

## **Agenda Item: Zoning Motion 2017-3, Text Amendments to the Tree Protection and Landscaping Ordinance**

**DATE:** November 8, 2017  
**FROM:** Dillon Lackey, Planner

### **Background/Issue:**

- The Town Board requested that staff research possible changes to Matthews Tree Protection and Landscape Regulations. Concern was raised because of the large number of trees being removed for new development and the reduction of Matthews' tree canopy.
- Mary Jo and I reviewed Matthews current UDO Tree Protection and Landscape Regulations. We reviewed processes, responsibilities for Planning staff and the Landscape Manager, and submittal requirements.
- I attended the August Tree and Appearance Advisory Board meeting and, although they did not have a quorum in attendance, I presented the recommended text amendments.
- I presented a variety of changes that could be made to the UDO to enhance the health of Matthews' tree canopy. Based on the feedback received from the Town Board and Planning Board, I am presenting revisions made to the text amendments which are indicated in green.

### **Proposal/Solution:**

The text drafted, a public hearing held on October 9, and Planning Board recommended approval October 24.

### **Financial Impact:**

Potential for additional revenues from payment-in-lieu that can solely be used for the enhancement of the Matthews tree canopy and landscaping functions.

### **Related Town Goal(s) and/or Strategies:**

Quality of Life

### **Recommended Motion/Action:**

Adopt the proposed text amendments to the Tree Protection and Landscaping chapter of the UDO

**Motion #2017-3  
Tree Protection and Landscaping Regulations  
UDO Text Changes in §155.606**

*Text in red is proposed new language presented at the public hearing. Text in green are revisions to the proposed text following the public hearing.*

155.606.5. Interior Landscaping *Insert new paragraph.*

- A.2 h. **INCENTIVES.** For new development that requires twenty (20) or more parking spaces, or existing development that is expanding or revising its parking lot area by twenty (20) or more parking spaces, a reduction in the parking requirements spaces may be permitted as follows:
- i. A five percent (5%) reduction of in the total number of required parking spaces is permitted inside the new or disturbed parking area that is devoted to parking if the area is used to preserves an existing tree(s) with a caliper of ~~six (6)~~ eight (8) inches in diameter or greater; and/or
  - ii. ~~And/or~~ The applicant may reduce the amount of required parking spaces up to ten percent (10%) for the purpose of installing additional tree islands, when each tree island over the required number contains a large maturing tree. One (1) additional tree island equals a reduction of two parking spaces. Reduction in ~~handicap~~ parking for the disabled or required loading facilities is not permitted by this section.

*Current sections §155.606.5.A.2 h., i., and j., will all be re-designated as i., j., and k. respectively.*

\* \* \* \* \*

155.606.7. Tree Canopy Requirements *Revise table.*

- A. 2. a. The amount of existing canopy that must be preserved on the site during development is determined by two (2) factors: the zoning district classification; and the percentage of existing tree canopy present before any land disturbing activity, as indicated below:

TABLE OF MINIMUM TREE CANOPY REQUIREMENTS	
Zoning District	Required Tree Canopy
R-15, R-20	20%
R-9, R-12, R-MH, R-15MF, R-12MF, <del>CrC</del> , R/I, O, B-1, B-3, BD, AU	15%
<del>O, B-1, B-1SCD, B-H, B-3, BD, AU</del>	12%
I-1, I-2, MUD, ENT, SRN	10%
R-VS, MUD, SRN, ENT	8%
HUC, C-MF, TS	<del>4%</del> 5%

*Insert new paragraph and table.*

- A. 2. e. For all single-family detached homes recorded at Mecklenburg County Register of Deeds after November 13, 2017, large maturing trees must be placed on lots according to the table below. This functions to replenish the urban tree canopy in areas of new residential development. Large maturing trees may be placed within the front, rear, or side yard of the lot. If existing saved trees meet the below requirements then no additional plantings are necessary. No large maturing tree shall be planted within 35' of an overhead utility line as measured from the closest wire. If tree placement would put a tree within 35' of an overhead wire, a small maturing tree may be substituted.

RESIDENTIAL TREE CANOPY REPLACEMENT REQUIREMENTS	
Lot Size (sq. ft)	Required Number of Large Maturing Trees
<del>less than 5,000</del>	<del>1</del>
<del>5,000 7,500 - 10,000</del>	<del>2 1</del>
<del>10,001 - 15,000</del>	<del>3 2</del>
<del>15,001 - 20,000</del>	<del>4 3</del>
<del>greater than 20,000</del>	<del>6 5</del>

Revise 2 paragraphs and insert a new paragraph.

- A. 3. b. Each large maturing tree ~~with an expected height greater than thirty five feet (35') upon maturity~~, whether preserved or newly planted, is calculated to provide ~~two thousand (2,000)~~ **one thousand two hundred (1,200)** square feet of tree canopy. Newly planted large maturing trees must be a minimum of two inch (2") caliper and eight feet (8') in height at time of planting.
- c. Each small maturing tree ~~with an expected height less than or equal to thirty five feet (35') upon maturity~~, whether preserved or newly planted, is calculated to provide four hundred (400) square feet of tree canopy. Newly planted small maturing trees must be a minimum of one and one-half inch (1½") caliper and six feet (6') in height at time of planting.
- d. Trees planted to meet canopy coverage requirements shall be planted no less than twenty feet (20') from any other proposed or existing small maturing tree and forty feet (40') from any other proposed or existing large maturing tree.

Current sections §155.606.7.A.3.d., e., f., and g., will be re-designated as e., f., g., and h. respectively.

