

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
FEBRUARY 26, 2008 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Direction for a Tree Preservation Ordinance	Resolution Ordinance Motion <input checked="" type="checkbox"/> Discussion Only	Douglas Kozlowski Communications Director

SYNOPSIS

A motion has been prepared to receive the recommendation of the Environmental Concerns Commission (ECC), which recommended development of a private property tree preservation ordinance and direct staff to bring forward the matter for general discussion as part of the 2008 Strategic Planning process.

STRATEGIC PLAN ALIGNMENT

The Five Year Plan and Goals 2007-2012 identified *Top Quality Village Infrastructure and Facilities*. Supporting this goal is the objective *Enhance Urban Forest*.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval of the motion to delay further discussion of this matter until the summer of 2008 as part of the Strategic Planning process.

BACKGROUND

After review with the Village Manager, staff does not recommend referral of this matter to staff for development of an ordinance at this time. Rather, staff would request a policy level discussion be held by the Council as part of the Strategic Planning process in the summer of 2008. Subsequently, if the need to review private property tree regulations is deemed a top priority by the Council relative to other community needs, further staff research could be directed as part of the Strategic Plan. Staff requests this process in recognition of the significant workload that is currently directed under the existing Strategic Plan and the need for substantial public dialogue on this issue in advance of development of a proposed ordinance.

On Tuesday, June 5, 2007, the Village Council asked the ECC to review and consider the need to regulate trees on private property. The direction was deemed to be a follow-up to the March 8, 2005, review by the Village Council of changes to Municipal Code, Chapter 24 – Trees and Shrubs. At that time, both public and private tree preservation language was included in the ordinance. Language regarding private tree preservation was later removed and the revised ordinance was approved on May 17, 2005.

The ECC held several meetings in the later part of 2007 to discuss the merits associated with the preservation of trees on private property. With assistance from the Village Forester, the ECC reviewed tree protection ordinances from a variety of communities throughout Illinois. A survey outlining key points of these various ordinances is attached. In addition, Edith Makra, Community Trees Advocate from the Morton Arboretum, presented information on the environmental and economic benefits associated with preservation of the urban forest.

Subsequently, the ECC approved the following motion by a vote of 4-1. The motion developed as a result of the aforementioned deliberations by the ECC is as follows:

Whereas our heritage trees provide measurable, social, economic and environmental benefits that are significant, the Environmental Concerns Commission moves that the Village Council adopt a rigorous tree preservation ordinance that requires public notice to Community members of requests for tree removal and imposes appropriate fines for unapproved removals.

The ECC further recommends that heritage trees defined as specimen trees 24” and larger measured 4.5 feet above grade be subject to review and permit not withstanding any other building activity.

The minutes featuring discussions on this motion are attached.

The next step is for the Council to determine if there is consensus to direct staff to prepare a private property tree preservation ordinance for consideration. Staff would ask for a minimum of 90 days to prepare a recommended ordinance. Policy details that would be established in a recommended ordinance include:

- Definition of *Heritage* trees (e.g. *Heritage* trees could be defined as the oldest, largest and most important native component of the Downers Grove urban forest such as oaks and sugar maples over 24 inches in diameter and hickories over 18 inches in diameter)
- Determine relevance, if any, of tree canopy coverage
- Creation of a public hearing process for private property *Heritage* tree removal in the absence of building construction activity
- Determination of what level of private property improvements/building construction activity would trigger Village review of a privately prepared *Tree Survey* and *Tree Preservation Plan* (for the purpose of identifying *Heritage* trees and the impact of private property construction activities on said trees – such surveys and plans are prepared by a private, licensed arborist)
- Determination of application fees for Village review of *Tree Survey* and *Tree Preservation Plan*
- Codification that removal of private property *Heritage* trees would be permitted, however property owners would be subjected to a financial penalty when removing *Heritage* trees
- Determination of appropriate financial penalty for removal of *Heritage* trees.

ATTACHMENTS

Minutes of the November 29, 2007 Environmental Concerns Commission
Tree Preservation Ordinance Survey

DOWNERS GROVE ENVIRONMENTAL CONCERNS COMMISSION

November 29, 2007

Public Works Training Room

5101 Walnut Avenue, Downers Grove

7:00 PM

Chairman Sterner called the meeting to order at 7:00 p.m. A quorum was established.

