

Draft Ordinance - Summary Sheet

The following chart shows changes that have been considered to the draft ordinance (dated October 12, 2017) and presented to the Board with a request to set a public hearing for January 23, 2018, during the advisory board review process to the draft ordinance. The revised draft ordinance, included in the agenda packet is dated March 23, 2018.

Section	Description of Change(s)	Suggested Language (date added/removed)	Staff Comments
<u>Section 15-314(a)</u> Board Findings and Declaration of Policy on Protecting Trees and Other Plants	Add a new finding supporting the value of native trees and shrubs for butterfly and moth caterpillars.	(13) <u>Native trees and shrubs are important, and essential, host plants for native butterfly and moth caterpillars.</u>	Discussed at the March Greenways Commission meeting, this addition seems in keeping with the spirit of the findings to support native plants whenever possible.
<u>Section 15-315</u> Definitions	Add a new definition for critical root zone.	<u>CRITICAL ROOT ZONE. The area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located. Critical root zone determination is sometimes based on the drip line, or a measurement of the diameter of the tree trunk in inches at breast height (DBH), multiplied by 12.</u>	Discussed at the March Greenways Commission, the new definition has been added, and the section re-alphabetized.
<u>Section 15-315(7)</u> Definitions	Recommendations to clarify the section on specimen or rare trees, for more accuracy and/or to identify native trees for the Piedmont, specifically <ul style="list-style-type: none"> ▪ the removal of Southern Shagbark as part of Hickory, ▪ the additional of <i>Magnolia Tripetela</i> for Magnolia ▪ the inclusion of <i>Pinus echinata</i> for the locally native short leaf pine ▪ Hemlocks and American Elms should not be planted since they are very susceptible to the hemlock wooly adelgid, 	(7)(c) Carya (Southern Shagbark Hickory).	Discussed at the March Greenways Commission meeting. Staff concurs with the recommendation to omit "Southern Shagbark" and simply refer to Hickory. Given that the nature of this list to not list the species name and since it listed as "North Carolina native" rather than "Piedmont native," it seems OK to leave this as currently written. No change made. The same applies to the recommendations to refer to the short leaf pine and to remove hemlocks, and American Elms—no changes have been made since the section is speaking to protecting existing trees not planting new trees.

	and Dutch Elm Disease (respectively).		The proposed changes were included in Appendix E as that section relates to recommendations for new trees to be planted.
<u>Section 15-317 (a)</u> Retention and Protection of Specimen and Rare Trees	A landscape professional is not qualified to make a determination.	(a) Every development shall retain all existing specimen and rare trees unless the applicant demonstrates that a site would be unreasonably burdened. The applicant, in consultation with the land use administrator and a landscape or forestry professional, such as a certified arborist, shall use the following criteria to evaluate the trees for the purpose of proposing which to retain:	The EAB noted that a landscape professional is not qualified to determine if the site would be unreasonably burdened. The language is intended to describe a process whereby the landscape professional would evaluate the value of each existing tree based on the seven criteria. Using that information, the applicant, landscape professional and staff would analyze the proposed design taking into effect the value of the trees and the likelihood that they would survive/thrive—and modify the plan as necessary.
<u>Section 15-317 (a)(4)</u> Retention and Protection of Specimen and Rare Trees	Add the word species	(4) The hardiness of the tree <u>species</u> , including wind firmness, climatic requirements, susceptibility to insects and diseases;	The EAB recommended adding the word species, staff concurs.
<u>Section 15-318 (c)</u> Shade Trees in Parking Lots	<p>This section was modified by staff in February, to address situations involving existing trees and new trees.</p> <p>The EAB offered alternative language to Subsection (c).</p> <p>The EAB noted in particular, a concern that mentioning encroachment could imply that encroachment is acceptable, with which the EAB disagrees.</p> <p>EAB proposed language: (c) No excavation or other subsurface disturbance may</p>	(c) Subsurface disturbance within the Tree Protection Perimeter <u>and the critical root zone</u> around any tree to be retained in accordance with (a) above, shall be limited to the minimum extent practicable as determined during construction or after completion of the development. Encroachment into a tree perimeter protection area as defined in 15-315(10) shall not, alone, provide sufficient grounds for tree removal.	<p>The additional language in this section was intended to provide developers with a reasonable way to meet LUO standards, particularly for parking, without competing with existing trees, effectively eliminating the option of automatically removing a tree in order to provide for paving. The last sentence requires the applicant to seek ways to save existing trees.</p> <p>The Greenways Commission discussed adding a reference to the Critical Root Zone as well as the Tree Protection Perimeter; this seems to be in keeping with the spirit of the section.</p> <p>Staff recommends keeping the existing paragraph as is with the addition of the critical root zone.</p>

	be undertaken within the Tree Protection Perimeter around any tree that is to be retained. In addition, no impervious surface (including but not limited to equipment, paving, structures, traffic, or material storage during construction) may be located within the Tree Protection Perimeter, either during construction or after completion of the development.		
<u>Section 15-319 (b)</u> Tree Canopy Coverage Standards	The EAB recommended removing Subsection 15-319(b)(2)(f), with the following explanation. Developers have two options if they cannot meet the canopy requirement. We feel that these other options are sufficient and a lesser option of planting shrubs does not align with the intent of the canopy requirement	f. Landscaped areas with shrubs of at least 100 square feet on a redeveloped or infill lot in the B-1(C), B-1(G) or B-2 districts. The developer shall choose shrubs that meet the standards set forth in Appendix E.	This provision has been removed. It has also been removed from the list of recommended trees and shrubs in Table E-10.
<u>Section 15-321.2 (a) & (b)</u> Payment in Lieu	<p>The EAB also expressed interest in a Master Tree Planting Plan</p> <p>The EAB has requested that the Town craft language in the ordinance that best addresses the concern of how to place a value on land that would be necessary for a tree to be planted in the downtown area.</p>	(a) With respect to the development or redevelopment of an existing lot in the B-1(C), B-1(G) or B-2 districts, the permit issuing authority may authorize the developer to forego the requirements of Section 15-318 (shading trees), and/or the requirements of Section 15-319 (canopy coverage) of this Article, if (i) the permit issuing authority finds that it is physically impossible or impracticable for the developer plant trees that will survive satisfy the requirements and ii) the developer pays to the town for each tree not planted a fee in lieu of providing such tree(s), in an amount determined as provided in subsection (b) of this section.	<p>Subsection (a) was revised from the October draft ordinance to better align with the payment in lieu option in Article XVIII for Parking. The ordinance can be amended again in the future to reference a Master Tree Plan once such a plan is adopted.</p> <p>Staff has contemplated possible calculations for measuring a tree for different values, and could bring back options for incorporating such a metric for determining a payment formula. An option for incorporating land value as part of the tree value calculation has not yet been evaluated.</p>

		<p>The fee shall be paid before construction plan approval, unless the permit issuing authority by condition establishes another time.</p> <p>(b) The amount of the fee authorized by this section shall be determined by estimating the cost of providing the required trees (including the cost of the plant and labor for installation) that meets the requirements of this Article. This determination shall be made annually and the fee shall be included in the Miscellaneous Fees and Charges Schedule adopted by the Board of Aldermen.</p>	
<u>Appendix E, E-10, Table of Recommended Trees and Shrubs</u>	<p>The EAB recommended adding a note to identify canopy trees in the lists of trees, and replacing Southern Sugar Maple with Red Maple (<i>Acer Rubrum</i>) in the Table.</p> <p>The Greenways Commission discussed identifying Carolina Jessamine and Trumpet Honeysuckle as native</p>		All three recommended revisions have been made.