

Hi!

I am a transplant into Chapel Hill during the year 1999. My family moved here for my husband's work but just as important in my mind was the beauty of the area and the amount of trees which seemed to fill every street and daily commute I would be taking. Well, this is a very sad state that our "current Chapel Hill" is in. I live in the Estes Hills area and at first it was the "new buildings" on Franklin that are just down the hill from our home. The next and I was shocked at this, the Erwin Road destruction to build the La Quinta Inn (or whatever was put there?) and the traffic "turn about". The hawks which used to circle the trees at that intersection are long gone. Then the horrid decision which was made to remove the trees within the Eastgate Shopping Center and replace the "old and established" (even if they were smelly, they were beautiful), flowering trees, with little tiny, no shade or climbing fun for kids, type of trees. (Needless to say a smaller root system for water runoff to be held back from the overflow creek that floods everywhere as well...not very smart in my opinion!) The destruction of the trees along Weaver Dairy that are currently being removed is breaking my heart as well. The articles in the paper say "We need more affordable housing", well where are all the trailer home folks who live across from Timberline going to go??? You also destroyed the wooded lot off of the other entrance to the Timberhill shopping area that is now a serious of buildings and NO trees at all at the end of Weaver Dairy....my list and complaints can go on and on...

My point, is when will the people within the Chapel Hill Offices realize that we have (had) something very special here. It has attracted many highly educated families and should be able to continue to do so.

However, if the "FOREST" is not being able to be seen through the "TREES", because there aren't any?!@*, what will Chapel Hill have?? The same old story of a very nice community which had been a pleasant area to live, raise kids and work and run errands in, to an area that is polluted, over run and unpleasant to drive around in.

This leads me to Chapel Hill North. I run there> Alot of folks run there> I used to walk the animal shelter dogs there (until it moved and now there aren't any good trails to walk the dogs on). However, the best feature of this system of trails in Chapel Hill North? Is the fact it is a "FOREST" with TREES that can be seen and heard and felt. The breeze, the change of seasons, the mud, the pine needles, the quiet and the feeling of being the only person in the whole world out running alone (and yes I feel safe as a single female to do this), I just am in awe of its beauty and peace and I NEED THIS, please do not take away the last place in Chapel Hill where I can seek this form of seclusion and be able to renew my spirit and self.

I realize that you cannot stop advancements, but think of those of us who feel we are at the verge of ending a once "Southern Slice of Heaven on Earth" if you take away all that is special in Chapel Hill.

You are welcome to respond and comment, I cannot feel that whatever changes you will make, can ever replace what we currently have, as a positive outcome, right now, since it is the best that there is; continuing to remove more trees will only be harmful and destructive in any form, in my opinion.

Heidi Bukoski

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heidibukoski@gmail.com

From: james casey [mailto:JCASEY10@nc.rr.com]

Sent: Saturday, February 20, 2010 9:15 AM

To: Town Council

Subject:

Please "Do Not" proceed with the proposed Expanded Tree Regulation in Chapel Hill. We don't need one more reason for homeowners to vacate costly Chapel Hill.

Sincerely,

Jim Casey

Trees have always defined Chapel Hill, and the canopies of our older trees have most certainly shaped the image of our community. The Tree Protection ordinance will serve to protect that image, the environment, our ecology, and our health. For the Ordinance to work it has to have definitive priorities. Do we choose simplicity or thoroughness? How flexible should flexibility be? Is it better to codify as much as possible or will we find that too restrictive? You must establish what you are trying to accomplish.

One weak spot in the proposal is the reliance on future canopy. The greatest emphasis should be given to preservation of existing trees. The recommendation to replace trees that may measure 30" in diameter with 1" and 2.5" trees will result in a period of 15 - 20 years before restoration of canopy coverage. Betting on that future canopy fails to mitigate the environmental effect of mature tree loss. Where possible, clearing in phases, so that some measure of mature canopy continues as smaller trees take root, could help. Another solution would be to link replacement tree size or number of replacement trees to a percentage of the tree size removed.

