

Agenda
Village of Glen Ellyn
Village Board Workshop
Monday, February 8, 2010
7:00 P.M. – Galligan Board Room
Glen Ellyn Civic Center

1. Call to Order
2. Public Comments?
3. Tree Preservation Ordinance – Kristen Schrader **(Pages 2 – 94)**
4. Other items?
5. Motion to adjourn to Executive Session for the purpose of considering the appointment, employment, compensation, discipline, performance, or dismissal of specific employees, and to review and approve closed session meeting minutes.

Board Workshop
2/8/10

MEMORANDUM

3

DATE: February 3, 2010
TO: Steve Jones, Village Manager
FROM: Kristen Schrader, Administrative Analyst *KS*
FOR: February 8, 2010 Village Board Workshop
SUBJECT: Tree Preservation Ordinance – Private Property

Background: In 1998 the Village Board adopted three separate Tree Preservation Ordinances (TPOs) to encourage the preservation of public and private trees during major property development projects. These ordinances involved the protection of trees in the public right-of-way, the protection of trees on private property (ordinance amended in 2001) and the adoption of some national arboricultural standards. While the adopted ordinances were meant to encourage tree preservation, their overarching purpose was to educate instead of regulate.

In 2006, former Village President Vicky Hase requested that the Environmental Commission (EC) undertake a review of the private property TPO to determine whether that TPO should be modified in order to improve its effectiveness in the preservation of trees. A review of the TPO was requested as the uptick in development around the Village had led to some clear cutting of property parcels, as well as the death of mature trees designated as protected under the current TPO. Following President Hase's lead, the EC completed a year-long review of the TPO in 2006 and forwarded for consideration by the Village Board a recommendation regarding potential adjustments to the ordinance. The recommendation included the addition of two levels of tree protection to the Village's existing TPO for private property.

The Village Board was presented with the EC's TPO recommendation in February 2007 and following review, expressed concern over certain aspects of the recommendation that called for additional enforcement of tree restrictions on private property. The TPO discussion was not brought forward again until July 2008 (with a new Village Board composition) as a result of these initial concerns. The new Village Board again expressed concern for the more assertive recommendations for enforcement of tree preservation on private property and determined that it was not inclined to reverse the previously established policy regarding private property rights. At that time, the Village Board did express a desire for additional public comment on the proposal through a community attitude survey. No community attitude survey came to fruition as a result of budget issues however, and since July 2008, no further discussions on the EC's TPO recommendations have occurred.

Issues: During both of these discussions on the TPO recommendations, the Village Management Team did not recommend approval of the more comprehensive private property portions of the TPO proposal including additional enforcement of tree preservation on private property. However, the team did support, and continues to support, the portions of the TPO proposal that provide for additional tree preservation education. Education on the benefits of

tree preservation has been and continues to be ongoing with the Village through direct mailings, seminars, website content and GETV programming. Reasons for and against the adoption of these TPO recommendations, including those presented from the Management Team's viewpoint, are included in the supplemental agenda information document attached (Pros and Cons).

In addition, the debate between private property rights and tree preservation as an environmental benefit will continue to bring forward complex issues and passionate views that may never be fully understood or reach a satisfactory conclusion for either side of the issue. The current TPO may represent the best compromise possible between these two points of view. Should the Village Board decide to move forward with the TPO discussion, the Management Team has no reason to expect any less ardent public turnout than during previous discussions in the 1990s and 2000s, which may again lead to a similar compromise.

Action Requested: The Village Board is requested to discuss the history of the private property Tree Preservation Ordinance. If the Village Board has any goals for this issue, we would appreciate your input at this time.

Recommendation:

1. The Management Team does not recommend approving the proposed changes to the private property Tree Preservation Ordinance.
2. The Village Team does recommend reviewing the current private property TPO for ways to improve its effectiveness, as well as surveying residents and developers in order to include all stakeholders within the process. However, this was not a top twenty goal, and would be deferred (or would need to replace another top twenty goal).
3. The Management Team will implement either option as selected by the Village Board.

Attachments:

- Supplemental Agenda Information
- Current Tree Preservation Ordinance (1998, amended in 2001)
- Village Board Workshop Packet provided for the February 26, 2007 Workshop

cc: Joe Caracci, Public Works Director
Staci Hulseberg, Planning and Development Director

Supplemental Agenda Information Village of Glen Ellyn

Agenda Item Supplemented by Commentary

- X Pros & Cons
- X Strategic Action Goal
 - Downtown Strategic Plan Goal
- X Budget Impact/Return on Investment
 - Process Improvement
 - Green Initiative
 - Communication Initiative
- X Safety/Liability/Risk Assessment
- X Comparable Community Info
- Other

Comments:

Pros:

- Preservation of the overall character of the Village through tree protection, preservation and reforestation;
- Protection of an ecosystem that provides wildlife habitat and natural stormwater management;
- Enjoyment by residents and individuals visiting the community of the environmental benefits of cooling and air pollution abatement from the tree canopy; and
- Provision of continuing education about the value of trees for the benefit of all Village residents and developers.

Cons:

- Placing additional restrictions on the use of private property can negatively impact the marketability of land and does not recognize the fact that Glen Ellyn residents are known for planting and cultivating trees;
- The extent of tree loss in the Village has not been quantified, making it unclear how much a need there is to change the TPO;
- Enforcement and administration of the recommendations would require additional Village personnel, and procedurally generate numbers of tree variation requests requiring research, public hearings, recommendations, votes, and the potential for litigation; and
- The proposed rules to protect private property trees are notably more stringent than those of other DuPage municipalities and would be onerous for homeowners.

Strategic Action Goal:

While the implementation of the Tree Preservation Ordinance was included as a goal on the Village's Strategic Action Plan, it is not one of the top five goals in any category.

Budget Impact:

If the Village Board approves the TPO updates as proposed by the Environmental Commission, additional team hours will be required in the Public Works Forestry Division. The Village's Forestry Consultant currently works approximately 10-15 hours per week. With the addition of these new TPO responsibilities, the Forestry Consultant's time would need to increase to an estimated 40 hours per week. The budget impact of this increase would be approximately \$15,000 to \$25,000 in additional funds.

Safety/Liability/Risk Assessment:

If the Village Board approves the TPO updates as proposed by the Environmental Commission, Village Attorney Diamond believes that the Village, as a home-rule community, possesses adequate power to enforce the private property regulations. However, it is important to keep in mind that no individual can simply be found guilty of a violation of a local ordinance without some opportunity for independent adjudication. In addition, the State of Illinois has seen many disputes regarding trees that have resulted in a substantial number of lawsuits.

Comparable Community Info:

Most municipalities in the area require tree preservation plans for development projects, but do not require a permit for residential property owners to remove a tree on their property. This was the case when the following communities were last polled in 2007: Carol Stream, Downers Grove, Elmhurst, Geneva, Hinsdale, LaGrange, Lisle, Lombard, Naperville, St. Charles and Wheaton. Should the Village Board wish to move forward with the TPO discussion, more updated information on surrounding communities' tree preservation regulations can be sought.

VILLAGE OF GLEN ELLYN

ORDINANCE NO. 4671 - VC

AN ORDINANCE TO CREATE A
NEW CHAPTER 8 ENTITLED "TREE PRESERVATION"
FOR TITLE 4 (BUILDING REGULATIONS)
OF THE GLEN ELLYN VILLAGE CODE
TO PROMOTE TREE PRESERVATION ON PRIVATE PROPERTY

ADOPTED BY THE
PRESIDENT AND THE BOARD OF TRUSTEES
OF THE
VILLAGE OF GLEN ELLYN
DUPAGE COUNTY, ILLINOIS
THIS 14TH DAY OF DECEMBER, 19 98.

Published in pamphlet form by the authority of
the President and Board of Trustees of the
Village of Glen Ellyn, DuPage County, Illinois,
this 18TH day of DECEMBER, 19 98.

ORDINANCE NO. 4671 - VC

AN ORDINANCE TO CREATE A
NEW CHAPTER 8 ENTITLED "TREE PRESERVATION"
FOR TITLE 4 (BUILDING REGULATIONS)
OF THE GLEN ELLYN VILLAGE CODE
TO PROMOTE TREE PRESERVATION ON PRIVATE PROPERTY

WHEREAS, many existing homes in the Village are being demolished, and in many cases the lots are redeveloped with new larger homes located among the mature Trees found within the Community Forest; and

WHEREAS, significant improvement to existing residences has sometimes needlessly caused the Removal or damage of certain larger Trees within the municipality; and

WHEREAS, these and other acts of Development can be undertaken with those Trees protected which the owner of the property has determined shall be retained after Development if certain relatively simple and inexpensive acts are taken during the Development process; and

WHEREAS, as an initial effort at the protection of Trees on private property, the President and Board of Trustees of the Village of Glen Ellyn have determined that reasonable regulations should be passed to govern protective measures for the safety of those Trees which the owners desire to retain on the property after the Development has taken place, and it is only those Trees which are regulated under this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GLEN ELLYN, DU PAGE COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION ONE: A new Chapter 8 of Title 4 of the Glen Ellyn Village Code entitled Tree

Preservation is hereby created to read as follows:

Chapter 8

TREE PRESERVATION

- 4-8-1: PURPOSE:** The purpose of this Chapter of the Village Code is to enhance the private property portion of the Community Forest by assuring the preservation and protection of Protected Trees. Chapter 4 entitled "Forestry Management" of Title 8 "Public Ways and Property" of this Code is applicable to the public property portion of the Community Forest. These Chapters complement each other to enhance the total Community Forest in Glen Ellyn. It is the stated public policy of the Village to add to the Tree population within the Village, where possible, and to maintain, to the greatest extent possible, existing Trees within the Village. The planting of additional Trees, preservation of existing Trees, and proper maintenance of Trees in the Village will improve the quality of life in Glen Ellyn.
- 4-8-2: DEFINITIONS:** As used within this Chapter and Chapter 4 of Title 8 of this Code, the following terms shall have the meaning set forth in this section:

ARBORICULTURAL SPECIFICATIONS MANUAL: A manual prepared and updated by the Village Forester and incorporated into an ordinance passed and amended from time-to-time by the Village Board, which more specifically carries out the enforcement provisions and intent of this Code and contains regulations and standards for the preservation, planting, maintenance, and Removal of Trees, shrubs, and other plants upon Village property and regulated Trees on private property.

BORDER TREE: Any Tree, the trunk of which lies at least one-quarter on Village-owned property and three-quarters on private property, determined as the distance of the diameter measured at right angles to the public right of way, determined by the Village Forester.

COMMUNITY FOREST: The entire Tree population in the Village of Glen Ellyn, including Trees on private and public property.

COMPREHENSIVE FORESTRY MANAGEMENT PROGRAM: The five-year plan for the improvement of the Village of Glen Ellyn Community Forest and approved by the Village Board.

CRITICAL ROOT ZONE: The area inscribed by an imaginary line on the ground beneath a Tree having its center point at the center of the trunk of the Tree and having a radius equal to one (1) foot for every inch of D.B.H. but not less than six (6) feet from the trunk of the Tree. The Village Forester may expand or partially retract the Critical Root Zone depending

on the Tree species and site-specific situations so as to improve the chances that Trees will not be damaged during construction and to permit construction to take place, especially where Protected Trees exist on adjacent property and the Critical Root Zone may need to be retracted because of narrow side-yard dimensions.

CROWN: Parts of a Tree above the trunk including leaves, branches, and Scaffolds.

DEVELOPMENT: Any proposed material change in the use of or character of land, including, but not limited to, the construction, addition, alteration, or the replacement of the primary structure on the lot, site improvements on land or the grading or regrading of a lot. Development shall include all subdivisions or planned unit Developments approved in Glen Ellyn. Development shall not include an addition to a primary structure or the bulk area of the primary structure of less than three hundred (300) square feet, additional impervious surface area additions of less than three hundred (300) square feet, other accessory structures less than three hundred (300) square feet in area, fences, decks, or garages which are built in the same footprint plus no more than an additional 20 percent of the square footage of the existing garage, or grading on private property of less than 1,500 square feet.

DIAMETER BREAST HEIGHT (HEREINAFTER CALLED D.B.H.): The diameter of the trunk of the Tree measured in inches at a point four and one-half (4.5) feet above ground line. This point of measurement is used for established and mature Trees.

DRIP LINE: A line drawn on the ground surface directly beneath and perpendicular to the maximum radius of the Crown of an existing Tree but not less than six (6) feet from the trunk, whichever is greater.

LANDSCAPE: Any shrubs, flowers, grass, or ground covers.

LOT: A zoning lot as defined in the Glen Ellyn Zoning or Subdivision Codes.

PRIVATE TREE: Any Tree on privately-owned property within the Village.

PROTECTED TREE: Any Tree in the Village shown on a Tree Preservation Plan as being retained after Development with a ten (10) inch D.B.H. or greater, or a multi-branch Tree which has an aggregate diameter of sixteen (16) inches D.B.H. or greater, or any Significant Tree with a five (5) inch or greater D.B.H.

PUBLIC NUISANCE: Any Tree, shrub, or other plant, or breeding place which harbors infectious insects or diseases which reasonably may be expected to injure or harm other Trees or which could cause a safety hazard affecting the general public.

PUBLIC TREE: Any Tree or Border Tree within a public right-of-way in the Village.

PUBLIC TREE REMOVAL OR WORK PERMIT: The permit required by this Code issued in order to Remove or do any work on any Public Tree within the corporate limits of the Village.

REGULATED PUBLIC UTILITY: Any Utility certificated by the Illinois Commerce Commission to provide service to any customer within the corporate limits of the Village of Glen Ellyn or any other entity with a franchise issued by the Village or any other entity which has the right to extend pipes, wires, cables or lines on public property within the Village. The effect of this Chapter with regard to any public Utility is intended to be the maximum regulation permitted by law or under the terms of a franchise or similar agreement.

REMOVE OR REMOVAL: The causing or accomplishing of the actual physical Removal of a Tree or the effective Removal through damaging, poisoning, or other direct or indirect action resulting in, or likely to result in, the death of a Tree.

REPLACEMENT TREE: A nursery-grown certified Tree, properly balled and burlapped and satisfying the standards established for nursery stock and installation thereof set forth by the American Association of Nurserymen.

SCAFFOLDS: Primary structural branches of the Crown.

SIGNIFICANT TREE: All hickory, oak, or walnut species in the Village shown on a Tree Preservation Plan as being retained after Development when they reach five (5) inches D.B.H.

TREE: Any self-supporting, woody plant with its root system, growing upon the earth usually with one trunk or a multi-stemmed trunk system supporting a definitely-formed Crown, achieving a minimum of at least eight (8) feet in height.

TREE PRESERVATION PLAN: A written plan having text and/or graphic illustrations indicating the methods which are to be used to preserve a Public Tree or Protected Tree during construction and shall include a Tree Survey. The document shall be coordinated with and, if possible, made a part of a site grading plan or Development plan.

TREES, SHRUBS, AND OTHER PLANTS: All vegetation, woody or otherwise, except lawn and flowers less than twenty-four (24) inches high.

TREE SURVEY: A graphic display of all Protected and Significant Trees which are located on the lot at the time a building permit is sought, with a designation of those Protected and Significant Trees which the Owner has chosen to remain on the lot after the Development and all Public Trees on adjacent public property which will be affected by any Development, which survey shall also contain the approximate outline of the Critical Root Zone of each such Tree. The survey shall also contain this information for any Tree which would qualify by size and type as being a Protected or Significant Tree and which is located on an adjacent lot

within fifteen (15) feet of the lot line. The survey shall also show the location of any Tree which was Removed in the prior one-year period. The survey may be prepared by a registered land surveyor and certified arborist or it may be prepared by or under the direction of the owner if it accurately reflects the location of all Trees. The Village Forester shall, if requested, assist without charge in the identification of Tree species.

UNPROTECTED TREE: Any Tree in the Village which would otherwise be a Protected Tree but which the owner has chosen to Remove from the regulations of this Chapter but only after initial actions have been taken to protect the Tree, such as the establishment of protective fencing. The designation as an Unprotected Tree allows the applicant to provide initial protection for Trees near, for example, critical construction zones so that an effort can be made to save the Tree during Development. This designation and initial efforts will not subject the applicant to penalties for subsequent failure to protect or circumstances beyond the applicant's control which resulted in damage to the Unprotected Tree.