I. Roll call

Present: Chairman Joseph Sterner, Members James Cavallo, Heather Kindermann, Michael Stasi, William Tokash, Lois Vitt Sale

Absent: Bob Pawlak, John Wander

Staff: Communications Dir. Doug Kozlowski; Village Forester Kerstin von der Heide

Guests: Edith Makra, Community Trees Advocate - Morton Arboretum

II. Review of October 11, 2007 Minutes

Ms. Kindermann stated she had asked a question at last month's meeting regarding whether there would be any preventative measures for an individual to purchase a property and then cut down his or her trees and building new prior to pulling a permit to avoid the ordinance. She asked that the question be included in the minutes. **Minutes of the October 11, 2007 meeting were approved, with noted revision, on motion by Mr. Cavallo, seconded by Ms. Kindermann. Motion carried by voice vote of 4-0-1 (Vitt Sale abstains)**

(A change in the agenda followed)

IV. Tree Preservation Ordinance

Ms. Kerstin von der Heide, the Village Forester, pointed out the new changes made to Chapter 24 of the Code, specifically adding "Heritage Trees" and clarification of the fees for a tree removal permit. Currently the code applies to village-owned trees and the appraised value would only be used for village-owned trees. Private trees would be calculated by an inch rate; \$100.00 per inch for Heritage trees. Concern was raised about not receiving consent of neighboring property owners and whether it could stop construction or hold up a project. Ms. von der Heide indicated it would be difficult to write every single case into a code and certain exceptions would have to exist. Mr. Cavallo suggested inserting a dispute resolution process. Asked how other villages were handling the matter, Ms. von der Heide explained that the language proposed was seen in some of the villages for individual lots as well as for large developments. Discussion followed that the new language was for survey purposes. The chairman agreed some form of language was necessary in case a property owner did not allow a tree surveyor on a property.

In discussing violations, Ms. von der Heide stated if the commission chose to include the Heritage trees, a higher penalty would be incurred for the unlawful removal of a Heritage tree, i.e., \$200.00 per inch. While some of the penalties listed appeared to be low as compared with nearby communities, Ms. von der Heide said she took in a number of considerations, such as those

communities who had a tree preservation program the longest and those communities that were progressive, i.e., Northbrook, Park Ridge, Deerfield, Highland Park, and Lake Forest. Ms. Vitt Sale pointed out that if the matter became an issue, it needed to be pointed out that as compared to other communities, Dowers Grove was on the lenient side. She believed the village needed to be aggressive with its Heritage trees. Comments followed on whether to increase the violation fees since comparing the fine to a development was minimal. Ms. von der Heide indicated Park Ridge was working to increase its \$500.00 per inch tree removal fee since developers there did not have an issue paying the current fee.

Rather than having a high dollar amount to slow down the development, a suggestion was made to have a more slower process or a process similar to the zoning process, i.e., notification to neighbors, reasons why the request was being made, and instituting a fine if the tree comes down. Mr. Cavallo favored pulling the permit and going through a process from the start.

As to whether the new language would halt someone from cutting trees down before they apply for a permit, Ms. von der Heide stated it would not and she has not seen that as an issue to date. To summarize, the chairman stated the survey would have to be completed before a development went through the zoning and planning process. As an aside, Ms. von der Heide also added that some years prior, the village's engineer for Planned Development used to require trees on a survey but somewhere it got lost in the process over the years because it was not officially documented.

Recalling that the commissioners did have concerns about what size lots and developments triggered tree preservation and what size tree, most communities placed the average between six to ten inches in diameter. Lots also varied from an acre and a half to anything requiring a grading plan.

Mr. Kozlowski interjected and conveyed to the group that as the discussion continues, the group should focus on creating a recommendation or motion to the village council which discusses the value of tree preservation on private property and having a strong and solid ordinance. The commissioners then discussed the benefits of preserving trees and the fact that they were very obvious. At the same time, it was also raised that some individuals thought private property rights were obvious. Lastly, it was pointed out that with a building permit an owner was basically being told what can be done on his or her property, which was a moot point. Kozlowski concurred.

III. Visitors Welcome

Ms. Edith Makra, Community Trees Advocate with the Morton Arboretum, was welcomed. Ms. Makra pointed out on a map the number of communities around the Chicagoland area that have worked on tree preservation ordinances. She stated that while many communities plan to complete a tree ordinance in a year's time, it usually ends up three years. Much of what she has seen has been triggered by redevelopment issues and every community differs in its ordinance due to different political structures. No one community's ordinance will fit Downers Grove. She encourages communities to collaborate and learn from one another.

