in the Commission’s 2014 Work Plan.

Platteter reported that Karen Kurt, Assistant City Manager is also a member of the City staff he and Forrest will be working with on this plan. Commissioner Platteter delivered a power point presentation outlining for the Commission a broad overview of the process. Platteter and Forrest stood for questions.

Commissioner Carr suggested considering adding an additional staff resource from either the Transportation Commission or Living Streets Committee for additional input; especially as it relates to transportation and streets.

Commissioner Forrest also noted that this neighborhood is a “true” neighborhood node that has the potential to be heavily utilized by neighbors.

City Hall • Phone 952-927-8861

Fax 952-826-0389 • www.CityofEdina.com



Date: March 12, 2014

To: Planning Commission

From: Cary Teague, Community Development Director

Re: City Code Amendment Consideration – Tree Preservation

The Planning Commission tabled this item at the February 26, 2014 meeting, and requested that some revisions be made to the proposed Ordinance. Additionally, the Commission requested additional information on staffing required for enforcement of the Ordinance.

Revisions have been made to the Ordinance as recommended by the Commission; those changes are underlined on the attached Draft Ordinance. Information in regard to staffing concerns, are highlighted on page 2 of this memo.

The following is a summary of the proposed Ordinance:

- This ordinance applies to all demolition permits; building permit applications for a structural addition; and building permits for accessory structures including a garage, deck or a pool.
- All such permits are required to include a certified tree inventory plan indicating where Protected Trees are located and, their species, caliper, and approximate height and canopy width. The plan must show how Protected Trees are preserved and protected during construction. The plan must also show if any Protected Trees are proposed to be removed and the location, species and size of all replacement tree(s).
- Trees to be protected under this Ordinance include: birch, balsam fir, black walnut, buckeye, cedar, elm, hemlock, hickory, ironwood, linden, locust, maple (except silver maple), Norway pine, oak, spruce and white pine varieties.
- Any healthy protected tree that is removed within a building pad, or a 10-foot radius of the building pad or within a driveway or parking area must be replaced 1 to 1.



- Any healthy protected tree that is removed as part of a demolition permit; building permit application for a structural addition; or building permits for accessory structure that is outside of the building pad, within 10 feet of the building pad or within the driveway or parking area must be replaced 2 to 1.
- Protected Trees to remain must be protected during construction.
- Staff is required to monitor all construction projects with Protected Trees and/or replacement trees to ensure that all trees are properly established for three years.

The proposed Ordinance would add an expense to a building permit for inclusion of the certified tree inventory. This would be done by the surveyor either on the main survey submitted with the building permit, or on a separate survey. In either case, the surveyor would be responsible for siting trees on the property and developing a plan for relocation and placement of new trees, and showing them on the survey.

Ordinance Enforcement

Enforcement of the Ordinance would likely require additional staffing. The city forester is currently a part time position (34 hours per week on average). The forester has reviewed the proposed Ordinance, and believes that an additional staff person (possibly part time) would be required to adequately enforce the Ordinance, and still maintain the level of service that they currently provide. The primary focus of the forester is on the city's 600-800 acres of public land; although he does occasionally work with residents regarding tree issues on private property.

The new ordinance would require the following additional staff review:

- Review of the "tree plan" as part of the building permit. This is the review of the survey showing existing trees, those that would be removed, and those proposed to be planted. Given the last couple years of permit activity, this could be between 150-200 permits per year; this would include new home construction after a tear down and additions to existing homes.
- Inspection of each of these construction sites. To ensure compliance with the proposed plans and protection of existing trees on site.
- On-going monitoring. The code requires staff monitoring for three years. Potentially, that could mean that up to 600 sites would be actively monitored.

This would ultimately be a decision of the City Council in regard to staffing.

ORDINANCE NO. 2014-__
AN ORDINANCE AMENDMENT REGARDING TREE PRESERVATION

The City Council Of Edina Ordains:

Section 1. Chapter 10, Article III of the Edina City Code is amended to add Division 3 as follows:

DIVISION III. TREE PROTECTION

Sec. 10-82. Preservation, protection and replacement of Protected Trees: This ordinance applies to all demolition permits; building permit applications for a structural addition; and building permits for accessory structures including a garage, deck or a pool.

