



Office of the City Manager
5200 Emerald Parkway • Dublin, OH 43017-1090
Phone: 614-410-4400 • Fax: 614-410-4490

Memo

To: Members of Dublin City Council
From: Dana L. McDaniel , City Manager
Date: April 6, 2017
Initiated By: Claudia D. Husak, AICP, Senior Planner
Brian Martin, Zoning Inspector
Michael Hiatt, Zoning Landscape Inspector
Jennifer D. Readler, Law Director
Re: Tree Replacement Fee Waiver Policy

Background

City Council discussed the Tree Waiver Policy in the Fall of 2016 and requested staff follow-up regarding potential modifications to the City's approach to addressing tree replacement waiver requests.

History

The tree preservation chapter applies to healthy trees, which have a minimum diameter of six inches breast height, considered "protected" trees. A tree preservation plan is required to be submitted prior to any construction activity and the Code requires all reasonable effort be made to design the site to avoid unnecessary tree removal. Protected trees that are removed are required to be replaced inch-for-inch within one year of removal with deciduous trees at a minimum size of 2.5 inches. A fee in lieu of tree replacement may be paid if full replacement would result in unreasonable crowding. The fee is based on the excess aggregate of diameter and currently is \$100 per caliper inch.

The tree waiver policy was adopted by City Council in 2001 to create a more uniform and objective approach to tree waivers, due to the increasing number of waiver requests at the time. The goal was to find a way to balance the intent of the tree preservation ordinance, approved by Council in October of 1998, against the actual financial hardship imposed by full implementation. Sites considered "heavily wooded" presented a challenge to the replacement requirements. A heavily wooded site has been defined as land containing at least 100 protected trees per acre or 1,000 total inches of protected trees per acre. The adopted tree waiver policy allows, if approved by City Council on a case by case basis, for tree-for-tree replacement to occur rather than inch-for-inch replacement for protected trees between six and 23 inches in diameter. The policy was amended to include a provision that landmark trees (24 inches or greater in diameter) be exempt from the tree-for-tree replacement and be replaced inch-for-inch.

The tree replacement fee waiver policy takes into consideration whether all codes have been met on the site and if methods have been used to minimize tree destruction.

A majority of the waivers have been requested as stand-alone Council actions, and Council has granted a total of 22 waivers (six were approved prior to the adoption of the policy). Several

developments, however, have requested relief from the tree replacement requirement through development agreements and through the planned district rezoning process by incorporating waiver language in the development text. The tree waiver for Lifetime Fitness was incorporated into the development agreement and the Wasatch Estates (Deer Run), Tartan Ridge and Tartan West developments include tree waivers in the approved development texts. As part of the rezoning request for Celtic Crossing, Council requested the removal of the tree waiver from the development text and instructed staff to no longer include tree waivers through this method.

Most recently, the Riviera development and Hawthorne Commons have requested tree waivers. The applicants for Riviera withdrew their request amidst concerns from residents. City Council disapproved the request for Hawthorne Commons and instructed staff to provide a follow-up on this subject.

Options

As requested by Council, staff has reviewed the history and intent of the tree waiver policy to help formulate alternatives to the current program. While there are fewer than five sites considered heavily wooded in the City, many developers continue to discuss the option of a fee waiver during their initial meetings with staff. Developers are responsive to the City's desire to preserve as many trees as practical, however some tree removal is unavoidable. In some cases, this can still add up to a sizeable replacement requirement.

The following are options staff is providing for Council's consideration:

1) Status Quo

Council has the option of reviewing each tree waiver request in the same manner as has been in place since the adoption of the policy. Staff would not recommend retaining the current policy as there have been issues raised regarding the relatively vague criteria.

2) Policy Update

Council may instruct staff to review, analyze and propose revisions to the policy, based on a thorough review of the waivers granted and potential flaws identified in the policy. This update could identify other methods of calculating replacements such as a sliding scale for replacement trees or a canopy approach, where the current tree canopy issued as the replacement method rather than the inches. An update to the policy could address eligibility of sites for waivers, better define heavily wooded sites, and the appropriate timing of waiver review such as at the preliminary development plan level as part of the development text. This approach could provide the opportunity to review each request on the merits of the proposed development and allow varying options of replacements.

3) Code Revision

A revision to the zoning code, addressing the tree preservation/tree removal/tree replacement chapters may provide an opportunity to clean up any conflicting language, address shortcomings in preservation standards and provide for varying replacement options. Some definitions and regulations, as well as the timing of site clearing could be clarified. One major change would be to give more importance to the preservation of desirable or significant trees. Currently, it is more cost effective for a developer to remove a 20-inch oak than a 30-inch silver maple as replacements are treated the same in

replacement requirements. Staff prefers to preserve the oak and other significant trees by providing a list of qualifications as part of the updated code based on species, condition, structure, and historical importance. Replacement values of a significant tree should be included.

The Code revision should clarify when a tree removal permit is required as it is important to continue to protect trees on undeveloped parcels. In addition, staff would suggest a tree removal clearing window be codified to eliminate confusion with ODNR rules regarding endangered species related to tree clearing.

Tree replacements with ornamental and evergreen trees should be permitted particularly when either of these kinds of trees are removed and need to be replaced, or where the number of replacement inches is so great that diversifying with these types is in the City's interest.

Allowing smaller trees (1.5 inches minimum) as replacement trees would be beneficial if the required replacement exceeds a certain number of trees as availability and diversity has been noted as an issue. Staff would propose a maximum replacement size of 4 inches.

Another topic that should be addressed is whether tree replacement could occur off-site as it appears as though paying the fee is less costly than purchasing a tree. Lastly, the definition of a landmark tree should be revised to address the trunk aggregate diameter calculation.

4) Eliminate the Policy

Council can eliminate the tree waiver policy and require developers to adhere to the Code. Staff would not recommend this option without an update to the Code as discussed above as the history of waivers has shown that in certain situations the Code is inhibiting sites from developing and the concerns of placing an undue burden on developers.

Recommendation

Staff recommends Council consider a Code revision and update to the policy. Council could also consider the input of their boards and commissions as may be appropriate or as otherwise required.