A presentation followed on the economic, social, environmental and healthful benefits of trees. Mr. Cavallo pointed out the importance of the tree canopy intercepting rainfall and slowing the water down into the stormwater system, thereby reducing the cost to some public projects. Ms. Makra cited that the City of Los Angeles was working on a campaign to plant a million trees to assist with their stormwater issues. Further benefits followed on planting large stature trees versus small trees: longer life expectancy, economic benefits, property value benefits, and energy conservation benefits. In a benefit cost ratio slide, Ms. Makra pointed out that for every dollar the

village invests in its trees, it also gets back. In reviewing the benefit cost ratio being discussed, Mr. Cavallo pointed out that an argument can be made that for every tree removal that same cost can be imposed. Private trees were even more valuable. Comparisons were presented.

The presentation touched upon on mitigation and having a fee in lieu of tree replacement as long as it was linked to a number of, size, and nature of the trees removed. Recommendations for reducing the risk of litigation, based on a having a tree preservation ordinance, included having 1) an appeals clause; 2) applying the ordinance generally to the community as a whole, and making a link in the ordinance between what the village is trying to accomplish in terms of community, general health and welfare, and those benefits that protect the quality of life that the village wants to preserve; 3) assuring that no situations exist in which an ordinance can reduce the economic value of a parcel to zero; and 4) including a permit process.

As to having a higher fee structure that is cost prohibitive, Ms. Makra indicated she did not, to date, see such a structure and most of the time developers viewed it as a bump in the road and found a way around it. She believed the Stop Work Order appeared to be very effective. Dialog followed that the 10% fine (10% of the property value) for a Heritage tree removal was a significant fine.

Regarding the earlier question of trees being removed prior to development, Ms. Makra indicated it was an issue that had been raised in other communities but she did not know the resolution to that issue. As to holding zoning hearings for tree removals, she did state that when she worked in Massachusetts a state tree law existed (from the 1800s) which required public hearings for all tree removals. In a visit to Baltimore, she also experienced similar posted notices on trees.

Mr. Cavallo suggested having the above presentation done before the Village Council and the public at large. Ms. Makra stated she would be willing to make that presentation.

One of the commissioners had concerns that the return on investment cost appeared to be lower than the permit per tree cost that was being discussed. Wherein, Ms. Makra pointed out the return on investment was for every dollar invested. A suggestion was made to de-emphasize the figures and to focus on the legal aspects and the powerful benefits of trees. As a general observation, Ms. Vitt Sale, suggested to take into consideration the number of trees in Downers Grove, such as the trees per acre, and multiply that benefit to the community for saved energy, saved carbon, stormwater benefits, general property values, impact to taxes which impact quality of schools, etc. explaining how the figures become significant to the community.

Mr. Cavallo also stated that the commission make the argument to village officials that while there is a large cost imposed by cutting down trees, it will impact stormwater drainage. To the general public, it should be communicated that when one individual cuts down trees that the individual is imposing on everyone in the community the additional costs in terms of taxes, additional costs of healthcare, stormwater drainage, etc. Mr. Cavallo suggested attaching a printout of Ms. Makra's presentation to the minutes.

Ms. Makra also mentioned that a cost benefit could be run using the information from the Midwest Tree Guide.

Mr. Cavallo made a motion that the commission attach the above presentation to its minutes, seconded by Mr. Stasi. Motion carried by voice vote of 6-0.

Mr. Cavallo discussed making a motion that the Village Council direct the manager and staff to consider an upgrade in the Tree Ordinance, as discussed above, based on the community benefits such as clean air, reduced water surfaces into sewers, clean water prior to entering sewers, reduced energy demands, improved street appearance, reduced noise, and improved social activities. Ms. Vitt Sale read language that was more direct and felt that the issue was a community issue and the community needed to be aware of someone removing a Heritage tree.

Comments followed that the terms to be used within the presentation should include “measurable” benefits. Also, that the ordinance be integrated into the zoning hearing discussions, as discussed above, and to keep the enforcement process simple. Comments followed that community involvement was necessary as well as community feedback. As an aside, Ms. Makra talked about an environmental workshop in Glen Ellyn where she is raising the community’s awareness about the value of trees, similar to the discussions taking place in Downers Grove.