Delete Paragraph

- ~~4. Mitigation for Required Tree Canopy may be provided concurrent with mitigation for undisturbed open space in Chapter 8, the Post Construction Ordinance (PCO).~~
- ~~a. Where a development site must meet the provisions of the PCO and chooses to comply with the Undisturbed Open Space provisions through one (1) of the mitigation measures, then those mitigation measures will also be allowed to be used to meet the tree canopy requirements of § 155.606.7. Mitigation for tree canopy shall be provided on the same site or within three hundred feet (300') of the boundary of the development site.~~
- ~~b. A development site which does not fall under the requirements of the PCO but would like to apply the mitigation provisions found in that regulation to Required Tree Canopy of § 155.606.7 may request a zoning variance. The property owner shall submit a zoning variance application with the Landscape Plan submission including full documentation on what tree canopy requirements are desired to be met through mitigation, and an explanation of the hardship.~~

*Insert new paragraph.*

A. 4. PAYMENT - IN- LIEU OF REQUIRED TREE CANOPY

a. While achieving minimum tree canopy coverage through preserving native existing canopy is strongly preferred, the Applicant may issue payment to request to pay into the Town of Matthews Tree Canopy Fund in lieu of meeting on-site tree canopy requirements when the development site has unique or practical difficulties. In order to qualify for payment-in-lieu, the Applicant shall submit a letter outlining the unique hardship(s) that make the tree canopy requirement difficult to meet. Examples of unique hardships may include: conditions that are peculiar to the property; topography which does not allow ADA compliance or stub street connections; scattered location of large trees on the site; limited options for utility placement; and inability to achieve an appropriate development density. Personal hardships not directly related to the land do not justify use of this section. The Applicant must explain how the deviation from the tree canopy requirements are consistent with the spirit, purpose, and intent of the Town's policies to preserve existing trees during development. This option is only available for commercial, industrial, and multifamily development. Prior to submitting site plans for development in which payment in lieu is to be undertaken, the Applicant shall schedule a meeting with the Planning office to discuss the project and calculate payment in lieu for the site. Payment-in-lieu can be used requested for a portion of the required tree save or its entirety. If Applicant requests more than fifty percent (50%) thirty percent (30%) reduction of the tree save requirements listed in § 155.606.7.A.2.a for through payment-in-lieu, Board of Commissioners approval is required. If thirty percent (30%) or less reduction in tree canopy is requested, the Planning office may determine if hardship warrants a reduction in tree canopy requirements.

b. The tax value per acre (TV) used to calculate the payment-in-lieu will not exceed ninety percent (90%) of the average tax value of land per acre in the Town of Matthews. The average tax value per acre will be determined by the Planning office using the current tax data from Mecklenburg County and will be calculated in October annually. See the formula below for calculation of payment-in-lieu.

c. The primary objective of the Tree Canopy Fund is to use payment for the installation and maintenance of trees on public property. The Town shall may also use funds for the cost associated with the implementation of this Chapter, the Tree Ordinance, Town sponsored tree management programs, and for the study, inventory, maintenance or treatment of public trees requiring the services of a certified arborist or other qualified consultants. Tree Canopy Funds will not be used in lieu of General Fund support for existing landscaping and forestry programs.

d. METHOD OF CALCULATION FOR PAYMENT-IN-LIEU: The payment-in-lieu shall be calculated by the following formula:

$$TV \times A = PIL$$

Where:

- TV: The tax value of the property per acre, or 90% of the average tax value per acre of land in Matthews, whichever is less (dollars)
- A: Reduction of required tree save area (acres)
- PIL: Required payment in lieu (dollars)

\* \* \* \* \*

155.606.10. General Landscape Plan

C. Landscape Plan Approval. *Insert new paragraph.*

C. 3. Prior to the commencement of any activities requiring a grading and/or construction permit, a pre-construction conference must be held with the Town Landscape Manager and Planning office to review all procedures for protection and management of all protected landscape elements identified in the landscape protection plan.

For all development other than single-family dwellings on individual lots, the following on-site supervision

is required:

a. The applicant shall designate one or more landscape protection supervisors who attended the pre-construction conference with the Town Landscape Manager and Planning office.

b. It shall be the duty of the landscape protection supervisor to ensure the protection of new or existing landscape elements as defined in the landscape plan. The approved landscape protection supervisor(s) shall supervise all site work to assure the development activity conforms to provisions of the approved landscape plan. At least one (1) designated landscape protection supervisor shall be present on the development site at all times when activity that could damage or disturb soil and adjacent landscape elements occurs including but not limited to: any excavation, grading, trenching, or moving of soil; removal, installation, or maintenance of all landscape elements and landscape protection devices; or delivery, transporting and placement of construction materials and equipment on site.

c. Sites shall be inspected as needed by the Town Landscape Manager and/or Planning office to assure work is conforming to the approved landscape plan. The landscape protection supervisor shall be in frequent communication with the Town Landscape Manager and Planning office during all land disturbance and planting activities.

*Current section §155.606.10.C.2., will be re-designated as §155.606.10.C.3.*

\* \* \* \* \*

155.606.12. Planting Standards. *Revise paragraph.*

K. Planting trees within sidewalk space, particularly in concrete, **and within parking lot tree islands**, requires special techniques and procedures in order to provide enough growing space beneath the concrete for the tree to prosper and maintain the integrity and stability of the ~~walkway~~ **surrounding impervious pavement**. The Landscape Manager will individually evaluate any landscape plan that includes trees in sidewalk pits **and parking lots**.

11-8-17