(1) Purpose: Edina is fortunate to have a robust inventory of mature trees that form an integral part of the unique character and history of the city, and that contribute to the long-term aesthetic, environmental, and economic well-being of the city. The purpose of the ordinance is to:

- a. Preserve and grow Edina's tree canopy cover by protecting mature trees throughout the city.
- b. Protect and enhance property values by conserving and adding to the distinctive and unique aesthetic character of Edina's tree population.
- c. Protect and enhance the distinctive character of Edina's neighborhoods
- d. Improve the quality of life for all stakeholders, including city residents, visitors and wildlife.
- e. Protect the environment by the filtering of air and soil pollutants, increasing oxygen levels and reducing CO₂; managing erosion and stormwater by stabilizing soils; reducing heat convection; decreasing wind speeds; reducing noise pollution and decreasing the urban heat island effect.
- f. Protect and maintain healthy trees in the development and building permit processes as set forth herein; and prevent tree loss by eliminating or reducing compacted fill and excavation near tree roots.

Existing text – XXXX

Stricken text – XXXX

Added text – XXXX

(2) Definitions:

- a. **Protected Tree:** Any tree of the birch, balsam fir, black walnut, buckeye, cedar, elm, hemlock, hickory, ironwood, linden, locust, maple (except silver maple), Norway pine, oak, spruce and white pine varieties.
- b. **Removable Tree.** Any tree not defined as a Protected Tree, or as defined as an invasive species as defined by the Minnesota Department of Natural Resources.

(3) Demolition and building permit applications must include a certified tree inventory plan indicating where Protected Trees are located and, their species, caliper, and approximate height and canopy width. The plan must show how Protected Trees are preserved and protected during construction. The plan must also show if any Protected Trees are proposed to be removed and the location, species and size of all replacement tree(s).

(4) If a Protected Tree is less than five inches (5") in caliper it must be moved to another location on the property, if impacted by areas in paragraph (7) below, subject to review of the city forester. The caliper of Protected Trees shall be measured at four and one-half feet (4.5') above the ground.

(5) If a Protected Tree is removed, except as allowed for in paragraph (7), it must be replaced with two (2) trees, subject to the following conditions:

- a. Replacement trees must be varied by species and are limited to the species listed above in (2) Definitions.
- b. Replacement trees must not be subject to known epidemic diseases or infestations. Disease or infestation resistant species and cultivars are allowed.
- c. Replacement trees must be at least two and one-half inches (2.5") in caliper for deciduous trees and a minimum of seven feet (7') tall for coniferous trees.
- d. Replacement tree plans are subject to approval by the City Forester before implementation.
- e. If a replacement tree location cannot be found on the property, it must be placed in a public area, subject to approval by the City Forester.

Existing text – XXXX
Stricken text – XXXX

Added text – XXXX

(6) Protected Trees may be removed, in the following areas:

- a. Including, and within a ten-foot (10') radius of, the building pad of a new or remodeled building.
- b. Within driveways and parking areas.

Protected Trees removed in subparagraphs a. and b. above must be replaced with one (1) tree, subject to the species listed above in (2) Definitions and the conditions listed in subparagraphs a. through e. of paragraph 5 above.

(7) Removable trees five inches (5") or less in caliper may be removed for any development or building permit, without replacement. Removable trees greater than five inches (5") must be replaced at a 1 to 1 ratio. If a Protected Tree is dead, diseased or hazardous it must be approved by the City Forester before removal.

(8) During the demolition and building permit processes, the permit holder shall not leave any Protected Tree without sufficient guards or protections to prevent injury to the Protected Tree, in connection with such construction. The survey must indicate how the Protected Tree would be protected during construction, subject to staff review and approval. City staff monitoring is required for all projects with affected Protected Trees and/or replacement trees to ensure that all such trees are properly established and maintained for three (3) years. Tree protection during construction is subject to the city's Construction Management Plan (CMP).