Ms. von der Heide interjected and pointed out that the village’s Community Dialog Summary, dated September 18, 2004, included 160 participants who ranked Green Space/Trees as the highest of the topics to discuss. Mr. Kozlowski recalled that particular dialog also focused on residential redevelopment at that time.

Ms. Vitt Sale made a motion that whereas the village’s Heritage Trees provide measurable social, economic, and environmental benefits that are significant, the Environmental Concerns Commission requests that the Village Council adopt a rigorous tree preservation ordinance that requires public notice to community members of requests for tree removal and imposes appropriate fines for unapproved tree removals. The Environmental Concerns Commission further recommends that Heritage Trees, defined as specimen trees 24” inches and larger, measured four and one-half feet above grade, be subject to review and permit, notwithstanding any other building activity. Seconded by Mr. Tokash.

Discussion followed on concerns of whether the village would have to know the location of such Heritage Trees for purposes of enforcement, wherein Ms. von der Heide explained that most of the Heritage trees were located between Ogden Avenue and 63rd Street. Dialog also followed the Village Council was getting a good starting point and that it could make any changes it deemed as to the specifics. Dir. Kozlowski stated he would draft a staff report for the commissioners to review before forwarding it to the village council.

Ms. Kindermann made a motion to take a vote on the above motion, seconded by Mr. Stasi. Motion carried by voice vote of 5-0.

A formal roll call followed on Ms. Vitt Sale’s above motion.

**Ayes: Mr. Tokash, Ms. Vitt Sale, Mr. Cavallo, Mr. Stasi
Nay: Ms. Kindermann**

Motion carried. Vote 4-1

V. Old Business - None

VI. New Business

Mr. Cavallo invited the commissioners to the Pierce Downer Heritage Alliance annual meeting scheduled for December 12, 2007 at the Lincoln Center.

Mr. Kozlowski read a statement received from Mr. Mark Toman, 1109 61st Street, Downers Grove, thanking the Environmental Concerns Commission's work on the recycling center.

Ms. Vitt Sale stated she was protesting the discarding of lights from the tree located in the village center as a wasteful practice, if in fact, that was true. Mr. Kozlowski would follow up. She also suggested that the village use LED lights. She invited the commissioners to view such lights in front of her home.

A status followed on the latest garbage contract, which was awarded to Arc Disposal. Details followed. Questions followed on bin use and Amnesty collections.

Ms. Vitt Sale offered to invite Dave Cook from Evanston to talk with the commissioners about climate change. Mr. Cook was available. She would forward Mr. Kozlowski Mr. Cook's information.

The commissioners discussed not holding a December meeting. **Mr. Tokash made a motion to postpone the December meeting and meet in January, seconded by Ms. Vitt Sale. Motion carried by voice vote of 5-0.**

VII. Adjournment

The meeting was adjourned at 8:50?? p.m. on motion by Mr. Stasi, seconded by Ms. Vitt Sale. Motion carried by voice vote of 5-0.

Respectfully submitted,
(as transcribed by tape)