As a best practice, a rare and specimen tree inventory is essential. Do we have 25 specimen or rare trees? 75? 150? Without that knowledge, how can a choice be made between preservation or removal? Once identified, those rare and specimen trees should be nominated for the Champion Big Tree Program. Chapel Hill could also consider establishing our own "legacy" tree program as an adjunct to the ordinance.

Additionally, proposed language recommends benefits for "voluntary protection" of rare and specimen trees. However, once registered, (QUOTE) "trees may be removed from the register at a later date at the request of the owner," (CLOSE QUOTE) obviously AFTER the benefits have been realized. This provision will lay the foundation for abuse of real tree protection.

More finely tuned guidelines on protecting trees by interrelated factors of size, age, and type of tree would be an improvement. A fast growing tree, such as a birch, will have a larger diameter years sooner than a slow growing white oak or beech tree. In order to create a diverse and vibrant tree canopy, tree variety in growth rate and type of tree is important. Removal should consider what is old and what is large by specie and size.

Location of a tree should be an important factor of its expendability, as well. Specifically, streamside trees help to minimize the level of pollutants reaching waterways, lower pollutants in sewer systems, and help in managing storm water runoff. A LUMO text amendment should specifically state that no stream side trees in the RCD can be removed.

The Town has committed itself to reducing its carbon footprint and tree preservation is an implicit part of this process. A new Tree Protection Ordinance has been discussed for over 3 years. It is my hope that this ordinance, which the staff has worked on so hard, will be enacted as soon as possible.

SUGGESTED TREE PROTECTION ORDINANCE REVISIONS

| <u>SECTION</u> | <u>DRAFT PROPOSAL</u> | <u>SUGGESTED REVISION</u> |
|----------------|---|--|
| 5.7.3 (C) | Two 1" trees/1000 sq ft canopy deficit to be planted | Base the replacement requirement on the size of the removed tree. This could be a % of the diameter of trees removed. The percentage replacement should increase as the size of the removed tree increases. Ex: if two 15 dbh trees were removed (30" total) with a 33% replacement factor for 15" trees, that would be 10 inches (30" removed x 33%). If the minimum planting size is 2.5", 4 replacement trees would be required.* |
| 5.7.7 | Rare and specimen trees -no inventory proposed- | Inventory all rare and specimen trees. Apply for Championship Tree status or create a Chapel Hill "Legacy" tree program |
| 5.7.7 (c) 3 | voluntarily protected trees may be removed from the register at a later date at the request of the property owner | DELETE |
| not addressed | - | Protect trees by the correlation of size/age/specie-create chart of minimum size to be protected by specie |
| not addressed | - | amend LUMO RCD ordinance to prohibit removal of stream side trees |
| 5.7.4 | 2.5" replacement trees | specify trees should be Ball & Burlap or come in 30 gallon containers. Also see revision at 5.7.3 |

| <u>SECTION</u> | <u>DRAFT PROPOSAL</u> | <u>SUGGESTED REVISION</u> |
|----------------|--|---|
| 5.7.1 (c) 3) | arborist certification before or after removal | in non-emergency removals, BEFORE any activity |
| not addressed | - | no homeowner penalty for removal of tree(s) if insurance inspection results in written recommendation |
| not addressed | - | penalties for severe pruning |
| not addressed | - | consider yearly limits for tree removal on single family & two-family lots |
| not addressed | - | some relief from canopy coverage requirements for the use of solar energy-n/a to rare or specimen trees |

**NOW THAT YOU'RE HERE,
THE WORD OF THE LORAX SEEMS PERFECTLY CLEAR.
UNLESS SOMEONE LIKE YOU
CARES A WHOLE AWFUL LOT,
NOTHING IS GOING TO GET BETTER
IT'S NOT.**

From Dr. Seuss's "The Lorax"

Del Snow- 2/22/10

*The University of Georgia College of Agricultural and Environmental Sciences

From: pops44@gmail.com [mailto:pops44@gmail.com] **On Behalf Of** Trey Doak
Sent: Friday, February 19, 2010 7:14 PM
To: Town Council
Cc: mattczajkowski@nc.rr.com
Subject: Tree Ordinance

Mayor & Council:

The fact that you are even considering the new tree ordinance tells the citizenry all we need to know about your mistaken vision of your duty to us. If you do not have any truly important business to conduct, please just go home and watch TV or read a good book. No one voted for you to be able to meddle in our lives like this and certainly no one voted for you to do anything that would require additional town staff. You truly make yourselves look silly with initiatives such as this tree ordinance. Get real!

