



MAYOR AND COUNCIL COMMUNICATION

DATE: 5/07/2013

REGULAR

ITEM #: 13

AGENDA ITEM: Zoning Text Amendment – Tree Preservation Ordinance

SUBMITTED BY: Nick Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Planning Director

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... Staff
- Report/Presentation..... Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider a Zoning Text Amendment to adopt a Tree Preservation Ordinance as part of Article 6 – Environmental Performance Standards. The Tree Preservation Ordinance was previously tabled at the April 16th meeting. The City Code currently does not contain any requirements related to tree preservation within development and grading activities. This Zoning Text Amendment is part of the ongoing effort to improve the Lake Elmo Zoning Code in preparation of future growth and development activity in Lake Elmo.

The Planning Commission recommends the City Council approve Ordinance 08-077 through the following motion:

“Move to approve Ordinance 08-077, establishing standards for tree preservation within development and grading activities”

In addition, Staff recommends that the City Council approve Resolution No. 2013-35, authorizing summary publication of Ordinance 08-077, through the following motion:

“Move to approve Resolution 2013-35, authorizing summary publication of Ordinance 08-077.”

BACKGROUND AND STAFF REPORT:

In preparation of upcoming development activity in the community, Staff is working on a project intended to make incremental improvements to the Lake Elmo Zoning Code. While working on this project, Staff identified tree preservation or protection measures as an area of Zoning Code improvement. Ordinances related to tree preservation are common among communities in the Twin Cities Metropolitan Area. In fact, Lake Elmo is one of few communities researched by Staff that does not employ provisions

related to tree preservation or protection. There are a number of reasons that cities engage in tree preservation, including, but not limited to, 1) increasing and maintaining property values; 2) protecting privacy by maintaining natural buffers between land uses; 3) promoting sound storm water practices; 4) reducing soil erosion and sedimentation; 5) improved air quality; and 6) maintaining tree and wildlife habitat to the best extent possible. While tree removal is a necessary part of land development and major grading activity, it the goal of tree preservation or protection measures to minimize or mitigate significant tree removal.

The Planning Commission has done significant work as part of working through the Tree Preservation Ordinance. Staff originally presented an ordinance aimed at tree preservation on March 11, 2013. At the meeting, the Planning Commission requested that additional research be conducted by Staff to identify the best approach to tree preservation. At the workshop on March 25, Staff presented findings from various ordinances around the twin cities (outlined in attachment #3), and the Planning Commission identified the City of Woodbury's ordinance to be the most complete and effective. As directed by the Planning Commission, Staff prepared the proposed Tree Preservation Ordinance based upon the approach employed in Woodbury. After presenting the ordinance at the meeting on April 8, 2013, the Planning Commission unanimously recommended approval with some minor refinements.

The proposed Tree Preservation Ordinance (§154.257) is applicable to all development, subdivision and major grading activity, and includes the following key features:

- As part of the activities mentioned above, applicants are required to submit a Tree Preservation Plan. This most often occurs at the Preliminary Plat stage of land subdivision.
- As part of the Tree Preservation Plan, applicants are allowed to remove 30% of the total diameter inches of significant trees on the site without triggering tree replacement. Significant trees are defined with the ordinance according to tree type (common, coniferous/evergreen or deciduous hardwood).
- If tree replacement is required, the applicant must follow the Tree Replacement Schedule, which calls for the following levels of replacement:
 - Common tree replacement: $\frac{1}{4}$ of the diameter inches removed to be replaced.
 - Coniferous tree replacement: $\frac{1}{2}$ of the diameter inches removed to be replaced.
 - Deciduous hardwood tree replacement: $\frac{1}{2}$ of the diameter inches removed to be replaced.

Through the levels of tree replacement, as well as the methodology to tally tree removal, the ordinance places a priority or preference towards hardwood deciduous trees, and secondarily coniferous trees.

- The ordinance outlines various procedural elements related to compliance of the Tree Preservation Plan, as well protective measures to be employed to ensure performance.
- The ordinance includes a permitting requirement for the removal of specimen trees (healthy trees above 30" of diameter breast height in size) in urban district. The reason for this is two-fold: 1) in urban districts with more density, the removal of such large trees can often pose a risk of safety and property damage to adjacent properties; and 2) in higher density districts, tree loss of that magnitude has a greater impact of amenity loss, warranting some replacement.
- Finally, the ordinance acknowledges the possibility where tree preservation goals may conflict with other City objectives. Therefore, the ordinance allows for exceptions to be granted as long as certain circumstances are met.

When comparing the proposed ordinance to other preservation and protection ordinances, it is less onerous or restrictive than other ordinances in the Twin Cities Metropolitan Area. For example, the tree replacement schedule in Medina, another developing community in the Metro, is a 1:1 replacement of diameter inches of significant trees removed. This is significantly higher than what is required in the proposed ordinance. In addition, other communities often have lower thresholds for allowed tree removal before tree replacement is required. Also, it should be noted that tree replacement in cases of commercial properties do count towards landscaping requirements. This allowance is related to the greater need of impervious surface for commercial properties. Other communities that were reviewed, with the exception

of Woodbury, do not count tree replacement towards landscaping requirements. For further comparisons, please reference the comparison chart in attachment #3.

Finally, making use of a similar preservation approach that is utilized in Woodbury offers two benefits: 1) utilizing a similar strategy or approach offers applicants the benefit of continuity and working from an established standard; 2) The fact that this approach is utilized in Woodbury demonstrates that the procedure and requirements have not been a hindrance to development activity. It should be noted that the proposed ordinance and Woodbury's ordinance do include some minor differences, including:

- Woodbury's replacement schedule includes lower amounts of replacement for common ($\frac{1}{8}$ replacement) and coniferous ($\frac{1}{4}$ replacement) trees. However, given how tree removals are tallied in both ordinances, it is less likely that common and coniferous trees will be replaced than deciduous hardwood trees. Both ordinances place a higher priority on hardwood deciduous trees.
- Woodbury's ordinance includes provisions for non-developing properties. Given the rural nature of the Lake Elmo community, Staff recommends to leave non-developing properties out of tree preservation requirements.

It is the goal of the Tree Preservation Ordinance to minimize and mitigate tree loss during development and grading activities. Measures related to tree preservation and protection have become established practice in development activity in the Twin Cities Metropolitan Area and beyond. Given that Lake Elmo is a Tree City USA (11th year) and is home to excellent natural resources, some form of tree preservation or protection is recommended in advance of future development activity.

RECOMMENDATION:

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ATTACHMENT(S):

1. Ordinance 08-077
2. Resolution No. 2013-035
3. Tree Preservation Ordinance Comparison Chart