(9) If Protected Trees were removed within one (1) year prior to the date the development, demolition and building permit applications were submitted, these Protected Trees are also subject to the replacement policy set forth in paragraph (4) above.

Section 2. This ordinance is effective immediately upon its passage and publication.

Existing text – XXXX

Stricken text – XXXX

Added text – XXXX

First Reading:
Second Reading:
Published:

ATTEST:

Debra A. Mangan, City Clerk

James B. Hovland, Mayor

Please publish in the Edina Sun Current on:
Send two affidavits of publication.
Bill to Edina City Clerk

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2014, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2014.

City Clerk

Existing text – XXXX
Stricken text – ~~XXXX~~

Added text – **XXXX**

To: Cary Teague
From: Scott Busyn – Great Neighborhood Homes
Subject Proposed Tree Protection Ordinance
Date: February 19, 2014

Hi Cary,

I wanted to pass on my feedback on the proposed tree protection ordinance from the perspective as a 25 year resident as well as a builder who has built over 40 infill homes in Edina over the past 7 years. Before I begin, I have to disclose that I like trees and as a builder dislike the large expense of removing them! In other words, I will do whatever I can to keep as many trees as I can when building a new home.

1. The tree ordinance seems to single out property owners who pull demo or building permits. If we are really concerned about tree protection, why are we only tasking this subgroup with tree protection? Seems discriminatory against those that are already investing in adding value to the community. Why not have it apply to all property owners? Based on the feedback for the Residential Development Coordinator, concerns about tree removal recorded a paltry 2% of all complaints. Is the Planning Commission once again trying to come up with a solution without a problem? In doing an informal drive around last week, it seems that most teardown/rebuilds keep most of the existing trees on the site. Trees are expensive to remove, and most builders try to work around the existing tree inventory on the site.
2. It seems odd that the Planning Commission is putting all this energy into protecting trees on construction sites when nothing is being done to date regarding the larger city wide tree preservation issues in Edina. Dutch Elm and Emerald Ash Borer are a looming threat to our tree canopy, much greater of a threat than residential construction. Many stretches of France Avenue, 50th Street, Valley View, etc have huge stretches where there are no boulevard trees in the city easements. Other cities around us seem smarter about focusing their energy on the strategies that will have more impact than just the construction sites. Builders

are easy targets since they need to pull a permit, but is this where we should be focusing our energies?

3. The proposed tree ordinance is just one more layer of regulation Edina is adding onto the many layers of regulation on building and remodeling in Edina. In the past few years, we have added over \$10,000 to the cost of a home for the increased cost of demo permits, surveys, stormwater management plans, soil tests, residential development coordinators, etc. In addition, these added layers of bureaucracy have increased the time it takes to get a permit approved as well as the amount of communication between builder and the new building bureaucracy in Edina. This has distracted good builders from being on the site and working with neighbors/clients on executing the project. Now you want to add another layer of regulation, fees, costs, etc for tree preservation and it sounds like you want to hire more regulators to make it more expensive and cumbersome. The net affect of all this regulation to good builders like us is zero changes to how we run our business except the distraction and workload of paperwork which keeps us away from doing the best we can on jobsites. With upcoming changes to building code including mandatory sprinklers I don't know how these out of control costs will affect the demand for new housing in Edina.
4. The ordinance as written is overly complex and hard to execute. If you must have an ordinance it should be simplified and not require all the steps, documentation, and expense. For example, we already provide tree inventories on existing conditions surveys for demo permits. We don't need the added expense of a certified tree inventory plan. The added layers of inspection (up to three years out!) seem impractical.
5. Tree protection during construction: This needs to be defined. I am sure an arborist will want fencing at the dripline. As the dripline on many sites may cover the entire site, this is not feasible. Not only do we need access to the site, but worker safety needs to trump tree protection if we are not giving workers adequate room to work. Contractor should have final call on this

as he is responsible for building the home and the safety of the workers.