Hoyt Doak, III
113 Sheffield Circle

From: Ed Fuchs [mailto:fuchs.edward@gmail.com]

Sent: Saturday, February 20, 2010 7:17 AM

To: Bonnie Fuchs; William R Ferris; Marcie Ferris; mayorandcouncil@townofchapelhill.org.

Cc: Edward Fuchs

Subject: Citizens For Responsible Government | Voting Records

For existing homes, it seems to me that the proposed tree ordinance represents a "taking" of private property, which is unconstitutional. Whether or not it is constitutional, it will be excessively burdensome. The ordinance seems to apply to dead trees as well as live, and to saplings > 6" under the mature tree canopy.

Memorandum

Date: February 22, 2010
To: Mayor and Members of Town Council
From: Philip N. Post, PE
RE: Tree Ordinance Proposal

Dear Mayor and Members of Town Council:

Please delay adoption of the proposed Tree Ordinance Changes until the changes can be revised and tested to be sure they will achieve the desired result.

The tree changes as currently proposed will simply add more layers of regulation and administration and cost, but will not save trees where we want them.

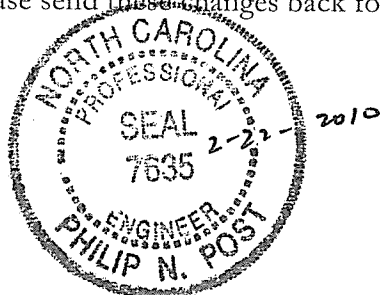
As Council knows, the existing regulations which have been refined since the 1980's; protect and regulate on all lots:


1. Any living tree (pine or hardwood) over 18 inches.
2. Any hardwood over 12 inches.
3. Any Beech, Dogwood, Cedar, Magnolia or Redwood over 6 inches in size.
4. "Stands" of trees whether hardwood or pine or a mix.

The existing regulations are extensive, tough and have been refined as recently as two years ago.

We need a period of reflection and a period within which to decide how we are going to value trees on lots versus trees in open space and in buffer areas. The current regulations may need "tweaking", but the changes now on the table will not get the job done and will not achieve the desired results.

Please send these changes back for further study.



Sincerely,

Philip N. Post, PE



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February 22, 2010

Mayor Kleinschmidt and Chapel Hill Town Council
Town of Chapel Hill
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

RE: Proposed Tree Protections – Tree Canopy Ordinance

Dear Mayor Kleinschmidt and Chapel Hill Town Council:

Thank you for considering the information in my letter of February 19 and the comments I make tonight. These comments represent my concerns and are attributable only to me.

The town staff has worked hard to prepare these DRAFT regulations.

Nevertheless, my conclusion is that this Draft Ordinance is a long way from being reasonable, fair, or functional. It needs to be referred back to the Town Manager to fully examine the impact it will have on current and future multi-family and non-residential development.

- 1) The lack of written "Design Guidelines" to consider now - along with these proposed regulations - makes it difficult to understand the potential affects of these proposed standards.
- 2) For example:
 - The Erwin Road street buffer of the Cosgrove Hill development meets all the current buffer requirements and has 66 total trees - 22 large and 44 small.
 - Only 1 of these 66 trees would qualify as a canopy tree if the proposed standard that a tree must be 20 feet on center from another tree is applied to both large and small trees.
 - I am sure that neither this council nor the staff want standards that would disqualify 65 of 66 trees from being counted toward a minimum canopy requirement. Yet this appears to be the outcome of the proposed 20' on center rule.

A few comments about single-family standards as proposed.