/s/ Celeste K. Weilandt

Celeste K. Weilandt, Recording Secretary

<u>Community</u>	<u>Tree Permit needed for Removal of Private Trees?</u>		<u>Tree Preservation Plan/Survey Required For:</u>	<u>Trees to be shown on Plan/Survey:</u>	<u>Tree removal permit fee for private trees and/or Plan/Survey inspection fees</u>	<u>Fines/Penalty in addition to Stop Work Orders</u>	<u>Additional notes</u>
	<u>Any reason</u>	<u>Construction only</u>					
Bolingbrook	yes	yes	any parcel that requires site plan or development plan	>6" diameter	each tree removed >6" shall be replaced with a quantity of replacement trees in a table, Village may retain a professional tree consultant to review submitted tree preservation plans at developers expense, \$100 for 3 inspections by staff, additional inspections \$16.50 plus standard hourly rate, for new construction the inspection fee for new trees is 6.5% cost new trees	violate fencing \$300 per day, damage protected tree \$1000, destroy protected tree \$500 to \$1000 for tree under 10" or \$50 to \$100 per inch for >10" plus replacement trees per table, \$1000 per tree removed without permit	codes in place for more than 20 years
Deerfield	yes	yes	demolition permit, grading permit, building permit	>8" diameter including those within 10' lot line	submit tree replacement plan with number based on table, cash tree replacement fee \$125 per inch, staff review plan \$450 to \$525	\$100 to \$1500 per violation, unauthorized tree removal \$500 per tree up to 24" and \$1000 per tree >25", replacement planting per table	
Glen Ellyn	no	no	all development needing a building permit adding more than 300 sq ft	>10" diameter including those within 15' of lot line	request that if a tree is removed it be reported to the Village by the tree company. if tree preservation plan is required, it is then reviewed & enforced by a consulting forester. The fee for this service is paid for by the developer of the property, plus costs for staff to review plans \$50/hour.	\$250 to \$750 per violation	
Highland Park	yes	yes	all projects requiring building permits	>6" diameter	trees over 8" require a permit for removal and may be denied if deemed unnecessary, removal fees based on number inches removed per table (max \$1000) plus 2 3" diameter replacement trees required for each tree removed (or a fee of \$96 per inch for replacement trees not planted), \$60 per field inspection	\$1000 per violation or per damaged private or parkway tree	In place since 1992, have gone to court numerous times and have not lost once
Hinsdale	No	No	demolition of principal structure or building permit adding more than 600 sq ft floor area	>8" diameter including those within 15' of lot line		Village has right to draw on \$3000 bond	A copy of the plan is delivered to the abutting neighbors as a precondition of a permit. This informational courtesy starts dialog that may modify design.
Lake Forest	yes	yes	all building permits	>8" diameter	All trees over 8" require a permit for removal and may be denied if deemed unnecessary	unauthorized removals \$750 per inch removed tree plus inch per inch or double inch replacement can be required, alternative to replacement planting \$77 per inch paid into Village tree bank, other \$750 per violation, \$500 per re-inspection for proper fencing	have not lost any court cases

<u>Community</u>	<u>Tree Permit needed for Removal of Private Trees?</u>		<u>Tree Preservation Plan/Survey Required For:</u>	<u>Trees to be shown on Plan/Survey:</u>	<u>Tree removal permit fee for private trees and/or Plan/Survey inspection fees</u>	<u>Fines/Penalty in addition to Stop Work Orders</u>	<u>Additional notes</u>
	<u>Any reason</u>	<u>Construction only</u>					
Naperville	no	yes	parcels more than 1.5 acres, all nonresidential private parcels, and parcels that require landscape plan	>4" diameter	\$35 per tree removal permit	unauthorized removals require replacement plantings per table and pay city assessed tree value, \$500 per violation	
Northbrook	yes	yes	construction requiring building permit of any kind which may impact trees	>6" diameter	All trees over 6" require a permit for removal and may be denied if deemed unnecessary. Heritage trees (30"+ oaks & others) may be denied for removal no matter what the reason and can only be overturned by a the board at a special hearing, approved tree removal permit fee based on inches of removed trees plus replacement tree(s) required based on inches removed (Heritage and Landmark trees cost more)	replacement required for damage or removal protected tree depending on classification (Heritage, landmark, regular, nuisance) and the sum of inches damaged or removed, or a fee in lieu of replacement based on city tree and planting costs	in place since 1999, have been several challenges but the City has not lost a case yet
Park Ridge	yes	yes	building permit and site plans	>3" diameter including those within 5' lot line	All trees over 10" require a permit for removal and may be denied if deemed unnecessary. Replacement tree required depending on inches removed tree, This ordinance is currently under review to make it more stringent including non-refundable \$300 per parkway tree fee	\$50-\$500 per violation, unauthorized removals \$500 per inch of tree removed	
Wilmette	yes	yes	any project requiring grading plan	every existing tree	tree removal permit needed for trees >10", must obtain minimum canopy coverage no less than 35% of the total lot area following construction between keeping existing trees and planting new, Heritage trees count more towards canopy coverage	\$250 to \$750 per violation for not protecting existing or not planting new per plan	
Downers Grove	not proposed	proposed	propose for demolition permit or a building or site development permit adding more than 600 sq ft, or applications for subdivision, special use or planned development	>10" diameter, and those within 15' lot line for projects >5 acres	propose fee for removal Heritage trees at rate of \$100 per inch	for violations 1st offense is \$500 2nd offense is \$1000 and 3rd+ offense \$2500, replacement required depending on inches removed or payment into tree fund at rate of \$100 per inch removed or propose \$200 per inch Heritage tree removed	