4-8-3: GENERAL REGULATIONS - PRIVATE PROPERTY INVOLVING DEVELOPMENT:

- (A) **TREE PRESERVATION PLANS REQUIRED FOR ALL DEVELOPMENT ON PRIVATE PROPERTY; DETAILS:** Development on private property shall require the filing of a Tree Preservation Plan at or prior to filing a request for a building permit. The Tree Preservation Plan will show every Tree on the property which is a Protected and Unprotected Tree. All Trees shown on the Tree Preservation Plan shall initially be protected in accordance with the provisions of this Chapter. Trees which the owner designates on the plan as being susceptible to potential damage due to their location or condition shall be designated as Unprotected Trees which, after the initial protection has been put in place, shall not be subject to additional regulation. This requirement shall prevail where Protected Trees are located on the lot or when Trees which would otherwise be Protected Trees are on an adjacent lot and located within fifteen (15) feet of the property line.

The Tree Preservation Plan shall indicate the methods that will be used during Development to preserve Protected Trees on the lot. The plan shall be required to indicate the specific methods which will be used to preserve all Trees which would otherwise be Protected Trees on adjacent property. The protective methods for the Trees on adjacent properties shall be specifically approved by the Village Forester, who shall, however, consider, among other factors, the right of the applicant to build if compliance is maintained with required setbacks. All work to preserve the Protected Trees shall be according to the Arboricultural Specifications Manual. As an attachment to the application, three (3) copies of a Tree Survey drawn to a scale so that the location of each Protected Tree and each Unprotected Tree can be identified shall be included. Applicants shall pay a fee of one hundred dollars (\$100) with the application, which shall pay for the cost to the Village for reviewing the Tree

Preservation Plan and for field inspections. The Tree Preservation Plan shall specify the following:

1. A Tree Survey showing the location, condition, species and trunk diameter of every Protected and Unprotected Tree on the property and every Protected Tree within fifteen (15) feet of the lot line. The Survey or the Plan shall show the location of protective measures to be placed on the lot. In addition, the Survey shall show, using a different code, the location of any Tree which was Removed in the prior one-year period. The Village Forester may exclude the Tree Survey requirement on those portions of the site which it determines will not be affected by the Development activity.
2. The parties responsible for the construction, erection, and maintenance of temporary fencing or other physical barrier around Protected Trees.
3. Location, shape, and spatial arrangement of all existing and proposed buildings, walls, improvements, and structures.
4. Location, shape, and spatial arrangement of all permanent driveways and parking areas and temporary material storage sites and access ways.
5. Any new Utility services including water, sanitary sewer, storm sewer, gas, electric, telephone, and cable TV and any existing Utility services which will be Removed or modified.
6. Existing and proposed grading of the Development area showing elevations with contour lines at one (1) foot intervals if a grading plan is required by some other provision of the Village Code.

The Critical Root Zones of Protected Trees shown on the Survey shall be carefully reviewed and taken into account during the preparation of the Tree Preservation Plan. Every effort should be made during architectural layout and design of the proposed Development to preserve Trees which would otherwise qualify as Protected Trees on adjacent lots through sensitivity to the Critical Root Zones of said Protected Trees.

- (B) **NO BUILDING PERMIT APPROVAL UNTIL TREE PRESERVATION PLAN IS APPROVED:** No building permit shall be issued for Development until the Tree Preservation Plan has been approved by the Village Forester and the Village Forester has determined that the required steps have been taken in the field to implement the Tree Preservation Plan. In reviewing the Tree Preservation Plan, the Village Forester can recommend and suggest modifications which will better protect existing Trees, but the Tree Preservation Plan shall be approved if it otherwise is in conformity with

Village ordinances. The Village shall process the Tree Preservation Plan in no more time than shall be needed to process a building permit unless the application does not fulfill the requirements of this Chapter. Appeals regarding the Tree Preservation Plan shall be carried out in the same manner as appeals relating to building permits. After issuance of the building permit by the Planning and Development Department, the following steps must be followed to assure conformance to the approved Tree Preservation Plan and the Tree protection requirements in the Arboricultural Specifications Manual.

1. Tree preservation measures for Protected Trees must remain in place during the entire construction period. Fencing shall not be removed or relocated unless authorized in writing.
2. An approved Tree Preservation Plan shall be available on the building site before work commences and always during construction of the project. The general contractor shall be responsible for notifying all other contractors involved with a given project of the Tree Preservation Plan.

(C) **PRECAUTIONS DURING CONSTRUCTION:** During construction, all reasonable steps necessary to prevent the destruction or damaging of Protected Trees shall be taken, including, but not limited to, the following:

1. No construction activity, movement, and/or placement of equipment or material or spoils storage shall be permitted within the Critical Root Zone of any Protected Tree on the Tree Preservation Plan. No excess soil, additional fill, liquids, or construction debris shall be placed within the Critical Root Zone of any Protected Tree.
2. Appropriate protective fencing shall be temporarily installed for protection of Protected Trees.
3. No attachments, fences, or wires, other than those approved for bracing, guying, or wrapping, shall be attached to Protected Trees during the construction period.
4. Construction pruning and root pruning of Protected Trees directly affected by construction must be approved by the Village Forester and be completed following the Arboricultural Specifications Manual.
5. Unless otherwise shown on the approved Tree Preservation Plan, no soil is to be added to or Removed from within the Critical Root Zone of any Protected Tree that is to remain. Trees on adjacent lots within 15 feet of the lot line must be protected.

6. Regulated public utilities, to the extent permitted by law, shall be responsible for adhering to said Tree Preservation Plan during installation of necessary Utility service lines. A property owner or contractor shall not be responsible for damages caused by the action of a public Utility unless that person directed the location and manner of work of the Utility.

(D) **WORK MUST BE ACCORDING TO APPROVED TREE PRESERVATION PLAN:** It shall be unlawful for any person, firm, or a corporation to fail to abide by the terms of any Tree Preservation Plan pursuant to which a building permit has been issued, including all regulated public utilities.

(E) **STOP WORK ORDER AUTHORIZED FOR NON-COMPLIANCE WITH TREE PRESERVATION PLAN:** If the Village Forester or a Building Inspector observes the precautions specified in the Tree Preservation Plan were not undertaken before construction commenced or not maintained during construction, a stop work order may be issued. The stop work order shall remain in place until the permittee complies with the approved Tree Preservation Plan.

(F) **AMENDMENT TO TREE PRESERVATION PLAN AND REMOVAL OF PROTECTED TREES.** An application can be made to the Village Forester to amend a Tree Preservation Plan. No amendment shall be permitted to delete a Protected Tree which has been damaged or where the provisions of the approved Plan have not been followed. An application shall be approved where changed facts and circumstances not within the control of the applicant create an undue hardship in complying with the Plan. Where a Protected Tree has been damaged such that its Removal is required, the Forester shall issue a special permit for its Removal after adequately documenting any violations of this Chapter which have caused or contributed to the Removal of a Protected Tree.

4-8-4: **INTERFERENCE WITH THE VILLAGE FORESTER:** It shall be a violation of this Chapter for any person to unreasonably hinder, prevent, delay, or interfere with the Village Forester, Building and Zoning Official, or their agents while engaged in the execution or enforcement of this Chapter.

4-8-5: **VIOLATION AND PENALTY:** Any person who violates any provision of this Chapter or who fails to comply with any notice issued pursuant to the provisions of this Chapter, upon being found guilty of violation, shall be subject to a minimum fine of two hundred fifty dollars (\$250) and a maximum fine of not to exceed seven hundred and fifty dollars (\$750), depending on severity of violation, for each separate offense. Each day during which any violation of the provisions of this Chapter shall occur or continue shall be a separate offense.

In addition to the issuance of a fine, the Village may also request the court, upon a determination that any provision of this Chapter has been violated, to enjoin the person,

through an affirmative or mandatory injunction, to cease a violation of this Chapter or to require the actions mandated within this Chapter to be performed.

SECTION TWO: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form, as provided by law.

PASSED by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this

14TH day of DECEMBER, 1998.

AYES: PEARLSTEIN, HASE, O'BRIEN, WARK

NAYS: BLACKLEDGE, PASULKS, RENFRO

ABSENT:

APPROVED by the Village President of the Village of Glen Ellyn, Illinois this 14TH day of DECEMBER, 1998.



Village President of the Village
of Glen Ellyn, Illinois

ATTEST:



Village Clerk of the Village
of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the 14TH day of DECEMBER, 1998).

VILLAGE OF GLEN ELLYN

ORDINANCE NO. 4925 - VC

AN ORDINANCE TO AMEND
TITLE 4, CHAPTER 8 (TREE PRESERVATION)
OF THE GLEN ELLYN VILLAGE CODE
REGARDING TREE PRESERVATION ON PRIVATE PROPERTY

ADOPTED BY THE
PRESIDENT AND THE BOARD OF TRUSTEES
OF THE
VILLAGE OF GLEN ELLYN
DUPAGE COUNTY, ILLINOIS
THIS 26TH DAY OF MARCH, 20 01.

Published in pamphlet form by the authority
of the President and Board of Trustees of the
Village of Glen Ellyn, DuPage County,
Illinois, this 27TH day of MARCH,
20 01.

ORDINANCE NO. 4925 - VC

AN ORDINANCE TO AMEND
TITLE 4; CHAPTER 8 (TREE PRESERVATION)
OF THE GLEN ELLYN VILLAGE CODE
REGARDING TREE PRESERVATION ON PRIVATE PROPERTY

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GLEN ELLYN, DU PAGE COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION ONE: Chapter 8 (TREE PRESERVATION) of Title 4 (BUILDING REGULATIONS) of the Village Code of the Village of Glen Ellyn, Illinois, is hereby deleted in its entirety and replaced with the following:

Chapter 8

TREE PRESERVATION

- 4-8-1: PURPOSE: The purpose of this Chapter of the Village Code is to enhance the private property portion of the Community Forest by assuring the preservation and protection of Protected Trees. Chapter 4 entitled "Forestry Management" of Title 8 "Public Ways and Property" of this Code is applicable to the public property portion of the Community Forest. These Chapters complement each other to enhance the total Community Forest in Glen Ellyn. It is the stated public policy of the Village to add to the Tree population within the Village, where possible, and to maintain, to the greatest extent possible, existing Trees within the Village. The planting of additional Trees, preservation of existing Trees, and proper maintenance of Trees in the Village will improve the quality of life in Glen Ellyn.
- 4-8-2: DEFINITIONS: As used within this Chapter and Chapter 4 of Title 8 of this Code, the following terms shall have the meaning set forth in this section:

ARBORICULTURAL SPECIFICATIONS MANUAL: A manual prepared and updated by the Village Forester and incorporated into an ordinance passed and amended from time-to-time by the Village Board, which more specifically carries out the enforcement provisions and intent of this Code and contains regulations and standards for the preservation, planting,

maintenance, and Removal of Trees, shrubs, and other plants upon Village property and regulated Trees on private property.

BORDER TREE: Any Tree, the trunk of which lies at least one-quarter on Village-owned property and three-quarters on private property, determined as the distance of the diameter measured at right angles to the public right of way, determined by the Village Forester.

COMMUNITY FOREST: The entire Tree population in the Village of Glen Ellyn, including Trees on private and public property.

COMPREHENSIVE FORESTRY MANAGEMENT PROGRAM: The five-year plan for the improvement of the Village of Glen Ellyn Community Forest and approved by the Village Board.

CRITICAL ROOT ZONE: The area inscribed by an imaginary line on the ground beneath a Tree having its center point at the center of the trunk of the Tree and having a radius equal to one (1) foot for every inch of D.B.H. but not less than six (6) feet from the trunk of the Tree. The Village Forester, or his/her designee, may expand or partially retract the Critical Root Zone depending on the Tree species and site-specific situations so as to improve the chances that Trees will not be damaged during construction and to permit construction to take place, especially where Protected Trees exist on adjacent property and the Critical Root Zone may need to be retracted because of narrow side-yard dimensions.

CROWN: Parts of a Tree above the trunk including leaves, branches, and Scaffolds.

DEVELOPMENT: Any proposed material change in the use of or character of land, including, but not limited to, the construction, addition, alteration, or the replacement of the primary structure or accessory structure on the lot, site improvements on land or the grading or re-grading of a lot, or installation of irrigation, driveway improvement, or utility upgrades. Development shall include all subdivisions or planned unit Developments approved in Glen Ellyn. Development shall not include the following: an addition to a primary structure or the bulk area of the primary structure of less than three hundred (300) square feet; additional impervious surface area additions of less than three hundred (300) square feet; other accessory structures less than three hundred (300) square feet in area: fences, decks, and garages which are built in the same footprint plus no more than an additional 20 percent of the square footage of the existing garage; or grading on private property of less than 1,500 square feet.

DIAMETER BREAST HEIGHT (HEREINAFTER CALLED D.B.H.): The diameter of the trunk of the Tree measured in inches at a point four and one-half (4.5) feet above ground line. This point of measurement is used for established and mature Trees.

DRIP LINE: A line drawn on the ground surface directly beneath and perpendicular to the maximum radius of the Crown of an existing Tree but not less than six (6) feet from the trunk, whichever is greater.

LANDSCAPE: Any shrubs, flowers, grass, or ground covers.

LOT: A zoning lot as defined in the Glen Ellyn Zoning or Subdivision Codes.

PRIVATE TREE: Any Tree on privately-owned property within the Village.

PROTECTED TREE: Any Tree in the Village shown on a Tree Preservation Plan as being retained after Development with a ten (10) inch D.B.H. or greater, or a multi-branch Tree which has an aggregate diameter of sixteen (16) inches D.B.H. or greater, or any Significant Tree with a five (5) inch or greater D.B.H.

PUBLIC NUISANCE: Any Tree, shrub, or other plant, or breeding place which harbors infectious insects or diseases which reasonably may be expected to injure or harm other Trees or which could cause a safety hazard affecting the general public.

PUBLIC TREE: Any Tree or Border Tree within a public right-of-way in the Village.

PUBLIC TREE REMOVAL OR WORK PERMIT: The permit required by this Code issued in order to Remove or do any work on any Public Tree within the corporate limits of the Village or a Village parkway.

REGISTERED TREE CONTRACTOR: Any person, firm, or corporation which is employed to prune or Remove any Public Tree, Protected Tree, or Significant Tree shall be required to register with the Public Works Department. There shall be no charge for registration; but the registration form shall include information regarding at least the name, address and telephone number of the contractor; and the number of years the contractor has been in business. Registration forms will be filed on or before May 1st of each year and shall be annually updated if listed information should change. A Registered Contractor shall report to the Village any Tree Removed within seven (7) days after the Removal. This report shall contain the address of the lot from which the tree was Removed, the reason for Removal, the species, and D.B.H.

REGULATED PUBLIC UTILITY: Any Utility certificated by the Illinois Commerce Commission to provide service to any customer within the corporate limits of the Village of Glen Ellyn or any other entity with a franchise issued by the Village or any other entity which has the right to extend pipes, wires, cables or lines on public property within the Village. The effect of this Chapter with regard to any public Utility is intended to be the maximum regulation permitted by law or under the terms of a franchise or similar agreement.

REMOVE OR REMOVAL: The causing or accomplishing of the actual physical Removal of a Tree or the effective Removal through damaging, poisoning, or other direct or indirect action resulting in, or likely to result in, the death of a Tree.

REPLACEMENT TREE: A nursery-grown certified Tree, properly balled and burlapped and satisfying the standards established for nursery stock and installation thereof set forth by the American Association of Nurserymen.

SCAFFOLDS: Primary structural branches of the Crown.

SIGNIFICANT TREE: All hickory, oak, or walnut species in the Village shown on a Tree Preservation Plan as being retained after Development when they reach five (5) inches D.B.H.

TREE: Any self-supporting, woody plant with its root system, growing upon the earth usually with one trunk or a multi-stemmed trunk system supporting a definitely-formed Crown, achieving a minimum of at least eight (8) feet in height.

TREE PRESERVATION PLAN: A written plan having text and/or graphic illustrations indicating the methods which are to be used to preserve a Public Tree or Protected Tree during construction and shall include a Tree Survey. The document shall be coordinated with and, if possible, made a part of a site grading plan or Development plan.

TREES, SHRUBS, AND OTHER PLANTS: All vegetation, woody or otherwise, except lawn and flowers less than twenty-four (24) inches high.

TREE SURVEY: A graphic display of all Protected, Significant Trees and Unprotected Trees which are located on the lot at the time a building permit is sought, with a designation of those Protected and Significant Trees which the Owner has chosen to remain on the lot after the Development and all Public Trees on adjacent public property which will be affected by any Development. The survey shall also contain this information for any Tree which would qualify by size and type as being a Protected or Significant Tree and which is located on an adjacent lot within fifteen (15) feet of the lot line. The survey shall also show the location of any Tree which was Removed in the prior one-year period. The survey may be prepared by a registered land surveyor and certified arborist or it may be prepared by or under the direction of the owner if it accurately reflects the location of all Trees. The Village Forester shall, if requested, assist without charge in the identification of Tree species.

