

# Town of Indian Trail



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## PLANNING AND DEVELOPMENT DEPARTMENT

# PARKS, GREENWAY, AND TREE COMMITTEE

June 20, 2007

6:00 p.m.

### COMMITTEE MEMBERS

#### PRESENT:

Don Helms  
Mike Lunsford

Pat Meehan  
Bill Smith  
David Grant

#### ABSENT:

Gary Vaughn  
David Hogue

Sherry Clontz

### PLANNING STAFF

#### PRESENT:

Lisa Walton, Junior Planner/Grant Writer

**I. Call to Order:** 6:30 pm Meeting Called to Order by Don Helms, Chair.

**II. Approval of Minutes:** **Bill Smith made a motion to approve the minutes for May 30th meeting. Pat Meehan seconded the motion and the committee voted unanimous to approve May 30, 2007 minutes.**

#### **III. Development**

Lisa Walton asked whether David Grant had anything to add to the development section of the ordinance. David Grant stated that the framework was set and that the consultant should have enough information to draft the ordinance.

#### **IV. Discussion on incentives for the Tree Ordinance.**

**First incentive example:** Provisions for Preserving Existing Trees states that any existing tree or group of trees that stands within or near a required planting area and meets or exceeds the

standards of this ordinance may be used to satisfy the tree requirements of the planting areas. Protection of tree stands, rather than individual trees, is strongly encouraged.

**Rate of Credit:** Credits shall be allowed at the rate of one canopy tree for every three inches in caliper measured at four and one-half feet above grade. Credits shall be subtracted from the total number of canopy and understory trees required in the same planting yard where the tree is located.

**Second incentive example:** Incentives for increasing tree save areas include reduction of setback and yards and eligibility for a density bonus if the minimum tree save area is in common open space.

Lisa Walton stated that the density bonus incentive would probably not go over well with the Town of Indian Trail but the reduction in setbacks and yards would be a possibility. Mike Lunsford agreed that he liked the reduction in setbacks and yards. **The committee agreed to allow the consultant to place other incentives in the ordinance for review.**

Pat Meehan asked to be excused from the Tree Committee meeting. The Chairman, Don Helms excused Pat Meehan from the meeting.

Mike Lunsford feels that an incentive program is a good thing. David Grant stated that a common way for urban forest practices is to put the burden on the developers and he doesn't agree. David Grant believes that the towns should come partial way with compromising with the developer only if the developer is willing to save trees then they'd get reduced setbacks or other incentives.

**Third incentive example:** Heritage trees located on any site, which is subject to the Tree Preservation requirements of this Section, shall be preserved. Two-hundred (200%) percent of the canopy area of each heritage tree shall count towards the required tree save area. **The committee agreed that two-hundred (200%) percent of the canopy area of each heritage tree shall count towards the required tree save area.**

## **V. Discussion on disincentives for Tree Ordinance.**

**First Disincentive Example:** 1) Failure to plant original or replacement trees shall be \$50.00 for each tree not planted. 2) Injury or damage to, or destruction of, trees and shrubs protected by this ordinance that results in a total loss of the tree or shrub shall be assessed in accordance with the tree evaluation formula or other generally accepted industry evaluation methods. However, the maximum civil penalty for each tree injured, damage or destroyed shall not exceed \$20,000. No notice of violation is needed prior to the assessment of a civil penalty issued pursuant to this subsection.