- 3) It is hard to believe that the Town would require the owners of single-family lots of 20,000 SF or greater (42% of SF Lots) to obtain a Tree Work Permit to justify the removal of any tree 6" or larger and go thru the considerable expense of hiring an arborist- WHILE AT THE SAME TIME owners of lots of less than 20,000 SF (58% of the single-family lots) can cut down all trees less than 36" in diameter without question.

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This seems fundamentally unfair and in effect says that the owners of small area single-family lots in town can remove all trees. Aren't residents living compactly on small lots those that would most benefit by adequate tree cover?

A few comments and 2 examples about the 50% Tree Cover NON RESIDENTIAL standard

- 4) Because I know a good amount about the University Mall property, I tested this proposal to see its affect on that 40-acre site.
 - a. It appears that any improvement proposed on that property will require a zoning compliance permit, like the one now pending to upgrade the canopies at the entrances to the mall. And it appears such a ZCP would trigger the tree ordinance and result in the need for about 1,700 canopy trees to be added to the 325 existing trees on site.
 - b. Each new tree will requires 200 SF of land area¹ – a standard parking space is 162 SF. So each tree represents 1.23 parking spaces.
 - c. 1,700 trees represents about 2,100 parking spaces.
 - d. The University Mall site currently contains only 1,775 parking spaces.
 - e. Of course rather than removing all the parking, a Mitigation fee of \$1,700,000 could be paid to the town.
- 5) I also examined a 4-acre site currently zoned Community Commercial that is ready for re-development.
 - a. This site has 30 trees.
 - b. If half those trees qualify as canopy trees after redevelopment, an additional 154 canopy trees are needed.
 - c. 50 of these new canopy trees will satisfy the current buffer and parking lot landscaping requirements, leaving the need for an additional 104 trees.
 - d. The choice then would be between removing 75% of the on-site parking or paying a mitigation fee of \$104,000.
- 6) To me it is clear that the standards proposed for non-residential and multi-family uses and new development are decidedly off target. A reality check is needed !
- 7) Some questions to ponder.
 - When will design guidelines or standards be prepared that can be reviewed? After an ordinance is adopted? Why don't we have them now?

¹ Existing Design Guideline Standard



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- Why didn't the analysis to date examine the full potential impacts of this ordinance on non-residential property? Why no downtown examples? Why is the downtown even covered by this proposal? Shouldn't we complete the pending Downtown Plan before we require each downtown site to have a 50% tree cover? I thought we were trying to increase our downtown residential and non-residential tax base. This ordinance would seem to encourage disinvestment.
- Won't these proposals add significant costs to single-family property owners and call for an increase in taxes to pay for the staff time needed to enforce regulations?

The comments and suggestions in my February 19 letter are far more extensive, but I think you understand my concerns.

Greater individual tree protection and the maintenance of a significant tree canopy are very important environmental objectives. However, this proposed ordinance is not balanced nor has it been fully vetted.

Thank you for considering these comments and hopefully for putting this draft on the shelf and allowing the Manager to bring back a new proposal that is reality based.

Sincerely,

Scott Radway

Scott Radway, AICP

(f) ***Required Tree Replacement or Mitigation***

Development activities requiring a Zoning Compliance Permit are subject to the tree canopy cover requirements referenced in Section 5.7.2.a, unless specifically modified or exempted by the Town Council and/or Planning Board in accordance with development plan approval. (This apparently says that no Tree Canopy variance or determination can be made by the Manager. All unresolved issues go to Council or Planning Board.)