UNPROTECTED TREE: Any Tree in the Village which would otherwise be a Protected Tree but which the owner has chosen to Remove from the regulations of this Chapter but only after initial actions have been taken to protect the Tree, such as the establishment of protective fencing. The designation as an Unprotected Tree allows the applicant to provide

initial protection for Trees near, for example, critical construction zones so that an effort can be made to save the Tree during Development. This designation and initial efforts will not subject the applicant to penalties for subsequent failure to protect or circumstances beyond the applicant's control which resulted in damage to the Unprotected Tree.

4-8-3: GENERAL REGULATIONS - PRIVATE PROPERTY INVOLVING DEVELOPMENT:

- (A) TREE PRESERVATION PLANS REQUIRED FOR ALL DEVELOPMENT ON PRIVATE PROPERTY; DETAILS: Development on private property shall require the filing of a Tree Preservation Plan at or prior to filing a request for a building permit. The Tree Preservation Plan will show every Tree on the property which is a Protected and Unprotected Tree. All Trees shown on the Tree Preservation Plan shall initially be protected in accordance with the provisions of this Chapter. Trees which the owner designates on the plan as being susceptible to potential damage due to their location or condition shall be designated as Unprotected Trees which after the initial protection has been put in place shall not be subject to additional regulation. This requirement shall prevail where Protected Trees are located on the lot or when Trees which would otherwise be Protected Trees are on an adjacent lot and located within fifteen (15) feet of the property line.

The Tree Preservation Plan shall indicate the methods that will be used during Development to preserve Protected Trees on the lot. The plan shall be required to indicate the specific methods which will be used to preserve all Trees which would otherwise be Protected Trees on adjacent property. The protective methods for the Trees on adjacent properties shall be specifically approved by the Village Forester, or his/her designee, who shall, however, consider, among other factors, the right of the applicant to build if compliance is maintained with required setbacks. All work to preserve the Protected Trees shall be according to the Arboricultural Specifications Manual. As an attachment to the application, three (3) copies of a Tree Survey drawn to a scale so that the location of each Protected Tree and each Unprotected Tree can be identified shall be included unless a grading plan is required; in that case, nine copies of a Tree Survey shall be included. The Tree Preservation Plan shall specify the following:

1. A Tree Survey showing the location, condition, species and trunk diameter of every Protected and Unprotected Tree on the property and every Protected Tree within fifteen (15) feet of the lot line. The Survey or the Plan shall show the location of protective measures to be placed on the lot. In addition, the Survey shall show, using a different code, the location of any Tree which was Removed in the prior one-year period. The Village Forester, or his/her designee, may exclude the Tree Survey requirement on those portions of the site which it determines will not be affected by the Development activity.

2. The parties responsible for the construction, erection, and maintenance of temporary fencing or other physical barrier around Protected Trees.
3. Location, shape, and spatial arrangement of all existing and proposed buildings, walls, improvements, and structures and the excavation limits required to construct proposed improvements.
4. Location, shape, and spatial arrangement of all permanent driveways and parking areas and temporary material storage sites and access ways.
5. Any new Utility services including water, sanitary sewer, storm sewer, gas, electric, telephone, and cable TV and any existing Utility services which will remain the same be removed or modified.
6. Existing and proposed grading of the Development area showing elevations with contour lines at one (1) foot intervals if a grading plan is required by some other provision of the Village Code.

NOTE: The Critical Root Zones of Protected Trees shall be carefully reviewed and taken into account during the preparation of the Tree Preservation Plan. Every effort should be made during architectural layout and design of the proposed Development to preserve Trees which would otherwise qualify as Protected Trees on adjacent lots through sensitivity to the Critical Root Zones of said Protected Trees.

- (B) **NO BUILDING PERMIT APPROVAL UNTIL TREE PRESERVATION PLAN IS APPROVED:** No building permit shall be issued for Development until the Tree Preservation Plan has been approved by the Village Forester, or his/her designee, and the Village Forester has determined that the required steps have been taken in the field to implement the Tree Preservation Plan and the Tree Preservation Plan has been properly posted on the site. In reviewing the Tree Preservation Plan, the Village Forester, or his/her designee, can recommend and suggest modifications which will better protect existing Trees, but the Tree Preservation Plan shall be approved if it otherwise is in conformity with Village ordinances. The Village shall process the Tree Preservation Plan in no more time than shall be needed to process a building permit unless the application does not fulfill the requirements of this Chapter. Appeals regarding the Tree Preservation Plan shall be carried out in the same manner as appeals relating to building permits. After issuance of the building permit by the Planning and Development Department, the following steps must be followed to assure conformance to the approved Tree Preservation Plan and the Tree protection requirements in the Arboricultural Specifications Manual.

1. Tree preservation measures for Protected Trees must remain in place during the entire construction period. Fencing shall not be removed or relocated unless authorized in writing.
2. For new house construction or any other construction that is determined by the Village Forester, or his/her designee, an approved Tree Preservation Plan shall be posted on the building site before work commences and always during construction of the project. This sign must be posted as shown in the Arboricultural Specifications Manual. The general contractor shall be responsible for notifying all other contractors involved with a given project of the Tree Preservation Plan.

(C) **PRECAUTIONS DURING CONSTRUCTION:** During construction, all reasonable steps necessary to prevent the destruction or damaging of Protected Trees shall be taken, including, but not limited to, the following:

1. No construction activity, movement, and/or placement of equipment or material or spoils storage shall be permitted within the Critical Root Zone of any Protected Tree on the Tree Preservation Plan. No excess soil, additional fill, liquids, or construction debris shall be placed within the Critical Root Zone of any Protected Tree.
2. Per the Arboricultural Specifications Manual, appropriate protective fencing shall be temporarily installed for protection of Protected Trees and to the extent required for Unprotected Trees.
3. No attachments, fences, or wires, other than those approved for bracing, guying, or wrapping, shall be attached to Protected Trees during the construction period.
4. Construction pruning and root pruning of Protected Trees directly affected by construction must be approved by the Village Forester, or his/her designee, and be completed following the Arboricultural Specifications Manual.
5. Unless otherwise shown on the approved Tree Preservation Plan, no soil is to be added to or removed from within the Critical Root Zone of any Protected Tree that is to remain. Trees on adjacent lots within 15 feet of the lot line must be protected.
6. Regulated public utilities, to the extent permitted by law, shall be responsible for adhering to said Tree Preservation Plan during installation of necessary Utility service lines. A property owner or contractor shall not be responsible

for damages caused by the action of a public Utility unless that person directed the location and manner of work of the Utility.

- (D) **FEE SCHEDULE FOR TREE PRESERVATION PERMIT REVIEW:** The basic fee for the issuance of a Tree Preservation Permit shall be as follows:

Permit fee for Tree Preservation:

1. Plan Review and Planned Field Inspections for Single Lots:

Unit Cost for Each:

Garage / Pool / Other Addition	\$110 each
Demolition / New House	\$150 each
New House	\$150 each

2. Plan Review and Planned Field Inspections for Subdivisions and Planned Unit Developments:

Cost to review Documents submitted in compliance with Tree Preservation Ordinance: \$ 50 / hour

3. Subsequent Field Inspections:

Cost for each complaint:

(Two site visits per complaint) \$ 25 each complaint

- (E) **WORK MUST BE ACCORDING TO APPROVED TREE PRESERVATION PLAN:** It shall be unlawful for any person, firm, or a corporation to fail to abide by the terms of any Tree Preservation Plan pursuant to which a building permit has been issued, including all regulated public utilities.

- (F) **STOP WORK ORDER AUTHORIZED FOR NON-COMPLIANCE WITH TREE PRESERVATION PLAN:** If the Village Forester, or his/her designee, or a Building Inspector observes the precautions specified in the Tree Preservation Plan were not undertaken before construction commenced or not maintained during construction, a stop work order may be issued. The stop work order shall remain in place until the permittee complies with the approved Tree Preservation Plan and/or corrects the issues stated in the stop work order.

- (G) **AMENDMENT TO TREE PRESERVATION PLAN AND REMOVAL OF PROTECTED TREES.** An application can be made to the Village Forester to amend a Tree Preservation Plan. No amendment shall be permitted to delete a Protected

Tree which has been damaged or where the provisions of the approved Plan have not been followed. An application shall be approved where changed facts and circumstances not within the control of the applicant create an undue hardship in complying with the Plan. Where a Protected Tree has been damaged such that its Removal is required, the Forester shall issue a special permit for its Removal after adequately documenting any violations of this Chapter which have caused or contributed to the Removal of a Protected Tree.

4-8-4: INTERFERENCE WITH THE VILLAGE FORESTER: It shall be a violation of this Chapter for any person to unreasonably hinder, prevent, delay, or interfere with the Village Forester, Building and Zoning Official, or their agents while engaged in the execution or enforcement of this Chapter.

4-8-5: VIOLATION AND PENALTY: Any person who violates any provision of this Chapter or who fails to comply with any notice issued pursuant to the provisions of this Chapter, upon being found guilty of violation, shall be subject to a minimum fine of two hundred fifty dollars (\$250) and a maximum fine of not to exceed seven hundred and fifty dollars (\$750), depending on severity of violation, for each separate offense. Each day during which any violation of the provisions of this Chapter shall occur or continue shall be a separate offense.

In addition to the issuance of a fine, the Village may also request the court, upon a determination that any provision of this Chapter has been violated, to enjoin the person, through an affirmative or mandatory injunction, to cease a violation of this Chapter or to require the actions mandated within this Chapter to be performed.

SECTION TWO: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form, as provided by law.

PASSED by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this

26TH day of MARCH, 2001.

AYES: MELROY, O'BRIEN, BLACKLEDGE, KOHNKE, PERLSTEIN

NAYS: -0-

ABSENT: STRAYER

APPROVED by the Village President of the Village of Glen Ellyn, Illinois this 26TH day of MARCH, 2001.

Joe E. Ward
Village President of the
Village of Glen Ellyn, Illinois

ATTEST:

Sabrina O'Leary
Village Clerk of the
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the 27TH day of MARCH, 2001.)

Special Workshop

2/26/07

(3)

TO: Robin Weaver, Village Manager
FROM: Curt Barrett, Assistant Village Manager ^{CJB}
DATE: February 23, 2007
RE: Tree Preservation Proposals for Private Property

In October 2006, the Environmental Commission completed a year-long review and forwarded for consideration by the Village Board a recommendation regarding potential adjustments to the Village's Tree Preservation Ordinance (TPO). The TPO was first established in 1998 following a series of sometimes-contentious meetings that included a significant amount of public participation, with passionate views expressed on both sides of the issue. Please find attached:

1. The Environmental Commission's report and recommendation plus several appendixes gleaned from research into tree preservation across the nation. The most significant proposal would protect all desirable trees over 8" thick on private property setbacks and provide options for permitting removal of such a tree;
2. Department memos from Public Works and Planning & Development evaluating the impact of the proposed changes on village operations. Village staff reviewed and provided feedback on three versions of the TPO proposal during 2006; and
3. Background packet provided to the Village Board in October 2005 including meeting minutes from the various Board Workshops held in the 1990s.

There is general agreement on the value of expanded efforts to educate the public on tree preservation, and also that some type of "great tree" landmarking designation may have merit. However, consideration of the Level II restrictions proposed for private property becomes more complicated. The data currently available is inconclusive as to the extent of tree loss in the Village. Adoption and enforcement of the recommended restrictions will require additional staff time and generate variation requests for numbers of trees that will require hearings, Board action, and the potential for litigation.

Most municipalities in the area require tree preservation plans for development projects, but do not require a permit for residential property owners to remove a tree on their property. This is the case in Carol Stream, Downers Grove, Elmhurst, Geneva, Hinsdale, LaGrange, Lisle, Lombard, Naperville, St. Charles, and Wheaton.

CC: Environmental Commission

1

October 5, 2006

Village of Glen Ellyn
535 Duane Street
Glen Ellyn, IL 60137

Attn: President Vicky Hase

Ref: Tree Preservation Ordinance – Private Property

President Hase,

The Environmental Commission submits for your review our report and recommendation for changes to Glen Ellyn's existing Tree Preservation Ordinance for Private Property, adopted in 1998.

The Commission was diligent in researching and reviewing the history and current trends and status of Tree Preservation Ordinances in Glen Ellyn, surrounding communities and across the United States. The Commission has been mindful of the views voiced by residents and staff; and the proposal brought before you is intended to create a balance between property rights and community rights issues raised.

The Commission appreciates the additional time granted so that we could be as thorough as possible in understanding concerns presented.

As your agenda allows, the Commission requests a time to present our findings and proposal to the Village Board and to answer any questions the Trustees and your honor may have.

Respectfully,

Michelle Z. Thorsell

Michelle Z. Thorsell, Chairman
Environmental Commission



October 28, 2005

Village President

Vicky Hase

Trustees

Anthony A. Armstrong

Barbara Jane Chapman

Daniel T. Gardner

Sara Lee

Peter Norton

Mark Pfeifferman

Village Manager

Gary Webster

Michelle Z. Thorsell, Chairman
Glen Ellyn Environmental Commission
535 Duane Street
Glen Ellyn, Illinois 60137

RE: Tree Preservation Ordinance Review

Dear Michelle:

The Glen Ellyn Village Board in 1998 adopted a Tree Preservation Ordinance (TPO) to encourage the preservation of public and private trees during major private property development projects. The TPO followed extensive review and analysis by various Village of Glen Ellyn boards and commissions as well as substantial comment from the development community. Determining the appropriate level of regulation of private trees affected by teardowns and major home additions throughout Glen Ellyn required significant discussion by the Village Board. The regulations put into effect provided strict requirements regarding the protection of publicly owned trees in the Village right-of-way, and provided for a program that helped educate property owners of the negative impact development can have on private trees. The Village Board in 1998 worked hard to balance the property rights of private property owners with the community benefit that comes from the maintenance and protection of the large, mature trees that have been a hallmark of Glen Ellyn for many years. I served on the Village Board during the development and adoption of the 1998 TPO.

Civic Center

535 Duane Street

Glen Ellyn, Illinois 60137

(309)469-5000

(630)469-8849

info@glenellyn.org

www.glenellyn.org

Public Works Department

535 Duane Street

(309)469-1187

(630)469-1861

Public Works Department

1400 North Lambert Road

(309)469-6756

(630)469-3128

It has been seven years since this ordinance was adopted. In that time, there have been numerous instances where the TPO regulations have been successful and mature trees have been saved due to precautions taken by property owners during reconstruction or teardown work. There have been other instances where trees that may have been saved have been lost due to the actions taken during this work. A review of the experience gained since the adoption of the TPO to determine if the TPO should be modified would be a worthwhile endeavor for the Village to undertake at this time. The Village Board has directed that the Environmental Commission should complete a review of the current TPO.

This letter provides guidelines for the Environmental Commission as you undertake a review of the current TPO. Public Works Director Don Foster and Village Forester Peggy Drescher will be directed to work with you to provide information needed to help the Environmental Commission review the current TPO and prepare a report on any suggested changes. Both Don and Peggy were involved in the development of the 1998 TPO and should be able to help you review the many issues that will occur during the process.

The work tasks and areas the Environmental Commission should consider are as follows:

1. Review the existing TPO along with the alternatives considered prior to adoption so as to better understand the balance sought by the 1998 Village Board to weigh the community benefit of tree preservation versus the individual property owners' rights to proceed with development work on their own property.
2. Review data collected by the staff regarding the removal of trees since the adoption of the TPO in 1998. Include in the review an evaluation of the success of the effort to balance all interests of the various stakeholders affected by the TPO.
3. Review TPO and the results related to their enforcement in other communities to determine if a measurable difference in the number of trees saved during development occurs. If a measurable difference exists, try to clarify what steps are taken in other communities that lead to the increase in the number of trees saved. This review should include an effort to understand any differences that exist between studied communities and the Village of Glen Ellyn.
4. Share possible alternatives for TPO modifications with staff requesting analysis of the impact the modifications would have on the development inspection and permitting process.
5. Stakeholder input should be obtained by holding appropriate public meetings at which all interested parties in the TPO are offered the opportunity to present comments and critiques on the existing TPO and any proposed changes.
6. A written recommendation to the Village Board including suggested modifications or alternatives that may be considered in an effort to improve the effectiveness of the TPO. Your review work and recommendation should be completed with a final report forwarded to the Village Board for consideration by May 1, 2006. This date will give sufficient time for the current Village Board to consider any proposed changes in a timely manner.

The Environmental Commission has provided in the past an excellent review of the solid waste program. I look forward to the commission's work on the Tree Preservation Ordinance review in the same light as work previously performed by the Environmental Commission.

