



**Comments on the Draft Tree Protection Ordinance
For the CD/HR Committee of the Atlanta City Council
June 25, 2020 Work Session**

At the end of April, The Tree Next Door submitted our concerns with the March 2020 Tree Protection Ordinance (TPO) draft. Andrew Water wrote back the next day and agreed to, based on our request, to hold a series of Zoom meetings with concerned citizens to revise various sections of the Tree Ordinance. He assured us that he would be scheduling these calls, but that was nearly two months ago and we never heard anything more from him.

At 6:50pm the evening before the 10am work session remote meeting on June 25, Julia Pulidindi emailed us a "DCP Tree Protection Ordinance Position Paper" which we have just now reviewed. This paper makes it clear to us that City Planning will be prioritizing its development goals for Atlanta over saving our tree canopy. The paper also claims to have drafted the March 2020 TPO based on a "strong scientific base" provided by the Urban Ecology Study, although the Urban Ecology Study included no data on tree loss and replanting in Atlanta.

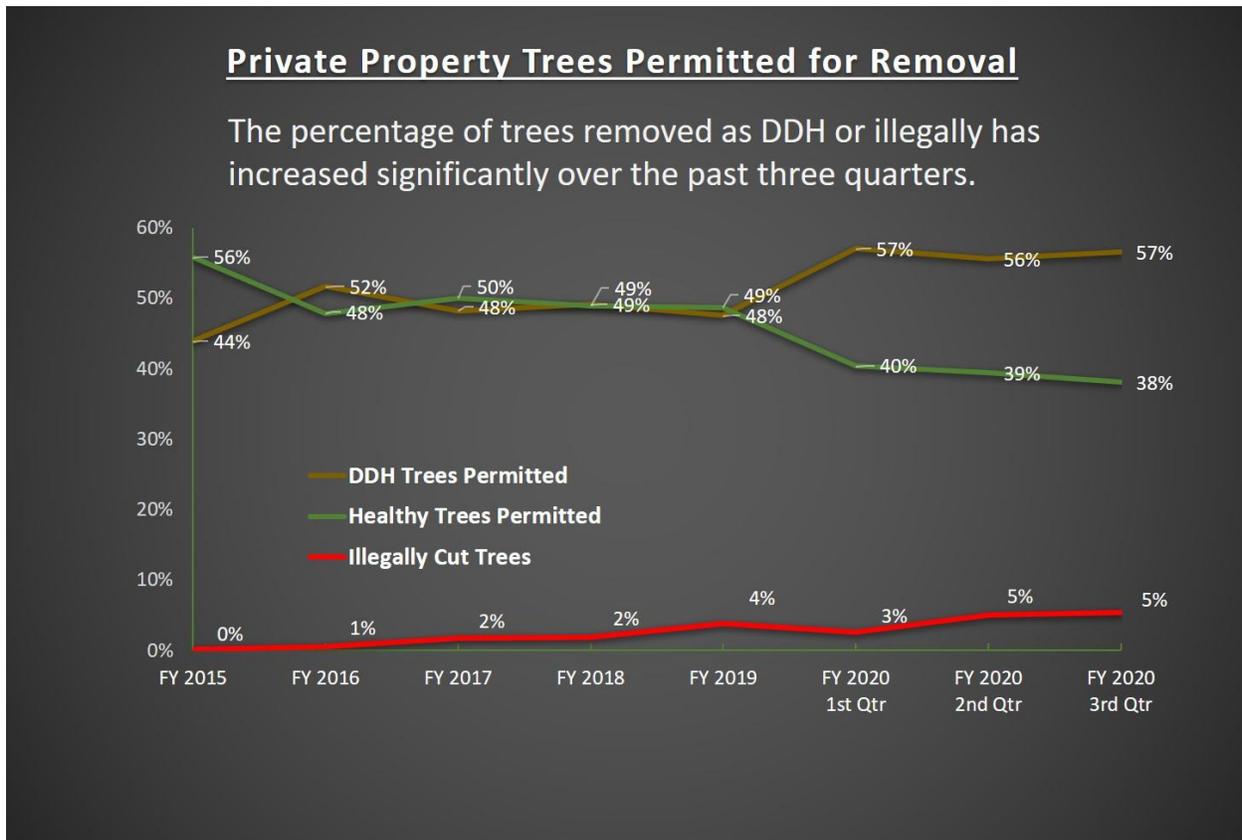
Furthermore, the March 2020 TPO draft lacks any type of measurable goal for protecting our tree canopy, and there is no scientific evidence of what impact its policy changes will have on the tree canopy. City Planning has come up with five non-scientific "Significance Categories" to value trees, but does not know what percentage of the city's canopy falls into each category, and therefore, is unable to say how much of the tree canopy will receive extra protection and how much will receive less. Also, there is no indication that any of their formulas or models have been scientifically field-tested to see their impact on the tree canopy long-term.

There is nothing scientific at all about the City's March 2020 draft.

For purposes of the Tree Ordinance Work Session tomorrow, please consider that our greatest tree loss right now is happening among **trees that are coming down as dead, dying or hazardous (DDH) and the problem has gotten much worse over the past three quarters**. Prior to last summer, about half of all trees removed were DDH. Now this percentage has grown to 57% over the past three quarters, with the approval rate of DDH permit applications increasing from 81 to 86% during the same time.

Because the number of trees being removed as DDH correlate with the number of healthy trees being permitted for construction, it appears that **construction may be driving many of these DDH permits**. When trees are declared DDH, they cannot be appealed nor recompensed, which means **DDH trees represent a permanent loss in our tree canopy**.

Meanwhile, **the percentage of trees removed illegally has climbed from 3 to 5% of all trees removed**.