1) **Calculation of Tree Replacement**

- a. ~~Two~~ **One** canopy trees ~~are~~ is required for each ~~4,000~~ 500 square feet of tree canopy deficit.
- b. The tree canopy deficit is determined by subtracting the area of existing tree canopy to be preserved according to the Landscape Protection Plan from the minimum tree canopy area required by Section 5.7.a, Table 2-Minimum Canopy Coverage Standard.
- c. **Required active recreation areas, utility easement areas, stormwater management facilities and easement areas, and proposed new public road rights-of-way shall be subtracted from the net lot area for the purpose of calculating the minimum required tree canopy area.**
- d. **Trees planted within an existing public right-of-way shall count toward the tree replacement requirement.**
- e. The final tree canopy deficit calculation is subject to approval by the Town Manager

2) **Size of Replacement Trees**

For all development subject to the provisions of this section:

- (a) The minimum replacement tree caliper shall be two and one-half (2.5) inches.
- (b) The required number of replacement trees **shall be** reduced by one (1) for each replacement tree that has a caliper of four (4) inches or greater. **(The use of 4" or larger trees should be at the option of the applicant.)**

3) **Installation and Maintenance**

All required landscaping shall be prepared, installed and maintained according to the Town's Landscaping Standards and Specifications. All required plantings on an approved Tree Replacement Plan **(Another plan ? – not the Landscape Protection Plan)**, must be planted or an accepted performance guarantee placed with the Town in order to satisfy compliance with the requirements of this section.

~~Replacement trees that are planted in a Town right-of-way may count toward total tree canopy coverage if there is insufficient space for replanting on the lot. **See 2d above.**~~

Trees that are damaged during construction but determined not to be a total loss or safety risk, shall be treated to promote their continued health and safety.

If the Town Manager determines protected vegetation is dead or dying at the time of the issuance of a certificate of occupancy and it is part of a required buffer or other required planting, replacement of the vegetation may be required.

4) **Tree Canopy Deficit Mitigation** (Applicant gets to choose Option)

An applicant shall have the option to choose one of the following tree canopy deficit mitigation methods:

- a. Locate on-site all trees required to mitigate the tree canopy deficit, or
 - b. Locate a portion of the trees required to mitigate the tree canopy deficit on site and pay a Tree Mitigation Fee for the remained of the required trees according to the mitigation fee schedule in Section f 5 below, or
 - c. Pay a Tree Mitigation Fee for all the trees required to mitigate the tree canopy deficit on site according to the mitigation fee schedule in Section f 5 below.
- 5) For all development, other than single-family and two-family uses covered elsewhere in this section, the following Tree Mitigation Fees are applicable:
- a. For the first 25 required mitigation trees, the fee shall be \$ 500 per tree.
 - b. For all required trees in excess of 25 that are not located on site, the fee shall be \$400 per tree.
 - c. If a Zoning Compliance Permit is applied for after "WORK¹" has begun, the mitigation fee for each required canopy tree shall be doubled.

¹ What constitutes WORK?

Table 2: Minimum Canopy Coverage Standards

CREATE CATEGORIES THAT RECOGNIZE THAT MULTI-FAMILY AND NON-RESIDENTIAL USES HAVE ENTIRELY DIFFERENT DENSITY AND INTENSITY BASES AND PARKING AND IMPERVIOUS SURFACE NEEDS AND STANDARDS.

| Lot size | Category A Tree Canopy Standards | | Category B Tree Canopy Standards | | Category Tree Canopy Standards | |
|-------------------------------|---|--|--|---|-----------------------------------|----------|
| | Standards for Single-Family and Two-Family uses on individual lots. | Standard for single family and two family uses | Standards for Residential Development other than Category A Uses | Standards for all Development other than Category A and B Uses ¹ | Minimum canopy | Standard |
| < 10,000 SF | N/A | N/A | Required | Required | 20% | Required |
| 10,000 – 20,000 SF | N/A | N/A | Required | Required | 20% | Required |
| 20,000 – 40,000 SF | 40% | Required | Required | Required | 30% | Required |
| 40,000 – 80,000SF | 50% | Required | Required | Required | 30% | Required |
| 80,000 – 217,800 ² | 60% | Required | Required | Required | 35% | Required |
| 217,800 | 60% | Required | Required | Required | 35% | Required |

¹ EXCEPT DEVELOPMENT IN TC-1, TC-2 AND TC-3 DISTRICTS IN DOWNTOWN CHAPEL HILL

² 217,800 SF is 5 Acres and is the minimum lot size for Planned Development – Residential developments. It is a natural break point within the existing regulatory structure.