Sincerely,



Vicky A. Hase
Village President

cc: Village Board Members
Gary Webster, Village Manager 
Don Foster, Public Works Director
Peggy Drescher, Village Forester
Staci Hulseberg, Planning and Development Director
Curt Barrett, Assistant Village Manager

TREE PRESERVATION ORDINANCE – PRIVATE PROPERTY

SUMMARY HISTORICAL DATA

Response to Work Task 1: “Review the existing TPO along with the alternatives considered prior to adoption so as to better understand the balance sought by the 1998 Village Board to weigh the community benefit of tree preservation versus the individual property owners’ rights to proceed with development work on their own property.”

The Environmental Commission has reviewed documentation, provided by staff, regarding tree preservation in the Village of Glen Ellyn and offers a summary that highlights the development of our current tree preservation ordinance. The documentation reviewed dates back to October 26, 1995 and consisted of letters, meeting minutes, memos and changing stages of a proposed tree preservation ordinance. The Commission noted that the majority of the documentation provided discussed the legal ramifications of various proposed requirements of the ordinance.

Documentation revealed that during 1993, the Village Forester observed the demise of many trees during an increase in construction. The first ordinance was subsequently developed and drafted in 1995. Review of this draft ordinance by staff, Village Counsel, and a hired consultant resulted in many revisions. During a Village Workshop on March 6, 1998 the draft ordinance was presented to the Village Board. Additional Village Workshops covered the review of this draft ordinance. The Ordinance was redrafted and submitted to the Village Board on October 26, 1998. Many of the requirements of the original private property ordinance by this time were removed. The Ordinance for private property was adopted on March 26, 2001.

Noted are meetings that offered opportunity for public input, the first of which took place on March 5, 1998. Attendees included staff, four contractors and one architect. It appears that the main concern expressed during this meeting was the burden that would be placed on the developer. A public meeting/Village Workshop was held on August 24, 1998. Of the twelve residents who spoke at this meeting, five were supportive of a Tree Preservation Ordinance, six spoke against its adoption and one didn’t specify allegiance. A second public meeting took place on October 26, 1998 after revisions to the previously submitted ordinance were made. At the second meeting, two developers and five residences spoke. Of the five residents, one spoke in favor of the less restrictive Tree Preservation Ordinance and four spoke against its adoption.

Observations offered by the Environmental Commission regarding the history and development of our current Tree Preservation Ordinance for Private Property follow:

1. During the process the Village Forester commented on the potential problems that would occur by removing certain provisions of the ordinance.
2. The issue of tree preservation may be more of a critical issue today than in 1995 because houses constructed today take over the entire buildable area on a lot. Houses built ten years ago were smaller than today.
3. It appeared that the needs of developers were given priority.
4. Stormwater issues related to the removal of trees were not discussed.
5. Village Board at the time of the Ordinance review was tentative about imposing more regulations on the residents evidenced in the split vote to adopt the current ordinance. Individual rights appeared to be a concern.
6. It did not appear that an education effort was planned for the community and developers.
7. Pollution issues were not discussed.

SUMMARY
CURRENT TREE PRESERVATION PRACTICES

Response to Work Task 2: “Review data collected by the staff regarding the removal of trees since the adoption of the TPO in 1998. Include in the review an evaluation of the success of the effort to balance all interests of the various stakeholders affected by the TPO.”

Village staff provided documentation to the Environmental Commission for the purpose of evaluating success of the effort to balance all interests of the various stakeholders affected by the TPO.

Tree Preservation Data (document dated October 14, 2005) was collected by staff and submitted to the Commission for review. The table was developed to inventory the number of Tree Preservation Plans that were reviewed for each year from 1999 to 2004. An average of 290 plans were reviewed each year for a total number of 1,454 plans recorded. The total number of trees identified on the Tree Preservation Plans (both protected and unprotected) is 16,797, of which 9,038 of the identified trees were voluntarily preserved (protected). Of the over 7,500 unprotected trees identified on the Tree Preservation Plans, 3,701 trees were scheduled to be removed. (Note: As of this date, over 20 trees listed at one property on St. Charles Road have not been removed) Unfortunately, this documentation does not indicate how many, of the 3,701 unprotected trees removed, were healthy. Staff provided data indicating how many trees were planted after trees were removed; the number of trees planted is recorded at 343.

During the summer of 2004 a review of the existing condition of the trees, that were voluntarily protected, was recorded. 142 protected trees on private property were identified as declining due to construction. This review does not offer data for trees that had been completely removed since construction.

The Commission’s understanding of the original intent of the 1998 ordinance was to educate instead of regulate. Comments from developers, residents and staff indicate that education is not taking place and all parties would welcome opportunity to learn about tree preservation.

The Commission’s review of the existing TPO data and its success is as follows:

1. There is not enough specific information to determine whether or not the 3,701 trees removed should have been considered a ‘protected tree’.
2. There is not enough information to determine if property owners voluntarily planted trees to replace the trees removed and whether or not these planted trees are surviving.
3. The survival rate of ‘protected’ trees on private property during construction is found to be inconclusive since no data currently exists that accounts for trees, identified as protected, that were completely removed.
4. The educational component of the TPO is lacking. The “Gems of Glen Ellyn”, published in 2005, is a starting point.

Response to Work Task 3: “Review TPO and the results related to their enforcement in other communities to determine if a measurable difference in the number of trees saved during development occurs. If a measurable difference exists, try to clarify what steps are taken in other communities that lead to the increase in the number of trees saved. This review should include an effort to understand any differences that exist between studied communities and the Village of Glen Ellyn.”

The Environmental Commission reviewed Tree Preservation Ordinances from across the country (a listing of materials reviewed is attached). The municipalities vary in population and geographic location, however, many details of tree preservation ordinances were consistent. The Commission found that follow-up tree preservation data typically is not collected. Some communities, such as Lake Forest, Illinois and Scottsdale, Arizona inspect the health of the trees up to one year after construction completion. Glencoe, Illinois randomly inspects properties up to three years. But these inspections do not respond to research that indicates that many trees will die 2 to 3 years after root or limb damage. This lack of information prevents the Commission from ascertaining the success of various tree preservation ordinances. The Commission, therefore, proceeded by reviewing various details of the tree preservation ordinances, implemented in other communities, and considered their compatibility with our community. The review revealed the following:

1. Notification of Tree Preservation Ordinance
 - a. Most municipalities inform property owners when a construction permit is applied for.
 - b. A qualified tree removal company is required to be hired for any land disturbance activity.
 - c. The property owner is informed when the property is purchased.
 - d. Newsletter sent to homeowner three times per year.

2. Trees to be preserved
 - a. Sizes varied from ‘6 inches diameter (DBH) & up’ to ‘25 inches diameter (DBH) & up’.
 - b. Specific species of any size to specific species with sizes above 8 inches diameter.
 - c. The Forester determines what trees are to be preserved based upon a set of criteria such as overall canopy, size of trees, species and health.
 - d. Removal of any portion of the tree canopy requires planting of trees that will provide equal canopy. The formula $\frac{ET}{S} = \text{Canopy \%}$ is used. (ET= Total canopy of existing trees in square feet & S = Total square footage of site.)

3. Permits for removal required
 - a. The majority of municipalities require a permit to remove a tree that met their criteria for trees to be preserved.
 - b. Some of the municipalities waive the requirement for a permit for certain situations such as diseased or hazardous trees or if fewer than two trees are to be cut down.
 - c. Some of the municipalities require authorization to remove the trees noted in 3.b.

4. Trees approved for removal
 - a. Municipalities report that 68% to 98% of tree removal occurs because of additions (building, deck, pool, etc.) to existing buildings
 - b. Municipalities that have a high percentage of tree removal occurrences due to teardowns appear to be in areas of rapid population growth.

5. Approved tree removal for trees that are considered preserved or protected
 - a. For every tree removed a tree must be replanted or a set dollar amount paid into a tree fund.

- b. A transplanted tree will not be considered a removed tree.
 - c. 25% of trees may be removed without replacement.
6. Maximum fines for removing trees without permit:
- a. \$102,000 per occurrence
 - b. \$1,000 per tree removed
 - c. \$750 per inch of tree removed
 - d. Fee three times that of original permit fee AND replace tree inch for inch.
7. Other miscellaneous provisions
- a. Four educational seminars per year are offered to public
 - b. Levels of priority (high, mid-level & low or 1, 2, &3) are required to be incorporated in the preservation plan.
 - c. Tree Registry is offered to residents for trees of rare species or extraordinary value. Staff approval required for pruning or removal.
 - d. Contractors must take a test about tree preservation and pass with 75% or above.
 - e. Removal of Grand Tree is prohibited.
 - f. A booklet with graphics that describe how a tree works and important details of tree care is available to contractors and homeowners. (Fayetteville, Arizona is an example).
 - g. Over a set size of construction project (square foot) activates tree preservation ordinance.
8. Number of Staff
- a. Private & Public property ordinances- Two to six full-time staff, including horticulturist, arborist, landscape architect, Forester
 - b. Public property ordinance only – consultants only to two full-time Foresters
9. Terminology encountered
- a. Tree Impact Activity (Glencoe, IL)
 - b. Removable Tree (Glencoe, IL)
 - c. Replacement Tree (Glencoe, IL)
 - d. Landmark Tree (Fayetteville, AR)
 - e. Prairie Tree
 - f. Significant Tree
 - g. Land Disturbance Activity
 - h. Grand Tree

In the Journal of Arboriculture, November 2001, details of active tree ordinance provisions in Illinois are outlined noting how many of the municipalities contain each provision. The majority of these municipalities contain provisions as follows:

- 1. Guidelines regulating penalty fines for ordinance noncompliance (63%)`
- 2. Requirements for abatement of diseased trees (62%)
- 3. Guidelines regulating permits required for tree planting, maintenance, or removal (58%)
- 4. Authorization for public workers to enter private property for tree inspections, maintenance, or removal (57%)
- 5. Guidelines for enactment of municipal tree board (56%)

Response to Work Task 5-Part 1, Review of Current Ordinance: “Stakeholder input should be obtained by holding appropriate public meetings at which all interested parties in the TPO are offered the opportunity to present comments and critiques on the existing TPO and any proposed changes.”

Comments from Village Staff

1. Since the current ordinance is voluntary, it makes it difficult to enforce a Tree Preservation Ordinance throughout construction. The reluctance to designate trees as ‘preserved’ is increasing. Once a change occurs during construction, clear direction is not provided for either staff or the property owner as to steps to take to rectify the change. “...the Village is essentially requiring the preservation of trees while the tree preservation ordinance is a voluntary ordinance” Memorandum, dated December 9, 2004 for December 13, 2004 Village Board Workshop.
2. Trees are cut down prior to a development being approved or before a tree preservation plan is submitted.
3. Better qualifiers are needed to determine the trees that really should be preserved.
4. Trees designated to be preserved are not adequately protected during construction.
5. There is not enough time to educate each property owner as needed. There is confusion as to what is regulated.
6. A simplified tree care/preservation booklet would be helpful in educating property owners.
7. A ‘protected zone’ in lieu of a ‘protected tree’ should be considered.
8. Language is absent that gives staff power to control contractor such as requiring contractors to protect trees that *should* be preserved and protecting neighbors’ trees around perimeter of lot.
9. Different levels of tree preservation, which will have different levels of restrictions, could be a possible solution to different situations.

Comments from Developers

1. Education is not available to contractors. Developers who work and live in the community welcome more direction and education.
2. “Protected Tree” signs lacking at the construction site
3. Willing to work with staff and Commission to determine workability of ordinance
4. Different levels of tree protection may be a workable solution for Glen Ellyn
5. Contractors recommend a mediator, such as the Environmental Commission, if there is a difference of opinion between Village Forester and Developer on what trees to be preserved.
6. A more streamlined process between village departments would provide better communication.

Comments from Residents

1. Volunteer groups offer to work with the Village and provide manpower
2. Neighbors observe activities by contractors and neighbors that diminish the health of Glen Ellyn trees.
3. Some trees have historical value to Glen Ellyn and should be designated, as such.
4. Trees are an asset to their property
5. Assurance is desired that their neighbors will also be encouraged to value their trees.
6. A monetary value (energy savings, better air quality/personal health, etc.) should be placed on trees for a better understanding.

Comments from Commissioners regarding input from stakeholders and current data provided by staff :

1. Based upon the review of information provided, it appeared that the original expectations were that every effort would be made to preserve trees during the planning and construction processes.
2. Data does not take into account the effects of a drought, which may be misinterpreted as damage due to construction activities and visa versa.
3. The potential problems related to the 'loopholes' as discussed in the historical documentation have since become problems, such as clear-cutting lots prior to application for a building permit.
4. Damage to tree roots during construction is becoming more evident. Photos of trees show that fences are being relocated for truck traffic and storage materials are placed around the base of the trees.

RESPONSE TO PROPOSED TREE PRESERVATION ORDINANCE MODIFICATIONS

Response to Work Task 4, Staff Comments: “Share possible alternatives for TPO modifications with staff requesting analysis of the impact the modifications would have on the development, inspection and permitting process.”

Village Directors and Officials reviewed the Commission’s TPO proposal in June and submitted a memo, dated June 20, 2006, to the Commission responding to the impact that modifications to the current ordinance would present. The highlights of this memo are as follows:

1. Staff was supportive of additional education on tree preservation. The Village Forester should offer seminars each year.
2. Staff saw merit in the voluntary landmarking of heritage trees and was supportive of this recommendation.
3. Staff agreed that more staff time would be required for enforcement activities and to process variance requests.
4. The Tree Preservation Permit Application could be more user-friendly
Three-year preservation deposits are acceptable, but re-inspections must identify problems after one or two years and at that time remedial action taken.

Response to Work Task 5-Part 2, Review of Proposed Ordinance: “Stakeholder input should be obtained by holding appropriate public meetings at which all interested parties in the TPO are offered the opportunity to present comments and critiques on the existing TPO and any proposed changes.”

On July 24, 2006, an Open House was offered to Glen Ellyn residents and other interested stakeholders to share the information that was gathered and reviewed by the Commission and to offer and view the recommendations that the Commission was preparing for the Village Board. Winfield representatives attended to collect our data and information to use in their TPO process. Commissioners were available at the Open House to answer questions, explain the proposal and receive comments and suggestions from attendees. Notice of the Open House was placed in the local newspapers, Village website and through communication with Glen Ellyn community groups.

The Open House was well attended and a number of helpful comments were made, both in favor and in opposition of the draft proposal. Not every attendee submitted a written comment, based upon the tally of 22 written comments received by August 4, 2006.

Some of the thirteen written comments in opposition to any TPO for private property were helpful in determining what information was not clear or detailed in our proposal. These (paraphrased) comments included:

1. A tree I planted years ago is now too close to my house and is affecting the structure. I should not need to be restricted from removing this tree. I shouldn’t be told that I can’t remove this tree.
2. I removed trees in my yard to redesign the landscaping with more appropriate sized trees for my yard. I want freedom to make these changes.
3. I removed diseased trees on my property. I shouldn’t have to bother with a permit to take care of these trees.
4. Why should I have to keep a nuisance tree on my property?
5. Our freedom is taken away from removing any trees on our property.

In addition to the above, many comments in favor of the Commission's draft proposal were received, both at the Open House and in writing. Some residents felt our proposal was not tough enough.

The Commission appreciates these comments, and as a result has added more detail into the TPO recommendation so that residents will have a better understanding of what is being asked of them.

GOALS AND RECOMMENDATIONS

Response to Work Task 6: “A written recommendation to the Village Board including suggested modifications or alternatives that may be considered in an effort to improve the effectiveness of the TPO (Tree Preservation Ordinance)”.

The Environmental Commission recommends to the Village Board the following revisions and additions to our current Tree Preservation Ordinance, adopted in 1998. The Commission has researched communities around the country and listened to comments from those who live and work in Glen Ellyn. We have learned from our research regarding the importance of individual rights as well as preserving our environment and the history of our community and have done our best to balance both.

Before the information collected was evaluated, the Commission determined that a goal must be set so that our purpose remained on track.

GLEN ELLYN'S TREE PRESERVATION ORDINANCE GOAL

To preserve the overall character of the Village through tree protection, preservation, and reforestation.