Bill Smith does not agree that there should be a limit on the maximum penalty of \$20,000. He believes number two of the first incentive is tied to an economic value so why put a limit on the maximum penalty. David Grant and the Committee agreed with Bill's comment. Don Helms suggest leaving out the limits on maximum penalties. David Grant pointed out accepted industry evaluation methods in number two of the first incentive. He stated that there are several formulas that a certified landscaper appraiser uses some called cost of cure or cost of replacement where not actually getting the landscape value of tree. David Grant stated that there is another formula that calculates the landscape value of the tree not just the wood, pulp, or

timber value. Bill Smith asked whether the tree ordinance should specify which industry evaluation method should be used in the ordinance. David Grant answered by saying that a certified landscape appraiser is going to do what ever fits the case. Bill Smith stated that the formula would take care of this situation because built into the formula is the species and size. Bill Smith stated that these were all civil penalties but nothing about replanting. He also commented on the last sentence in number two of the first disincentive. He does not agree with not notifying the violator. Mike Lunsford stated that you couldn't give them notice after they cut down the tree. Don Helms mentioned that the ordinance and tree inventory is their notice.

A discussion was held on large tree removal and replacements on development sites. Lisa Walton mentioned that the developers have the option of applying for a variance. David Grant stated that our ordinance will have mitigation requirements for instance if a heritage tree is removed then tree replanting will occur or an amount of money will be placed in a tree bank. He also stated that the ordinance is not preventing a tree from being removed. Don Helms stated the board hearing variances would have the option of approving or denying the variance request. Bill Smith commented that there is nothing in the ordinance to protect large/heritage trees. Lisa Walton stated that in the ordinance this committee would have the opportunity to hear variances. **The committee agreed on the opportunity to hear variances to the tree ordinance.**

Bill Smith stated that the ordinance has to work and Mike Lunsford agreed. Mike mentioned that the build-able envelope can further restrict because of by right zoning. He also asked whether the committee could tell the developer what he can or cannot cut down in the build-able envelope especially if the setbacks are full of healthy trees that could be used toward the shading requirements. He feels that the developer should be able to do what they want in the build-able envelope if they save the trees within the setbacks, etc. Bill Smith asked whether we should go back and clarify the difference between a large and heritage tree. Mike stated to not let the developer touch anything within the setbacks but in the build able area the developer should be allowed to remove trees. David Grant mentioned that most jurisdictions allow developers to do what they want inside the build able area unless they decide there is a particular type of tree to be saved.

**Second disincentive Example:** A civil penalty five hundred dollars (\$500.00) plus an additional fifty dollars (\$50.00) per day per offense, for each day the violation continues to exist; where the Administrator has determined that a violation of this Ordinance has occurred, no certificate of compliance shall be issued until required replacement plantings have been completed or the violation otherwise remedied.

The Committee agreed that placing a hold on the certificate of compliance was a good penalty.

Bill Smith stated that there should be something in the ordinance requiring the replacement of a tree if they are damaged, destructed or die. Lisa Walton stated that something could be placed within the ordinance requiring them to be replaced if die within one year. Bill Smith brought up shading percentages and asked whether there had been anything placed in the ordinance requiring those percentages to be maintained. David Grant stated that the ordinance has the pruning standards. Don Helms mentioned what if in nine years someone comes through and cuts all the trees down in the Wal-Mart parking lot. Bill Smith stated that you tell Wal-Mart to replant and if not the Town will contract with a company to replant and send Wal-Mart a bill. Mike Lunsford mentioned that in residential developments the developer or private landowner is responsible for maintaining the landscaping. **The committee stated that they thought a**

**statement should be included in the ordinance requiring the developer, hoa or private landowner to be responsible for the maintenance on tree plantings.**

**Bill Smith stated that there should be a statement requiring the percent of shading to be maintained.** David Grant mentions that he has not seen it worded this way in any other ordinance requiring a percent of shading to be planted and maintained. David Grant also stated that there could be something in the ordinance saying that if a tree has been removed or died that the replanting has to be of the same species.

**Third disincentive example:** The destruction or removal of trees shall result in a civil penalty equal to the amount of the value of tree listed in the “The Council of Trees and Landscape Appraisers”.

**The Committee agreed that a tree is removed or damage it shall result in a civil penalty equal to the amount of the value of tree listed in the “The Council of Trees and Landscape Appraisers”.**

## **V. Adjourn**