The March 2020 Tree Ordinance Protection draft does nothing to stop where we are losing the most trees and not replacing them. It has scrapped our long-standing objective quantifiable goal of “no-net-loss of trees” for an activity to “protect and advance a high-quality urban forest.”

It is impossible to draft a TPO without knowing the goal the ordinance is supposed to accomplish and to be able to measure our progress to goal. Since the Tree Ordinance should be written with an end goal in mind, the City Council needs to determine: **what is the real goal of the Tree Protection Ordinance?** Is it to prevent no further loss of trees (i.e., no net loss) or is it to allow more tree cutting provided up to a certain percentage canopy threshold? In which case, what would be that threshold and what will we do when we reach it?

City Planning has made it clear that their goal is to:

- a. Make some attempt at stemming tree loss but not let tree canopy preservation impede development,

- b. Collect fees for trees removed so that the City is paid for the tree canopy it loses to development,
- c. Move away from Atlanta being a “city in the forest” to being a city that has tree parks in an urban jungle: the “Manhattan/Central Park” concept.

Is City Council supportive of City Planning’s goal to merely “slow” canopy loss, opening the door to killer heat, worsening air quality, water shortages, lower worker productivity, and other unavoidable outcomes of continuing tree loss? What’s the point of higher density development and more affordable housing units when no one will want to live in the City with its oppressive heat and lack of shade?

If City Council wants to keep Atlanta’s only natural resource that makes our city truly unique and different from every other city in the country, then we urge the Community Development/Human Resources Committee to seriously consider examples of what we believe is commendable in the March 2020 draft, as well as a partial list of items that we strongly urge the City to rethink. (Related TPO Division/Section numbers are in parentheses)

Yes – YOU’RE ON THE RIGHT TRACK

1. All obligations imposed by the ordinance are to become the responsibility of a new owner if the property is sold (I, E, 2).
2. Jurisdiction over public trees not located in parks will be transferred from the Office of Parks to the Arborist Division of the Bureau of Buildings (III, A, I).
3. Every permit to remove a dead, dying, or hazardous tree shall be available for public inspection online (V, A, f).
4. Better tree protection fencing will be required (IX, B, 5, a, ii and iii).
5. Lots with more than three (3) trees cannot be clear-cut without permission from the Tree Conservation Commission (IX, F, 1).
6. Heritage and Specimen trees will be preserved if certain conditions are met (X, A, 2, a-c).

NO - UNACCEPTABLE

1. The City wants unacceptably wide latitude to exempt any project, on public or private land, from the TPO when other “legitimate local government purposes and goals may conflict with tree canopy protection” (II, C; see also IX, C, 3, on tree-density levels and preservation thresholds for eligible projects in City Design Growth areas, and IX, C, 1, on smaller-scale residential projects).
2. Site-plan review for tree preservation is not placed at the beginning of the building permitting process, as it should be. Moreover, pre-construction conferences should exist for

all properties where trees may be impacted by improper tree fencing — one- or two-family home additions should not be exempt (IV, A, 1; IX, H, 2 -3).

3. Spending from Tree Trust Fund needs to be more clearly tied to replenishing the tree canopy, and greater accountability for the actual expenditures from that fund needs to be specified (XII)
4. TPO must address stormwater runoff due to loss of trees on a property. Tree removal should not create a flooding problem for downhill properties, and dry wells should not be used in place of existing trees. (Needs a section)
5. Previous TPO amendments which hindered the public's right to appeal must be reversed, e.g., on-site posting for appeal deadline notifications for preliminary approvals should be for a minimum of 10 working days or 15 calendar days (VIII, A), and eligibility for filing an appeal should not differ with regard to private and public trees (VIII, B). Certain properties should not be able to qualify for an exception to the posting rules as that decreases transparency in public notification.
6. The new "Significance Category Method" to determine tree value is inadequately defined, untested, speculative, and in some of its details, ill-conceived. Crucially, it is founded on assumptions, not knowledge, about the current makeup of our existing tree canopy, i.e., the percentages of trees in the five significance categories (X).
7. The proposal to use credits to incentivize developers to protect trees is difficult to understand, and it will credit developers for saving trees that were never in the path of construction to begin with (IX, G).
8. Setback trees are not given adequate protection, nor are trees in stream buffers, wetlands, and other environmentally sensitive areas. (VII, C).
9. Penalties for violation of the ordinance are unchanged. The City should increase fines; look at ways to hold repeat violators *and* their tree service companies accountable by issuing court citations instead of just notices of violation (XVII)
10. With respect to trees deemed dead, dying, or hazardous (DDH), the City should adopt SCIENTIFIC guidelines for that determination, and residents should be able to appeal DDH designations when those guidelines are not followed (I, H; V, A).
11. Trees should not be able to be removed simply because they interfere with hardscape, other than house foundations. Perhaps exceptions should be available on appeal to the Tree Conservation Commission (V, A).
12. Parking lots must be planted with trees and green space to cut down on the heat island effect. (XI)
13. The ordinance should adopt uniform standards for size of trees protected, i.e., there is no compelling case to be made for differentiating between hardwoods and pine (II, A, 2;

VII, A, 2, b).

14. Greater transparency is needed to notify public of permitted tree removal and make illegal tree cutting more visible. Owners should be required to post notification of ALL permits for tree removal onsite. (VIII, A).

While the March 2020 draft of the Tree Protection Ordinance is in several respects an improvement over our current ordinance, overall it is a step backward in that it will facilitate a greater loss of tree canopy. While City Planning may care more about development than protecting trees, the larger community that City Council represents cares very much about keeping Atlanta a “city in the forest”. We would appreciate your help in ensuring we do not keep losing more of our tree canopy every year.

Thank you,

deLille Anthony
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Chair, Buckhead Council of Neighborhoods Tree Canopy Committee