What our Tree Preservation Ordinance should do

- 1. Encourage action that will contribute to the beauty that Glen Ellyn's trees offer.**
- 2. Preserve the Village forest by protecting an ecosystem that provides wildlife habitat and natural stormwater management.**
- 3. Allow citizens the opportunity to enjoy the environmental benefits of cooling and air pollution abatement from our tree canopy.**
- 4. Balance the interests of the community by protecting private property rights, considering economic, social, and aesthetic impacts to property owners, developers, and residents living adjacent to property developments.**
- 5. Provide continuing education about the value of trees for the benefit of all of the Village's citizens and developers.**

ADMINISTRATIVE PROCEDURES:

The Environmental Commission recommends to the Village Board, in addition to an amendment to our current Tree Preservation Ordinance, the following programs and materials to be included into administrative procedures:

1. **Educational Classes**, at least two times per year, that offers Tree Care information to Property Owners, Residents, Developers, Realtors, Business Owners and friends of Glen Ellyn. Classes will review procedures for tree care and maintenance during construction, general health care of trees such as pruning, watering, latest on diseases to be aware of, etc. Residents interested in participating in this program are encouraged to volunteer.
2. Update **Tree Preservation Manual**, making information regarding tree preservation more user friendly, including posting on the Village website. Residents interested in participating in this program are encouraged to volunteer.
3. Increase professional **Staff Availability** to a minimum of 40 hours per week to oversee our tree preservation program, both public and private.
4. More defined **Inspection Procedures** during construction, such as providing a checklist related to trees protection procedures on inspector's regular checklist. Items could include Tree Preservation Plan located close to property entrance; fence is up & in proper location around trees, and/or trees in set-back not damaged. Warnings and then fines and Stop Work Orders should be included.

TREE PRESERVATION ORDINANCE RECOMMENDATIONS

The proposed amendment to our existing Tree Preservation Ordinance for Private Property would insert two levels of tree protection, 'Level 1' and 'Level 2', and label the existing preservation standards for private property as 'Level 3'. The possible insertion into existing ordinance may be outlined similar to the following:

'LEVEL 1' – most protected category. 'Heritage Tree'.

Commission Comments:

1. Different groups interested in tree preservation will have an opportunity to participate in a very significant way. Groups could work with the Environmental Commission to prepare registration document, contact property owners and collect data.
2. Addresses the issue of special trees in Glen Ellyn that affect our history.
3. May promote the idea of caring for trees that may someday meet the special 'Heritage' status.

This is a voluntary program similar to GE's house preservation program. Residents who have a tree of significance to Glen Ellyn by meeting specific requirements can register their tree with the Village of Glen Ellyn. As long as the tree remains healthy, 'heritage trees' cannot be cut down. Pruning must be done by a professional tree care expert. Tree preservation lasts for the life of the tree unless a variance is applied for and approved by the Board.

Outline of Level 1:

1. Initial stage – The Citizen's for Glen Ellyn Preservation group could participate by encouraging residents who may have significant trees to apply and help fill out form.
2. Initial stage – The Eagle Scouts could participate by coordinating the information collected from No. 1 and other submissions, work with an arborist to weed out trees that will not meet criteria.
3. A signature from a registered arborist certifying that trees meet age and/or special historical significance would be submitted to Environmental Commission for review and then to forwarded to GE staff and Village Board.
4. Tree is added to Village registry and posted on Village Website.
5. The owner should record a document with the DuPage County Recorder of Deeds.
6. If Tree is damaged by acts of man, heavy penalty is applied, such as the full value of tree at time of damage.
7. Tree requirements may include:
 - a. Special history: Must be documented somewhere or certified by historian.
 - b. Age: at least 75 years old
 - c. Species: Native Species to Illinois.

'LEVEL 2' – mid-level category. This is the second most restricted category: Certain species of larger, healthy trees located in property set-backs are protected. However, owners are not prohibited from removing any tree for any reason provided the guidelines in the ordinance are followed. For example, if an owner chooses not to relocate or plant an appropriate replacement tree, the tree may be removed upon payment to the Village of a sum to be deposited in a fund for tree preservation and planting.

Commission Comments:

1. 'Community property' is addressed by protecting more trees. Neighbors are most affected by what is immediately next to their property or visible from the street.
2. 'Private Property Rights' are addressed. Owners can remove any trees that are not in set-back areas. In set-backs, only larger, healthy trees are protected more, but owners still have several options to remove such trees.
3. Since current data on our Village forest is not accurate, Level 2 will help to inventory our trees.
4. Set-backs provide a more clear line for identification.
5. Only larger trees are protected.
6. Trees located in the footprint of the building(s) are not affected by this level of protection and are placed in Level 3, unless the property Owner is requesting a variance to build in the set-back.
7. Throughout Glen Ellyn, it appears that the majority of the trees on private property in town are located in the set-backs of the property.
8. When residents, who oppose any TPO for private property, were asked why they would remove a tree on their property, the responses were usually for reasons that are outlined below as exemptions. Most Glen Ellyn residents indicated that they would only remove a tree for a just cause such as disease or safety issues. This ordinance is sensitive to these issues.

Outline of Level 2:

1. All healthy trees, with a DBH (Diameter at Breast Height, 54" above grade) of 8 inches or greater, located within the front yard, rear yard and side yard set-backs are protected from removal and must be protected during construction. "All trees" defined as any percentage of the tree trunk located within the set-back. The property owner may remove a Level 2 tree only upon meeting one of the following requirements and must receive written approval* by Village staff:
 - a. The tree removed is relocated on the same property.
 - b. The tree removed is replaced by a tree from an approved list (The same as approved list for parkway trees) with a minimum DBH of 4 inches at a location that meets acceptable arboricultural planting standards (to be described in updated Tree Preservation Manual).
 - c. If Village Staff determines one of the following: (i) that the tree is not healthy, the tree poses a threat to human life or may cause damage to existing structures, (ii) the species of tree is invasive (a list will be developed to identify invasive trees), or (iii) the tree is detrimental to one or more adjacent non-invasive trees.
 - d. If a., b., or c. above cannot be accomplished or met, \$1,000 per tree removed, with a cap range beginning at \$10,000 per application or project, shall be paid into a Tree Fund to be used for arboricultural improvements throughout the Village.
2. All trees, with a DBH of 8 inches or greater, removed from a set-back, without prior written approval of staff, should be considered protected, regardless of whether or not staff would have approved removal.
3. If a disagreement takes place between Village staff and the Property Owner on what trees must be protected, the property owner can meet with the Environmental Commission to review the case. Options for next step:
 - a. Commission agrees with staff and Owner declines further action.
 - b. Commission agrees with staff and Owner requests a variance that will be presented to the Board, with Commission's recommendation.

c. Commission disagrees with staff and Owner is allowed to remove tree in question.

*Written approval – filling out an online form on the Village website or a hard copy of the form available from the building department. Village to sign form if approved and return copy to property owner.

'Level 3' – third-level category. Existing TPO.

Outline of level 3:

1. Trees located on a lot, excluding set-backs, are protected, unless the owner decides to identify trees as unprotected.

TPO DEPOSITS AND PENALTIES

The proposed amendment to our existing Tree Preservation Ordinance for Private Property would also cover Deposits and Fines.

Tree Preservation Deposits required for construction projects. Deposits to be held for three years after substantial completion of a construction project to verify that trees to be protected have not been removed or suffered due to construction damage. If a tree to be protected is destroyed or damaged during this three year period, then the owner must either (a) replace the tree from an approved list with a minimum DBH of 4 inches at a location which is acceptable in accordance with arboricultural practices or (b) \$1,000 per tree removed, with a cap of \$10,000 per application or project, shall be paid into a Tree Fund to be used for arboricultural improvements throughout the Village.

Penalties: Violations of the ordinance such as removal of a tree without written approval or removal of a protected tree result in a fine of \$1,000 per tree removed. In addition, the owner must either (a) replace the tree from an approved list with a minimum DBH of 4 inches at a location which is in accordance with arboricultural practices or (b) \$1,000 per tree removed, with a cap range beginning at \$10,000 per application or project, shall be paid into a Tree Fund to be used for arboricultural improvements throughout the Village. Village staff will have the authority to waive any penalty if a tree is removed without a permit due to emergency circumstances.

Other items to Consider:

Voluntary tree preservation and care education classes:

1. Input on when to schedule
2. How to advertise
3. What is the agenda

Tree Preservation Manual:

1. Work with community volunteers
2. What to include
3. Permission to use pieces of Fayetteville's
4. Assign a volunteer produce drawings.

Glen Ellyn Tree Preservation Ordinance Review
Materials Reviewed by the Environmental Commission

1. Municipalities consulted regarding Tree Preservation Ordinances:
 - a. Atlanta, Georgia
 - b. Bluffton, South Carolina
 - c. Bowling Green, Ohio
 - d. Denver, Colorado
 - e. Des Moines, Iowa
 - f. Downers Grove, Illinois
 - g. Fayetteville, Arizona
 - h. Glencoe, Illinois
 - i. Highland Park, Illinois
 - j. Indianapolis, Indiana
 - k. Kalamazoo, Indiana
 - l. Lake Forest, Illinois
 - m. Libertyville, Illinois
 - n. Lincolnshire, Illinois
 - o. Lombard, Illinois
 - p. McClellanville, South Carolina
 - q. Naperville, Illinois
 - r. Newburyport, Massachusetts
 - s. Oak Lawn, Illinois
 - t. Oberlin, Ohio
 - u. Park Ridge, Illinois
 - v. Riverside, California
 - w. Sandusky, Ohio
 - x. Scottsdale, Arizona
 - y. Skokie, Illinois
 - z. Sullivan's Island, South Carolina
 - aa. Vernon Hills, Illinois
 - bb. Williston, Vermont

2. Studies Reviewed:
 - a. "Urban Ecosystem Analysis for the Washington DC Metropolitan Area, An Assessment of existing Conditions and a Resource for Local Action" sponsored by the USDA Forest Service and the Casey Trees Endowment Fund. (Note: Many municipalities were included in this study. Washington DC was chosen for comparable latitude to Glen Ellyn)

3. Other Data reviewed:
 - a. Tree Preservation Plan
 - b. Glen Ellyn Community Attitude Survey
 - c. City of Fayetteville Landscape Manual
 - d. "Tree Preservation Ordinances" by the National Association of Home Builders
 - e. Journal of Arboriculture 27(6): November 2001: Comparisons of Illinois municipal tree ordinances that contain specific tree-related provisions.

MEMORANDUM

DATE: July 26, 2006
TO: Curt Barrett, Assistant Village Manager
FROM: Kristen Denney, Administrative Intern
SUBJECT: Summary of Environmental Commission Public Meeting

COMMISSION: Environmental Commission Public Meeting
DATE: July 24, 2006
CALLED TO ORDER: 6:00 P.M.
ADJOURNED: 8:00 P.M.
MEMBER ATTENDANCE: PRESENT: Chairman Thorsell, Commissioners Fairbank, Gahris, Kinzler, Lachner, Pellico, Assistant Village Manager Barrett, Acting Public Works Director Caracci, Building and Zoning Official Wilson, Village Forester Drescher, Administrative Staff Liaison Denney
ABSENT: Commissioners Bateman, Marcott, McGrath

MEETING SUMMARY:

The public meeting was setup as an open house with three different stations:

1. Station One: Current ordinance information along with different applications were available for the public to pickup:
 - a. Public and Private Tree Preservation Ordinance
 - b. Arboricultural Specifications Manual
 - c. Tree Preservation Application and further tree preservation information
 - d. Application for Work in the Parkway
2. Station Two: The proposed Tree Preservation Ordinance was presented along with illustrated posters to help citizens understand how the new Tree Preservation Ordinance would affect Glen Ellyn residents.
3. Station Three: Aerial maps of Glen Ellyn showing tree canopy differences throughout the century as well as comment cards and a volunteer sign-up for Environmental Commission Educational Classes were offered to the public.

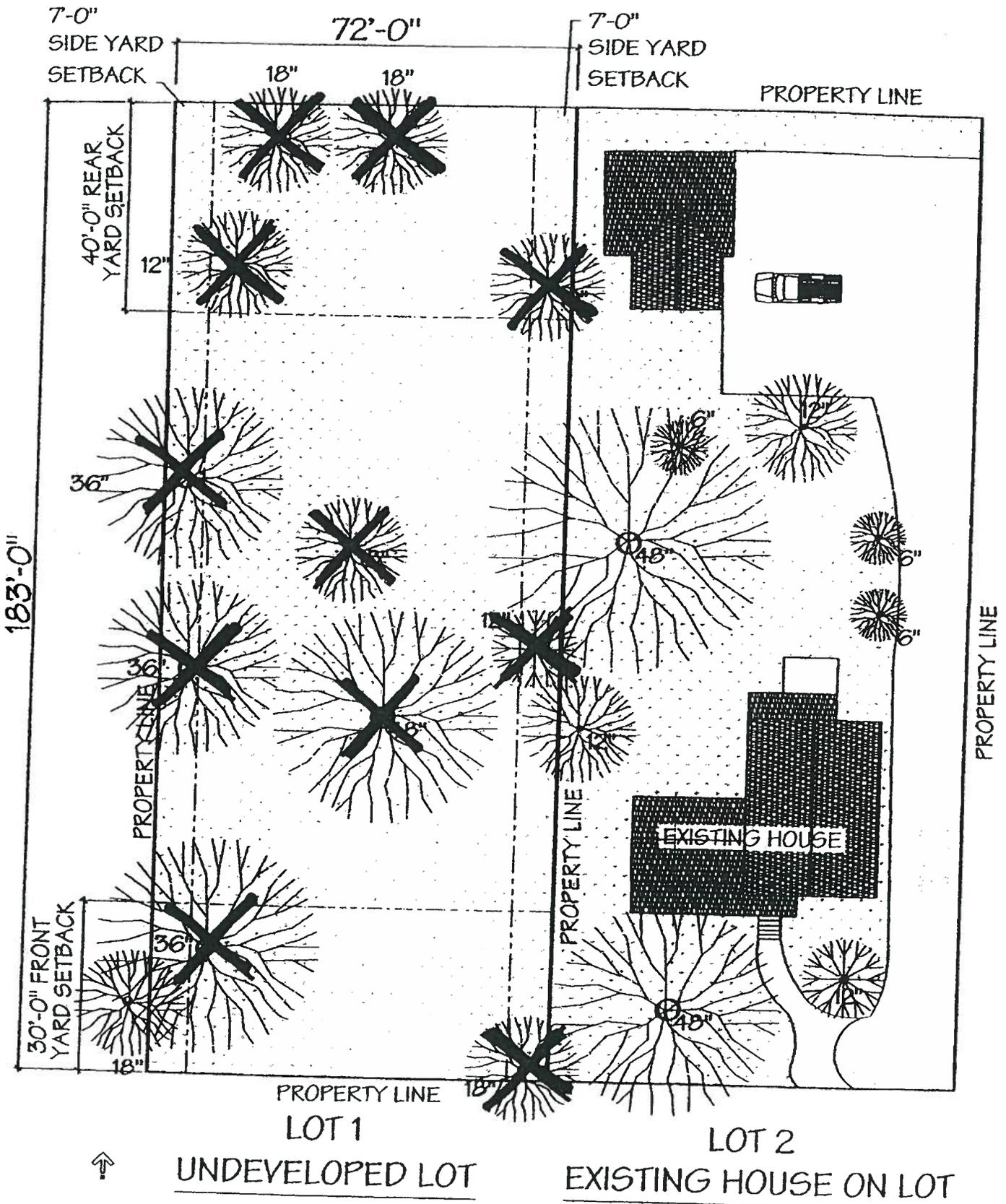
With a turnout of approximately two-dozen Glen Ellyn residents, it appears as though there was more support for a stronger Tree Preservation Ordinance, however there were those who deviated from this majority belief. Overall, there were 11 comment cards submitted and seven of those comment cards were in support of stronger tree preservation regulations while four were in opposition to it. During the public meeting many comments and ideas were exchanged such as concern about residents removing neighbors trees and also creating a more user-friendly, understandable procedure for tree preservation before, during and after construction. Other

comments heard were sick and/or dangerous trees should be able to be removed without the need for application and approval and every healthy tree over 4" DBH (Diameter at Breast Height) is a tree worth preserving. Those comments by individuals in the minority were of the belief that owners should be able to make decisions on their property and that property rights are more important than preserving trees on private property. Overall, the night was a success and the Environmental Commission will have many comments to consider before presenting their final draft ordinance to the Village Board.

Attached you will find the Environmental Commission's draft proposal for Tree Preservation Ordinance amendments regarding private property, a poster presentation created to illustrate impacts of the proposal on residential lots and copies of the comment forms submitted by the public.