6. Tree inventory plan: It is unrealistic that we will know what species replacement trees will be when we apply for a demo permit. You are asking us to alter our design process with clients. We don't typically do landscape plans until later in the project and the house is framed up.
7. Moving Trees: This is a very bad idea. Moving trees rips out 80% of the absorbing root system. Plus most small caliper trees are usually volunteer trees that were poorly planned allowed to grow in a random location. Plus moving a bad tree on a construction site that will have a lot of activity will further threaten its survival. Finally, to force a homeowner to keep a tree they may not like is just too much government control.
8. I don't like the added layers of inspections. You are requiring the City Forester to approve replacement tree plans. This just adds more time and workload for the builder/homeowner, as well as requiring the obvious need to hire more city staff.
9. Other areas you need to allow protected trees to be removed: patios, utilities (gas, sewer, water, electrical).
10. Staff monitoring of trees for three years: Again, very cumbersome and requiring adding forestry staff. Not necessary. If a homeowner pays someone to install a new tree on their site, they expect that the tree survives. Plus, the installer typically provides a warranty on the tree. These are the market forces that will promote the health of our trees. We don't need a nanny state to watch over our trees.

Again, this seems like a very complex ordinance, requiring a lot of staff and expense/workload for homeowners/builders. After driving around looking at jobsites this doesn't seem to be a problem needing a solution. I recommend scrapping this ordinance and shifting the Planning Commission's focus on more comprehensive tree programs for the city. This ordinance is extreme, punitive against property owners, and not in the interests of our citizens.

Thanks,

Scott Busyn
4615 Wooddale Avenue
Edina, MN 55424

Cary Teague

From:
Sent: Wednesday, February 19, 2014 10:37 AM
To: Cary Teague
Subject: RE: Tree Ordinance

Cary,

Thanks for your email. I zipped through the proposed ordinance quickly...but here are my initial thoughts:

1. The extensive "purpose" cited indeed seems to be well intentioned. Therefore, if this is such a high priority of the City then why is it not for all property in the City (existing homes, new homes, remodels, golf courses, commercial properties, etc...)? I know one of the local golf courses took down 90 trees this winter. I suggest if the City wants to "preserve the canopy" then let's take it seriously and include all trees, City wide.
2. Wouldn't this ordinance, as drafted, essentially create covenants that would be required to travel with properties as they are sold based on paragraph 8? What will this do to property values for this singled out homes that now have "covenants"?
3. How many properties a year would this affect? How much strain does it put on the City Forrester? How much does the City Forrester staff need to grow? How does this get paid for?
4. How much cost will this add to the permitting homeowner to do a required certified tree inventory?
5. Per paragraph #4, what if a homeowner "moves" a tree and it doesn't survive? Who is going to police this? How will enforcement be paid for?
6. If I want to add a play-set in my backyard for my kids to improve the quality of their life and take a tree down can I? What about a shed? What about removing a tree for a vegetable garden? Or to allow sunlight to reach a vegetable garden?

My quick two cents. Feel free to contact me if you need to.

Thanks again for reaching out to me.

Andy Porter
REFINED
Cell: 612.991.9301
Fax: 952.303.3170
Email: aporter@RefinedLLC.com
www.RefinedLLC.com

Cary Teague

From: aporter@refinedllc.com
Sent: Friday, February 28, 2014 9:24 AM
To: Cary Teague; Cary Teague
Subject: Planning Commissioner correction

Cary,

I viewed the most recent Planning Commission meeting related to the possible tree preservation ordinance. I would like to point out one correction that needs to be made. Commissioner Platteter spoke about the newly constructed home next to his personal home. He mentioned that he thought the home was a "spec" home and that the builder had clear cut the yard of many mature trees (3:51:55 on the video). The home, in fact, was not a "spec" home. Our company built the home specifically for a homeowner. Our Client decided they wanted to have the largest open backyard possible for their kids to play and they decided to have the trees removed.....not unlike a homeowner of an existing home anywhere in Edina. We also built the home next to that one specifically for a homeowner. On that project we spent a lot of money to re-nourish and protect the mature chestnut tree in the front yard per our Clients direction.