Cc: Environmental Commission

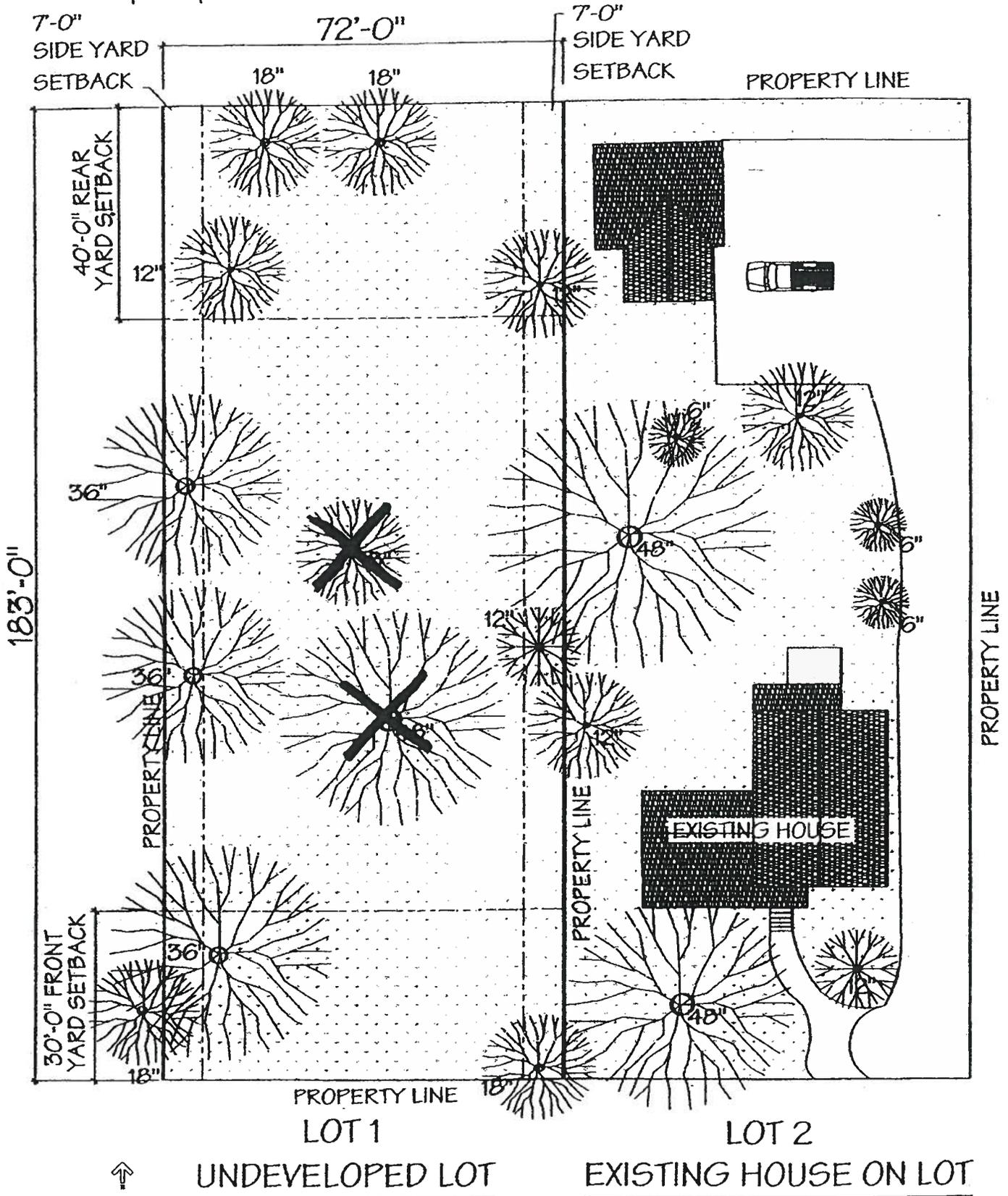
* Current Tree Ordinance *



36" O = DIAMETER OF TREE

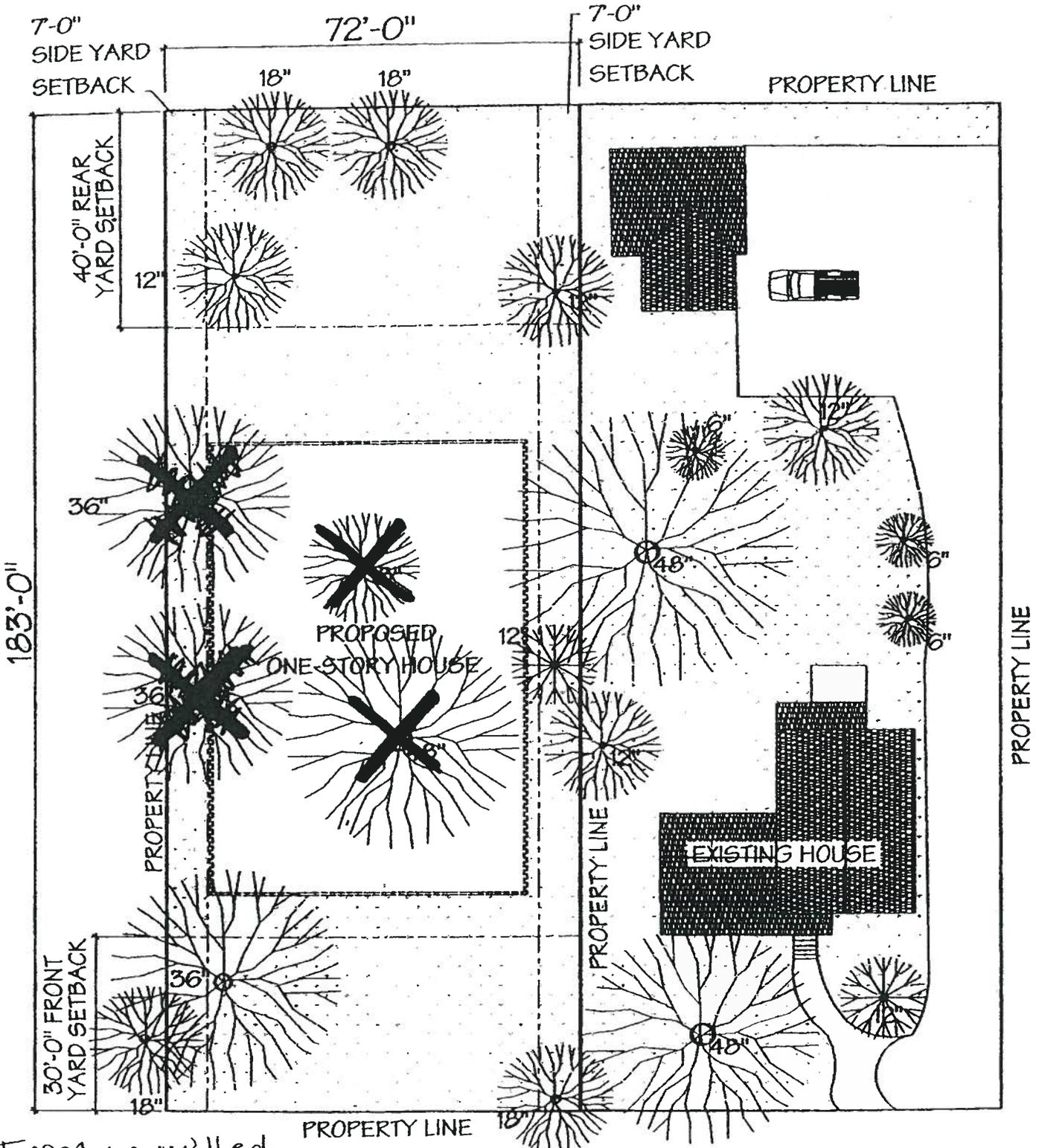
X = Trees permitted to be cut down at owner's discretion.

* Proposed Tree ordinance *



36" O = DIAMETER OF TREE
 = Trees permitted to be cut down at owner's discretion

** proposed Development **



B Trees permitted to be cut down in the condition replacing with trees or \$ 36" O = DIAMETER OF TREE
 = trees permitted to be cut down

Glen Ellyn Public Works Department

Interoffice Memorandum

to: Curt Barrett, Assistant Village Manager
from: Joseph M. Caracci, Acting Public Works Director
subject: PW Evaluation of Proposed Tree Preservation Ordinance
date: February 6, 2007

Peggy Drescher (Village Forester), Dave Coulter (Forestry Consultant), and I reviewed the proposed Tree Preservation Ordinance (TPO) to determine the effects the changed would have on Public Works Operations. I have attached a memorandum from Peggy that includes her comments as well as an email I received from Dave with his comments. The following is a summary of discussion the three of us had.

Administrative Procedures:

- We feel that regardless of the outcome of modifications to the TPO, staff will increase the number of educational classed offered to the public regarding tree preservation and tree education. We also are committed to updating the Tree Preservation Manual.
□ Our thoughts regarding the recommendation to increase staff availability to a minimum of 40 hours was brought forth for a couple of reasons.
○ The first reason related to the increased effort to monitor public construction projects that are managed through the Public Works Department. This issue has already changed our procedure and includes added hours of inspection from our Forestry Consultant to routinely partake in field inspections, participate in progress meetings with contractor and engineering consultant, and actively document concerns and educate contractor in appropriate preservation procedures. So far, we feel this has been an invaluable change to our procedure and fully expect to continue these efforts into the next construction season.
○ The second reason to increase staff availability is to provide staff (or consultant) for increased responsibilities related to reviews and inspections. Although we believe this will increase due to the proposed TPO, we are not convinced a full 40-hour week is necessary at this time. This can and will be monitored should the proposed TPO be put into effect.
□ Related to re-defining Inspection Procedures, again we feel this will happen regardless of the outcome of the proposed TPO. Discussion was made regarding increasing the number of impromptu inspections on projects as well as training and utilizing building inspectors from the Planning and Development Department to assist in inspections and documentation.

Level 1 – Heritage Tree:

- Staff has no problem with the implementation of the Level 1 protection plan. Minimal increases in staff time will result in the addition. We felt that few residents will participate in the program, but feel it is a good step forward. Obviously, detailed procedures will need to be defined prior to implementation.

Level 2 – Setback Protection:

- Staff definitely sees pros and cons to Level 2 Protection. The obvious concern is enforcement on private property. In order to proceed with this recommendation, staff would need to have complete commitment and support from the Village Board that staff will be allowed to enforce the TPO on private property. Private property disputes are sure to arise with the implementation of Level 2 Protection. Is the Village Board willing to enter into litigation in these situations?
- Level 2 Protection will increase overall dedication to the TPO. Increase in personnel time will be required mostly in the review process and three-year follow-up inspections. Detailed documentation regarding protected trees and newly planted trees will require an increase in commitment from our clerical staff. Follow-up inspections time will also increase for our Forestry Consultant.
- Clarification also needs to be mentioned that this protection applies not only to development and construction projects, but also to the random homeowner looking to remove a tree in the setback for their own reasons. A permit would now be required for any resident anticipating removing a tree in a setback. Again this would increase clerical and inspection time.
- A number of detailed scenarios were discussed regarding the Level 2 Protection that will need to be evaluated once specific procedures are created. We feel these detailed may most appropriately be discussed during the preparation of final modifications.
- We believe that diagrams should be included in the proposed modifications to clarify setbacks and pictorially explain expected scenarios that may be encountered.

Level 3 – Existing TPO:

- Staff is comfortable with the existing TPO. Some minor adjustments/ improvements may be made. Details not significant to the proposed changes.

TPO Deposits and Penalties:

- Staff is supportive of the proposed recommendations. Some consideration was suggested for contractors who attempt to protect a tree in a vulnerable location.

Again, staff is supportive of the proposed modifications if the Village Board is committed to support staff in enforcement on private property.

Cc: Peggy Drescher, Village Forester
Dave Coulter, Forestry Consultant

Interoffice Memorandum

To: Joseph M. Caracci, Acting Public Works Director
From: Peggy Drescher, Village Forester 
Subject: Comments Regarding the Proposed TPO
Date: 2/5/2007

After reviewing the proposed private property TPO changes from the Environmental Commission I have provided my comments below on how I believe these proposed changes will affect our community.

- * I believe it would create a better understanding of the value of trees. By allowing residents to register a tree and identify it as important it would save more of our larger quality trees.
- * By putting a restriction on the removal of trees in the set back areas would better protect these trees in addition to neighboring trees from damage during construction. Many trees on neighboring properties are damaged during construction to the point of removal.
- * This ordinance provides more teeth for non compliance.
- * It would encourage the developers to save and better protect quality trees in the set backs if there is a penalty for removal or damage to these trees.
- * It will definitely provide the framework for better educating the residents and developers on tree related issues.

As for the effects that the ordinance would have on Village staff time, it is hard to specifically comment on the amount of time needed as this would be a new program and we have no idea of its potential.

Level 1

May increase the work for staff by a very small percentage. I do not foresee a large number of residents opting for this program. The Village Forester would participate in a minor way in addition to clerical needs.

Level 2

The increase in staff time as relates to Level 2 is dependent on who will be reviewing the permits for removal that are not related to tree preservation review. I would suggest that this be under the tree preservation consultant duties. In that case it would have a small if minimal affect on staff time. This would be mostly clerical time for data entry and follow-up.

The follow up process of collecting and entering data for tree deposits may add quite a bit of time to the consultants review. After the information is collected it will have to be entered and tracked.

I have spoken to other communities and they have said that review of tree removal permits can take between 2 and 8 hours per week. This obviously is dependent upon each Municipalities specific ordinance requirements. Most Municipalities ordinance's were stricter than this proposed TPO.

As for the time the Village Forester would be committed is probably minimal. Participation would be needed to:

- * Provide review and over site on a regular basis (this already occurs).
- * Time for providing educational seminars should not be included because his will happen even if this ordinance is not passed.

As a side note it should be taken into consideration that the Village has currently hired our Tree Preservation Consultant to review tree protection on all Village construction projects. Currently this position spends approximately 2-3 hours per week but the amount of time needed will definitely increase as the Spring projects get under way.

The Commission has suggested that a minimum of 40 hours per week be allotted to tree preservation. This is obviously the best scenario for being able to enforce the ordinance as someone would be here on a daily basis but it really seams to be a seasonal job. I would suggest that we start with the consultant reviewing all aspect of tree preservation on both private and public property to see how many hours are spent getting the job done. It could then be reviewed as the ordinance gains momentum.

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Memo

To: Staci Hulseberg, Planning and Development Director
Curt Barrett, Assistant Village Manager
From: Dale Wilson, Building & Zoning Official
Date: February 7, 2007
Subject: Proposals regarding Tree Preservation

The Planning and Development Department (P&D) has participated in a number of staff discussions related to the Environmental Commission's (EC) recommendations for possible changes to the Village of Glen Ellyn Tree Preservation requirements. Based on the EC recommendations, the Planning and Development Department would like to offer the following comments related to implementation, enforcement and manpower.

As long as the responsibilities for tree preservation plan reviews, inspections and enforcement are primarily the responsibility of the Public Works Department (Forestry Division), then the impact to P&D is minimal. The Planning and Development Department would be potentially impacted by the proposed tree preservation requirements in the following ways.

LEVEL 1:

This level will have minimal, if any, impact on P&D and might involve providing information to customers or responses to citizen inquiries. This is based on assumptions that Public Works will coordinate all documentation for the identification of a heritage tree, prepare any necessary paperwork related to a required public meeting before the Environmental Commission and will follow through with all subsequent enforcement action related to damage to a designated heritage tree, including the issuance of citations and appearances in court. Impact would be based on the number of persons wanting to register trees.

LEVEL 2:

This level will likely require the applicants to include more information on tree preservation plans. The additional information may require more monitoring, longer inspections and longer plan review times. More regulations would likely lead to more code enforcement, which increases the number of inspections, violation letters to owners and issuance of citations. This level may also increase the number of cases before the Environmental Commission.

The impact to P&D is also greater for this level. Besides more phone calls, increased enforcement actions and increased inspections, staff would also have to track and process more applications as all tree preservation applications are processed through the P& D Department.

Finally, it is important to understand that the proposed text essentially mandates greater cost for construction (it will not be an option) because all trees in the side yard will have to be replaced or relocated at a significantly greater cost than removal. The minimum required side yard setback for buildings is 6.5 feet for a residential lot and this narrow area cannot support the construction of a building with approximately a three-foot over-dig for the foundation and the survival of a tree. The house would need to be moved several feet towards the opposite side of the lot, which may not be

Staci Hulseberg, Planning and Development Director
Curt Barrett, Assistant Village Manager
February 7, 2007
Page 2

possible on a narrow lot.

New regulations always require additional enforcement, education and corrections in the first years of enactment. The P&D site inspector and building inspectors will likely need to make phone calls, complete additional site visits and do more enforcement actions.

LEVEL 3:

This process is similar to the existing process and would not impact the P&D except during the transition process to help customers submit and prepare the documents for review.

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WS
7

TO: Robin Weaver, Village Manager
FROM: Curt Barrett, Assistant Village Manager ^{CJB}
DATE: October 16, 2006
RE: Workshop Schedule for Review of Tree Preservation Ordinance

Early this month the Environmental Commission forwarded for consideration by the Village Board a final recommendation regarding potential adjustments to the Village's Tree Preservation Ordinance (TPO), which applies to all private property. Please find attached President Hase's letter from October 2005 tasking the Commission with several aspects of tree preservation to research. That the Commission took a year to develop recommendations reflects the complex issues and passionate views that surface when discussing private property tree preservation. The Village's past history coming to agreement on the original TPO confirms as much, as Village Board workshop discussions in the 1990's required a series of sometimes contentious meetings that included a significant amount of public participation. At this point, staff seeks feedback on scheduling this issue for workshop consideration, whether in a regular workshop setting or through use of the special workshop. Some considerations on what may be expected:

- The Environmental Commission has developed a 13-page report and recommendation plus several appendixes gleaned from research into tree preservation across the nation. The most significant proposal would protect all desirable trees over 8" thick on private property setbacks, requiring permitting for removal and also replacement of some sort;
- Staff familiar with the TPO have twice reviewed draft recommendations, each meeting running over 2 hours just reviewing the subject matter and offering feedback without reaching any consensus on appropriateness or feasibility;
- Workshop discussion would likely benefit from a primer by staff on the framework of the existing TPO and how it is practiced. A brief review of available data on this subject and comparisons with neighboring municipalities could also prove helpful;
- As during the original workshops, a number of legal issues arise concerning private property and adjudication rights which the Village Attorney should speak to;
- The Environmental Commission Subcommittee that developed the recommendations plans to present the report, and staff should also present feedback on proposed changes;
- We have no reason to expect any less ardent public turnout than in the 1990's from individuals and groups, including builders and environmental organizations.

CC: Environmental Commission

PRES/BD

FYI - REMINDER FROM VILLAGE ATTY. THAT TREE PRESERVATION QUICKLY GETS INTO LEGAL ISSUES WHEN PRIVATE PROPERTY IS INVOLVED. TOMMORROW STAFF WILL BE REVIEWING THE ENV. COMMISSION'S 2ND-DRAFT RECOMMENDATION, WHICH CALLS FOR PROTECTING TREES OVER 8" WIDE IN PROPERTY SETBACKS.

Page 1 of 1

CC: MICHELLE THORCELL,
ENV. COMM. CHAIR

Curt Barrett

From: Diamond, Stewart [SDiamond@ancelglink.com]
Sent: Tuesday, June 13, 2006 8:29 AM
To: Curt Barrett
Cc: Gary Webster
Subject: Tree Preservation

✓
B

I note the May 1, 2006 memo regarding the Commission proposals for tree preservation. As the memo notes, this is a rather complicated and controversial issue. I would hope that questions that have a legal significance are raised with me at early stages. Obviously, one of the key issues is the ability of the municipality to regulate trees on private property. In a home rule community, it is very likely that the Village does possess adequate power in that area. The memo also discusses a method of issuing administrative tickets. Some municipalities have gone to administrative adjudication, which involves a complicated system utilizing a hearing officer. In some instances, communities have issued tickets which can be paid voluntarily before they enter the judicial system. Please keep in mind that no individual can be simply found guilty of a violation of a local ordinance without some opportunity for independent adjudication. The Village also has to recognize that over the years disputes regarding trees and pets have resulted in a substantial number of lawsuits in this State.

The information contained in this communication is confidential, may be attorney-client privileged, may constitute privileged information, and is intended only for the use of the addressee. It is the property of Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please do not read it and notify us immediately by return e-mail at SDiamond@ancelglink.com. We may ask you to destroy this communication and all copies thereof, including all attachments.

MEMORANDUM

DATE: October 14, 2005

TO: Honorable President and Board of Trustees

FROM: Gary Webster, Village Manager

SUBJECT: Tree Protection Ordinances



In my opinion:

- ❖ Most Glen Ellynites believe that our urban forest is fundamentally important to Glen Ellyn and is one of its treasures.
- ❖ Most Glen Ellynites believe that the Village should take whatever steps necessary to carefully protect the public trees located in the parkways adjacent to our streets in Village rights-of-way.
- ❖ Opinions differ on what role, and to what extent, Village government should have in regulating trees on private property – this means all trees not located within our street rights-of-way.

Advisory groups, Village staff, Village Attorney, and the Village Board devoted substantial effort to public and private tree protection issues in 1997 and 1998. These discussions concluded with the adoption of three different ordinances on December 14, 1998 which became effective in early 1999. One ordinance involved protection of trees in the public right-of-way. Another ordinance involved the protection of trees on private property. The third ordinance involved the adoption of some national arboricultural standards.

It is now about six-seven years later. Experience has been gained and various issues or concerns have been identified. It is probably time to review the various issues and concerns in order to determine if any “tweaking” of our Tree Protection Ordinances is needed, especially in regards to the ordinance concerning private property.

Attached is a memo dated today from Village Forester Peggy Drescher which discusses some history, concerns, and presents some data about our Tree Protection Ordinances and experiences over the last six-seven years. Ancillary documents are included, including a copy of the minutes of the seven Village Board discussions which occurred in 1998, leading to adoption of the three Tree Protection Ordinances.

I have two recommendations for consideration by the Village Board:

1. Enough time has passed to warrant a review of these three basic ordinances, both in comparison with our Glen Ellyn experience and data, as well as what steps other Chicago-area communities with significant urban forests have adopted.
2. Request our Environmental Commission to undertake this review effort, with help by various Village staff, with the task of developing good information, and specific recommendations, if any, that would reasonably improve our existing Tree Protection Ordinances, including a reasonable balance between the "public good" and the need of private property owners.

GW:kb

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Attachments

cc: Don Foster, Public Works Director (memo only)

o/c

INTEROFFICE MEMORANDUM

TO: J. Donald Foster, Public Works Director
FROM: Peggy Drescher, Village Forester 
DATE: October 14, 2005
RE: Review of Tree Preservation Ordinance

The Village of Glen Ellyn Tree Preservation Ordinance (TPO) has been in affect for almost seven years. During this time the pace of redevelopment of property within the Village of Glen Ellyn has increased with almost 70 buildings torn down and replaced in the past year. The TPO adopted in 1998 was crafted as a compromise document that set up specific regulations essentially encouraging owners to save mature trees during reconstruction, yet kept the ultimate decision-making on tree removal for any private lot with the lot owner. A review of the TPO was completed in 2001 focusing on regulations concerning public trees. Minor modifications were made to the TPO at that time but the ultimate decision-making authority issue was not changed.

The adoption of the TPO in 1998 increased substantially the steps taken to preserve trees in Glen Ellyn. Before the TPO was adopted, developers and owners did not need to consider the impact a proposed development would have on a mature stand of private trees. The TPO requires developers to prepare an inventory of the trees on a lot that may be affected by development, then make a conscious decision on whether to save the trees as part of the project. The inventory is shown on a Tree Preservation Plan that is submitted to the Village and reviewed and commented upon by forestry professional. The decision to remove a private tree under the current TPO remains with the property owner but the owner is forced to give consideration to saving trees. The current TPO is based on the assumption that the property owners will find it in their best interest to try to save mature trees due to an increase in value to the property and that the interaction with the forestry professional will result in fewer large trees being removed due to the construction.

PROBLEMS NOTED REGARDING PRIVATE TREE PRESERVATION

A number of issues have been noted since the current TPO was adopted seven years ago. These include:

1. Some parcels of property have been clear-cut before a project has been approved and a tree preservation plan developed. This action is not illegal or contrary to the current TPO yet this action has provoked commentary from various residents asking why it is occurring.
2. Mature trees located on a construction site shown as a "Protected Tree" continue to

be affected by the work. The trees are still living during the construction but decline and die soon after the completion of the work. (A "Protected Tree" is a tree an owner decides to keep during a construction project taking steps to keep it alive and healthy).

3. Trees that are called on subdivision or PUD development plans to remain are removed after the development plan is complete with the resulting overall landscape plans for the development compromised.
4. Trees are damaged by the construction of underground and overhead utility lines serving the new buildings or additions. Additional damage is caused during the construction by inappropriate storage of material on site.

We have received requests from the Environmental Commission and Plan Commission that in light of the issues noted above the current TPO regulations be reexamined.

This memo includes information used to develop the current TPO reflecting the issues discussed by the Village Board when it was adopted. In order to address some of the issues noted above the Village Board may need to consider modifications to the assumptions used to develop the current TPO. If the Village Board will consider modifications, we propose working with the appropriate advisory commissions (Environmental, Plan and Architectural Review) to sort through the alternatives and return to the Village Board with recommended changes in the TPO.

BACKGROUND

The Village Board approved the Tree Preservation Ordinance in December 1998 after extensive discussion with developers and the general public. The Environmental Commission, Plan Commission, Architectural Review Commission and the Vision Glen Ellyn Greening Committee all considered the TPO during its development. In addition staff met with local developers, architects and builders to receive public comment and review the proposed TPO. The Village Board had a number of meetings to discuss the issues that included substantial feedback from many affected parties in the Village. The Village Board opted to limit the regulations on private property to increased data collection, Tree Preservation Plan development and an effort to help educate developers and residents on how to properly preserve and protect private trees during periods of major construction. This level of regulation was different than that found in building regulations where specific setback distances or construction methods would be required when new construction takes place. The regulations on public trees were more extensive and vested greater authority with the Village Forester on steps that must be taken to protect public trees.

We began enforcing the regulations in March of 1999. The Village hired a consultant to review all building permit applications that fall under the requirements of the TPO. The consultant is available to meet with owners, designers and builders offering suggestions on how to save existing trees when completing a reconstruction project. The consultant also suggests steps that should be taken when owners say they want to try and save trees on a

lot during reconstruction. I believe the efforts undertaken by the consultant have been helpful in educating the public and developers on what steps should be taken to protect tree during construction. We have probably saved and protected some trees that may have been removed if the regulations were not in effect. We have not eliminated the loss of "Protected Trees" on sites undergoing construction as there continues to be some instances where trees are being removed during or right after a construction project.

CURRENT DATA AND OCCURRENCE INFORMATION

Number of Plans Reviewed

From the start of TPO enforcement through the end of 2004, the forestry consultant has reviewed 1,079 projects. This includes not only total single-family home reconstruction projects, but also major additions, detached garages, subdivisions and PUDS. The number of projects is shown below by year.

Year	New house (NH)	Addition	Deck/patio	Garage	Demo/NH	Other	Total
1999-2000	62	106	8	48	70	22	316
2001	17	67	9	31	64	66	254
2002	27	82	14	33	64	90	310
2003	18	79	12	30	66	92	297
2004	15	60	11	32	54	105	277

Total Number of Plans Reviewed 1454

Note –"Other" Category includes 375 inspections of driveway approaches and sprinkler systems made by the Village Forester.

Number of Trees Removed

The TPO adopted in 1999 required owners to develop a tree preservation plan showing how all trees on a reconstructed lot will be handled during reconstruction. The owners can cut down all of the trees on the lot as part of the reconstruction work or can designate trees as "protected" and take steps to try and preserve these trees. The following table shows how owners have decided to handle trees during reconstruction. The data is provided by the owners on their action plans submitted with the tree preservation plans.

1999-2004 # of trees identified on action plan (includes 2" and greater)	# of trees Protected	# of trees Unprotected	# of trees removed
16,797	9038	7531	3701

Number of Declining Trees

During the summer of 2004 our Forestry intern did a "follow-up inspection" on most of the single-family homes built since the TPO was adopted. This includes homes that have been issued a refund of deposit. Our intent was to identify the number of declining or dead trees on either private or public property. The following table indicates the number of trees that are declining trees due to construction. We do know that additional trees have been removed most likely due to construction damage.

Declining Parkway Trees	Declining Private Trees
65	142

Occurrences of Special Interest

Notes from Village Planner

Michele Stegall has provided comments on the concerns expressed by the Plan Commission and Architectural Review Commission regarding some tree removal activities on projects considered by these commissions. Her comments are attached for your consideration.

Individual Lot Removals

A lot at 305 Oak Street was clear-cut before a tree preservation plan was approved in 2002 for the site. A home was demolished on the lot and at least 20-30 large trees were removed. Apparently the owner had a buyer for a new home on the lot with a design that would have required the removal of the trees. The new home was never been built and the only action taken has been to remove a home and strip the lot of a substantial number of good quality trees.

Two lots at 672 Highview were clear-cut before the developer came in for a tree preservation plan. After review of the area it appeared that most of the trees removed were not desirable yet after the fact this cannot be confirmed.

GENERAL COMMENTS

The adoption of the TPO has provided a tool to educate the residents and developers on how to property preserve and protect trees during periods of new construction. Although there has been a positive affect regarding the knowledge that trees should be preserved, questions remain as to whether more strict regulation would better serve the Village of Glen Ellyn in the long term.

The Village Board made a conscious decision in 1998 not to limit the rights of property owners to remove private trees located on private property. At the time staff prepared a spread sheet that showed the major issues considered for inclusion in the TPO along with

the alternatives the Village Board could select from the most restrictive to least restrictive. I have attached the same spreadsheet for the Village Boards consideration showing on the document the eight major issues covered in the 1998 memo adding a ninth dealing with protected tree damage consequences. The document shows the practice in 1998 and the current practice in effect.

I believe that unless the Village Board is willing to consider different alternatives relative to the Major Issues shown of this spread sheet, it will not be worthwhile considering modification to the current TPO as it relates to private trees. If the Village Board will consider possible modifications it would be appropriate for the issue to be forwarded to the advisory commissions to the Village Board for consideration. The advisory commissions can hold public hearings on proposed changes and invite comments from all affected parties. After the receipt of all information, a recommendation to the Village Board would be made to change the TPO.

This information is forwarded to the Village Board for discussion purposes at the October 17, 2005 Village Board Workshop.

cc: Gary Webster, Village Manager ✓
Curt Barret, Assistant Village Manager
Staci Hulesburg, Planning and Development Director
Dale Wilson, Building Official
Dave Coulter, Osage
Michele Stegall, Village Planner

MEMORANDUM

TO: Don Foster, Public Works Director
FROM: Michele Stegall, Village Planner
DATE: December 9, 2004
FOR: December 13, 2004 Village Board Workshop
SUBJECT: Tree Preservation

Recent Subdivision
Code changes have
Required Tree Preservation

Plans for New
Subdivisions Helping

Address the ISSUE
in Michele's memo.

Don F.
10-14-05

The Planning and Development Department has experienced some difficulties with tree preservation, particularly as it relates to the development review process. In the past, staff has requested that a tree survey and tree preservation plan be submitted with all applications that are forwarded to the Plan Commission for review, although this was not required by Code. These plans are then forwarded to the Village Forester for review and comment and a petitioner may or may not amend their plans in accordance with the recommendations from the Village Forester. When the application is forwarded to the Plan Commission for review, the tree preservation plan and any recommendations from the Forester are reviewed as part of the request. This became a typical part of the review process as neighbors are often concerned and ask questions about screening and how a proposed project will impact the character of an area, which trees are a large part of. Therefore, the Plan Commission inevitably gets into tree preservation issues when reviewing almost any project.

When a tree preservation plan is reviewed and discussed at a public hearing, it is anticipated that the petitioner will abide by that tree preservation plan and it is then referenced in the approving Ordinance. A typical Ordinance would require the petitioner to preserve the trees on the property in "substantial conformance" with the tree preservation plan referenced therein. However, an issue arose with the Buena Vista subdivision, particularly the lot known as 704 Marston Avenue, where there was an approved tree preservation plan for the subdivision, but the owner removed several trees in the rear of the property to accommodate a swimming pool as well as trees along the property line between the Buena Vista subdivision and an existing neighborhood which were intended to provide screening between the two developments. As an Ordinance typically requires a petitioner to preserve the trees throughout the entire subdivision or project site in substantial conformance with an approved plan, if someone wanted to remove some trees to put an accessory structure on their lot, staff could permit them to do so. Therefore, if the petitioner had submitted a revised tree preservation plan for the property with the building permit application, staff could have exercised reasonable discretion and allowed the trees in the area of the swimming pool to be removed, but required that the trees providing buffering between the two developments be retained.