The Planning Commission should understand that the majority of the new homes we, and others, build are at the direction of our Homeowners. Same goes for the protection, trimming, or removal of their trees.

Please make sure to ask the planning commission to make a correction to the Commissioner's statement.

Thank you,

Andy Porter
REFINED
Cell: 612.991.9301
Fax: 952.303.3170
Email: aporter@RefinedLLC.com
www.RefinedLLC.com

Cary Teague

From: Ross Bintner
Sent: Monday, March 17, 2014 7:39 AM
To: Cary Teague; Tom Horwath
Subject: FW: EEC Postition on the Planning Commission's Residential Task Force's Proposed Tree Protection Ordinance

See below from EEC member Latham.



Ross Bintner, PE, Environmental Engineer

952-903-5713 | Fax 952-826-0392

RBintner@EdinaMN.gov | www.EdinaMN.gov

...For Living, Learning, Raising Families & Doing Business

From: Dianne Latham [<mailto:Dianne@LathamPark.net>]
Sent: Friday, March 14, 2014 4:15 PM
To: Ross Bintner
Cc: Bill Sierks; John Heer; Keith Kostuch; Rebecca Foster
Subject: EEC Postition on the Planning Commission's Residential Task Force's Proposed Tree Protection Ordinance

3-14-14

Ross,

Please forward the following to the members of the Planning Commission, the members of the EEC, to Cary Teague and to Tom Horwath. At the 3-13-14 EEC meeting I was directed to draft EEC's response to the Planning Commission's Residential Task Force's proposed ordinance on Tree Preservation. The EEC response was to take the form of the findings of EEC's Urban Forest Task Force (UFTF) report. The UFTF report was approved by the EEC, then was approved by Council at the June 18, 2013 EEC/Council Work Session to move forward to the Park Board. The following can be incorporated into the EEC minutes for the 3-13-14 discussion on the Planning Commission's Residential Task Force's proposed Tree Preservation ordinance:

The EEC's Urban Forest Task Force had substantially different findings than did the Planning Commission's Residential Task Force with respect to the need and scope of a tree preservation ordinance, as well as with respect to the best use of the City Forester's time. The UFTF found as follows:

"The UFTF found that generally, there was little wonton removal of trees on public or private property within Edina other than in isolated instances. It is very costly to remove a mature tree and consequently trees are generally only removed in cases of disease or of relandscaping; such tree removals are not in need of regulation. When trees are removed in such circumstances they are generally replaced with new trees within a few years... Although teardowns occur throughout Edina, most complaints stem from those teardowns on lots less than 75 feet wide. As such the UFTF believed that it would not be prudent to design an ordinance applying to the entire city to address the localized problem of small lot teardowns. Problems unique to small lot teardowns should be addressed by the Planning Commission's Residential Task Force (RTF) and any enforcement accomplished by the proposed city teardown overseer.

To more effectively control noxious weeds and address other environmental issues in the park system, the UFTF recommends hiring a full-time Natural Resource Manager, as opposed to a part-time Forester. More knowledge of ecology is required today given the arrival of many invasive plant, insect and aquatic species. A passive forestry program with a philosophy of 'Natural Forest Succession' and one primarily focused on tree diseases such as oak wilt and Dutch Elm Disease, is no longer adequate... With a full-time Natural Resource Manager the following can be accomplished:

more grants can be applied for, more parks can be certified as Audubon Cooperative Sanctuaries, more trees can be planted, more buckthorn and other noxious weeds can be controlled, more habitat can be restored, and more educational programs can be offered to residents. In addition, full-time positions attract candidates with more extensive applicable natural resource education and more applicable experience as opposed to part-time positions.”

Dianne Plunkett Latham
Commissioner, Edina Energy & Environment Commission
Chair, EEC Urban Forest Task Force
7013 Comanche Ct.
Edina MN 55439-1004
952-941-3542
Dianne@LathamPark.net