The 704 Marston issue brought to light a conflict between the Village's development review practices and the tree preservation ordinance as once a tree preservation plan is referenced in an Ordinance, the Village is essentially requiring the preservation of trees while the tree preservation ordinance is a voluntary ordinance. Therefore, questions were asked such as "when would the tree preservation plan referenced in an ordinance no longer be considered valid?" For example, if a property owner subject to a development Ordinance wanted to remove a significant number of trees on their property 5 or 10 years after their project was approved would they be permitted to? It was noted that when the tree preservation ordinance was adopted that the Village Board spent a

considerable amount of time discussing whether or not tree preservation should be mandatory and that it was ultimately decided that it should be a voluntary ordinance as the Village did not want to regulate which trees a person could cut down on their own property. It is my understanding that the developers also indicated that they would preserve trees on building lots, but that they did not want to be bound to protecting specific trees at the requirement of the Village.

The same developer of the Buena Vista Subdivision later applied for approval of a subdivision at the southwest corner of Western Avenue and St. Charles Road known as the Western Oaks Subdivision. When staff requested submission of a tree survey and preservation plan for this subdivision he questioned how we could require such a plan when it was not required by any Code. A tree survey was eventually submitted for the common areas of the property and the petitioner chose to show each of the individual building lots as being clear-cut. However, the petitioner verbally indicated that he planned to preserve trees on the individual building lots but felt that he was better off not showing any trees as being preserved as he would not then need to protect them during construction of the subdivision improvements. He further commented that if there was no expectation in regard to tree preservation that it would only be to his advantage if some trees on the property were then preserved. He further indicated that which trees would be preserved would be determined by the individual tree preservation plans that would be submitted with each building permit. This will not occur, as the single-family home lots were clear-cut prior to any building permit being applied for.

The Western Oaks subdivision is an example of a developer that acted contrary to what they told the Board when the tree preservation ordinance was adopted, which was that developers did intend to preserve trees, but didn't want the Village to decide which ones. It also illustrates the likelihood that without review of a tree preservation plan during development review, applicant's will clear cut a site and put in the required public improvements to get the site ready for development and the lots ready for sale without a tree preservation plan ever being reviewed. Therefore, the developer circumvents the tree preservation review process in its entirety and the Village is not able to provide input into tree preservation as we do at building permit time because the trees have already been removed. It also increases the chances that new projects will be out of character with the rest of the Village as trees lend to the established feel of the Village and new subdivisions on clear cut lots do not have this character. In addition, if tree preservation, particularly in the case of subdivisions is voluntary, then even if a developer intends to save trees, when the subdivision improvements are made, these trees could inadvertently be damaged as a tree preservation plan showing fencing would not be required to be submitted and a fencing inspection would not be done.

In addition to the above concerns, after a couple different ARC meetings the ARC has recommended that the Village strengthen the tree preservation ordinance in response to their individual observations about trees around town that have been removed or damaged during construction, even when protective fencing has been installed.

This is just some history about some of the issues we have faced in regard to tree preservation, particularly as it relates to the development review process.

Please let me know if you have any questions.

Cc: Staci Hulseberg, Planning and Development Director

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3-9-98

MINUTES
GLEN ELLYN VILLAGE BOARD OF TRUSTEES
SPECIAL WORKSHOP
MONDAY, MARCH 9, 1998
(IMMEDIATELY FOLLOWING REGULAR MEETING)

Time of Meeting: 8:31 p.m. - 9:43 p.m.

Present: President Wark, Trustees Blackledge, Fasules, Hase, O'Brien, Perlstein, and Renfro
Staff: Webster, Cox, Diamond, Dunn, Foster, and Young

* 2. Draft Forestry Management Ordinance (Young and Foster)

The Village's comprehensive parkway tree management plan was created approximately seven years ago. During these years, Forestry Superintendent Young has noticed the impact on the Village forest of the relatively recent teardown phenomenon, which has often resulted in damage to trees located on both public parkways and private property. Too many quality, legacy trees have come down in instances when they could have been saved if tree protective measures had been implemented. Young has been in contact with other municipalities experiencing the same phenomenon who have enacted local ordinances to regulate the protection and removal of trees.

Public Works Director Foster reviewed key elements of a 22-page working-draft ordinance, dated March 6, 1998, which had been provided to the Village Board as its first exposure to the type and scope of regulations being developed by staff. It was acknowledged that the draft ordinance was considered a "work in progress" that, it was anticipated, would be modified based on input from the general public, members of the construction industry, the Village Board, and further Village staff review. A meeting to which builders and architects were invited had been held the previous week, and at least one other meeting with a similar group will be scheduled. The intent would be to publicize future meetings at which this topic will be discussed in order to provide an open forum for comments from the public.

Separate provisions applicable to trees on public and private property were incorporated into the draft ordinance. Foster summarized major issues, which included:

Public Tree Section

- * Sets standards for working on trees located on public right-of-way and requires any party working on public trees to obtain a permit for any activities other than watering and fertilizing.
- * Requires planting of new parkway trees in any currently vacant spaces adjacent to lots on which construction will occur if scope of construction extends beyond a certain level.

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- * Requires restoration deposit when work is done on private property to cover potential damage to public trees on adjacent parkways. Deposit would be either a specific dollar amount equal to value of public trees or \$2,000, whichever is less. Developers would be obligated to replace damaged public trees.
- * Outlines methodology for calculating monetary value of trees.
- * Defines nuisances and outlines steps staff can take to abate nuisances on private property that potentially affect the Village forest.

Private Tree Section

- * Trees with diameters of 10 inches or greater would be considered protected trees. Regulations would not apply to trees of lesser diameter.
- * Tree preservation regulations not including development on private property:
 - * Tree removal permits would be required to remove more than two trees with diameters of 10 inches to 15 inches during one calendar year or to remove any tree with a diameter greater than 15 inches.
 - * Property owners would be required to replace protected trees that have been removed with permits in certain situations.
 - * Property owners would be encouraged to replace protected trees that are diseased, dying, or dead from natural causes.
 - * Property owners would be fined \$500 per tree in addition to the value of the tree for any protected tree removed without a permit in instances when permits are required.
- * Tree preservation regulations involving development on private property:
 - * Development of private property on which protected trees are located would require the submission of a tree preservation plan with the building permit application to indicate steps that would be taken to preserve trees during construction. A tree survey providing specific information about each protected tree within 15 feet of the property line must be submitted with the preservation plan.
 - * A stop work order could be issued for a project not in compliance with a tree preservation plan.

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- Tree removal permits could be issued to allow removal of protected trees under certain circumstances.
- An exceptions/appeals process would be available as a means of appealing decisions of the Forestry Superintendent in nontechnical areas.

Foster remarked that he considered the requirement for a tree preservation plan in conjunction with development/construction work on private property to be the crux of the proposed ordinance, with the installation of protective tree fencing the most critical component of the entire process. Under this ordinance, building permits would not be issued until required fencing is in place.

Young spoke of her efforts to educate construction personnel and property owners about practices that can damage trees and measures that can be taken to protect trees. She showed photographs of trees on or adjacent to properties under development that had been damaged to an extent where the trees would probably die within one to five years because of disregard for the protection of the trees during construction. In each instance, properly-installed protective fencing would have preserved the trees.

Builder Tom Gale commented he felt that the proposed regulations represented a serious taking of property rights and suggested that drafts of the proposed ordinance be made available for review by the public well before the dates of upcoming public meetings at which it will be discussed.

While there was general support among Village Board members for continuing the process to review the proposed regulations and actively soliciting public input, several Trustees voiced some concern regarding Village involvement in regulating the tree population on private property.

Village Attorney Diamond remarked that, for him, the key question was whether the Village Board would wish to regulate trees on private property in instances when no development is occurring on that property. Diamond, who had been consulted throughout the drafting of the proposed ordinance, noted Glen Ellyn's home rule status and advised that all of the proposed regulations fall within the legal purview of the Village Board. He pointed out that the Village currently regulates numerous types of activities on private property, such as grading, remodeling/addition work, and enforcement of Zoning/Building/Village Code provisions.

President Wark concluded discussion of this issue with his observation that the Village's vast urban forest is one of the primary reasons many people choose to live in Glen Ellyn.

8-24-98

1998, Regular Meeting. Diamond felt that a 60-day extension of the moratorium, until October 23, would be justified. However, he pointed out, the ordinance extending the moratorium would allow developers to submit construction proposals prior to October 23 with the understanding that any required public review could not be scheduled until after the moratorium ends.

Trustee Hase moved, Trustee O'Brien seconded the *MOTION that Ordinance No. 4625 be passed, an Ordinance Extending for Sixty Days a Moratorium on the Processing of Certain Applications for Building Permits and Development Projects in the C5A and C5B Zoning Districts.*

Upon roll call, Trustees Hase, O'Brien, Blackledge, Fasules, Perlstein, and Renfro voted "Aye." Motion carried.

MEETING REMINDERS

President Wark mentioned that no Village Board Meeting was scheduled for Monday, August 31, as it is the fifth Monday of the month. The next Village Board Workshop Meeting is scheduled for Tuesday, September 8, due to the September 7 Labor Day holiday; and the next Regular Village Board Meeting will be held on Monday, September 14.

OTHER BUSINESS

Public Works Director Foster provided an update on the Central Business District street resurfacing project.

PROPOSED FORESTRY ORDINANCE

President Wark welcomed the numerous people in attendance and explained that the intent of this evening's presentation was to provide a public forum for discussion of the proposed Forestry Ordinance. The draft ordinance had its initial presentation to the Village Board at a Special Workshop on March 9; and it was subsequently presented to the Environmental Commission, the Architectural Review Commission, the Plan Commission, the Vision Glen Ellyn Greening Committee, and a group of local developers and architects. The Village Board would not deliberate to a decision tonight.

Over the past several years, the relatively recent demolition/rebuild phenomenon has resulted in a noticeable loss, on both public and private property, of many of the mature trees that constitute Glen Ellyn's vast urban forest. A large percentage of the losses have occurred due to neglect in taking protective measures to preserve trees from damage during the demolition and reconstruction process, and other trees have been lost because they were purposefully removed. Communities subject to this phenomenon have typically experienced the same problems, and several in the Chicago area have passed ordinances regulating the removal of trees. Others, like Glen Ellyn, are in the process of developing ordinances. The proposed ordinance under discussion this evening was an effort to impart some degree of regulation to

the protection of trees on properties under construction and to the removal of trees over a certain size on any property.

Impetus for development of a Forestry Ordinance, Forestry Superintendent Young explained, was prompted by requests for assistance from residents concerned about the large number of mature trees, particularly oak trees, that were being taken down in the Lake Ellyn area several years ago. Residents from all areas of the Village have continued to voice concerns. Young showed pictures of several construction sites without adequate measures in place to protect trees and additional pictures of trees in serious decline and dying because of inadequate or nonexistent protective measures implemented during construction work.

Public Works Director Foster reviewed a document that was distributed to those in attendance that outlined key provisions within the proposed Forestry Ordinance, which included separate sections related to public and private property. Per the ordinance, the Village Forester would be authorized to enforce regulations to assure that the best arboriculture practices would be followed on public and private property in order to preserve and enhance the community forest. An appeals process would be available as a means of appealing decisions of the Village Forester. A major focus of Village involvement in monitoring the tree population would be the ongoing education of residents and developers on measures to properly care for the community's trees, which are one of Glen Ellyn's greatest assets. Some key provisions of the proposed ordinance included:

Trees on Public Property

- * Permits would be required for work on public trees except for watering and fertilizing.
- * Developers would be required to plant new parkway trees in vacant spaces adjacent to private property on which construction will occur.

Trees on Private Property

- * Trees with diameters of 10 inches or greater would be considered protected trees; regulations would not apply to trees with lesser diameters.
- * Regulations in situations when construction work is planned:
 - * A Tree Preservation Plan must be submitted with the building permit application.
 - * Tree protection measures following accepted arboriculture standards must be in place before work begins.
 - * Tree Removal Permits would be necessary in order to remove protected trees.
- * Regulations in situations when no construction work is planned:

- * Tree Removal Permits would be required to remove more than two trees with diameters greater than 10 inches or one tree greater than 15 inches in diameter within a single year.
- * The planting of replacement trees would be required in certain instances.

Young introduced several guest speakers, all of whom are acknowledged experts in the forestry field.

Dr. George Ware, technical expert on trees for the Morton Arboretum, encouraged equal treatment for trees located on public parkways and private property. He observed that the lush tree canopy visible in an aerial view of Glen Ellyn shows no demarcation points between trees on public and private property. All trees are equally important. Dr. Ware spoke of what he termed a sacrosanct interface between soil and air that must be maintained in delicate balance if a tree is to thrive. One half of a tree, the root system, is underground; and a large portion of the root system is located near the surface because of the need for oxygen. About 80 percent of the problems afflicting urban trees begin underground.

Dr. Gary Watson, tree root specialist from the Morton Arboretum, has studied the root systems of urban trees for the past 25 years. Much of the damage suffered by trees during construction work is the result of unintentional ignorance of appropriate protection measures. Tree protection by developers, he has found, does not usually occur without encouragement.

Jim Strier, Village Forester for the Village of Winnetka, discussed his role in working with developers to stress the advantages of retaining trees on lots under construction and to implement requirements of Winnetka's tree preservation ordinance.

Dan Reeves, City Forester for the City of Lake Forest, mentioned that his community adopted a tree preservation ordinance in 1988 and was one of the first communities to do so. Lake Forest's ordinance is more restrictive than that being proposed for Glen Ellyn. The community is very supportive, and developers do not feel that the regulations imposed by the ordinance have created a hardship. The ordinance has had no impact on development or redevelopment. Mr. Reeves spoke of his feeling of stewardship in caring for a legacy of trees that will continue to benefit generations well into the future.

Greg Haston, District Manager for the tree care firm of Hendrickson the Care of Trees, encouraged passage of the ordinance.

President Wark invited members of the audience to speak.

Maureen Heidenreich, of 704 Grand Avenue, stated that she would prefer an even stronger ordinance than the version being proposed. If one has neighbors, she reflected, one is not an island on his own property. Sometimes it becomes necessary to establish laws or ordinances to protect quality of life in a community. This, in her mind, is the essence of community living. Ms. Heidenreich urged the Village Board to support the proposed ordinance and the

general population to apply reason and responsibility in maintaining one of Glen Ellyn's greatest resources, its urban forest.

John Marcheschi, of 542 Deer Path, mentioned that he was contemplating constructing an addition to his house within perhaps the next five years that would require the removal of a mature tree if the addition were built in the location he would prefer. While acknowledging that the addition might never be constructed, he, nevertheless, felt that the impending passage of the proposed ordinance would force him to remove the tree now rather than take the chance of being asked to redesign his plans for the addition so that the tree could be saved.

Village Manager Webster assured Mr. Marcheschi that the ordinance will not dictate how homeowners must build or enlarge their homes based on the location of a tree. Later in the discussion period, Foster assured the audience that all trees located within the proposed footprint of a new or replacement house or an addition to an existing house could be removed and not replaced. Village Attorney Diamond advised that the final draft of the ordinance will clearly indicate that any construction planned within the buildable envelope allowed by the Zoning Code for any given property would not be prohibited. The intent of the Village is to save trees outside the buildable envelope.

Pat Mitchell, of 358 Linden Street, commented that while she loves trees and this town, she does not wish to be told what she can and cannot do.

Richard Rietz, of 102 Exmoor Avenue, remarked that he does not want to see government involved in the landscaping on his private property; and he feared that passage of the proposed ordinance might inspire additional regulations in the future. Like Ms. Mitchell, he referred to the sometimes disturbing practices followed by Com Ed crews when pruning parkway trees. He suggested that these practices and the care of trees on Village Links and Park District properties be addressed before activities in his back yard are regulated.

Tom Ryerson, of 2100 Manchester in Wheaton, appeared as the attorney for the Glen Ellyn Homes development firm, which, he commented, has used Dr. Ware as a consultant and has demonstrated commitment to preserving trees on private property. Classifying trees as a renewable resource, it was his own feeling that the demise of parkway trees adjacent to those properties on which teardowns and rebuilds occur during a year would have a minuscule effect on the community. Mr. Ryerson discussed several responses to the proposed ordinance, questioning the right to regulate trees located on private property and the level of authority he interpreted as being vested in the Village Forester. He suggested that homeowners might feel it necessary to change construction plans in order to preserve trees and predicted that any economic demands that might be placed on developers would be transferred to homeowners. Mr. Ryerson felt that the language of the proposed ordinance lacked clarity and that the ordinance was too lengthy, and he asked that more time be allowed for input from developers and homeowners. President Wark assured him that there would be additional opportunity for public input.

Warren Senneke, of 65 North Main Street, who serves on the Environmental Commission, spoke of his love for trees and labeled himself and other homeowners as temporary stewards on this earth who will pass along the trees on their property to future owners. Although trees are a replaceable asset, the loss of even one tree matters. While agreeing that a man's home is his castle, he did not feel that the proposed ordinance represented an imposition on the rights of homeowners. Trees, he stated, are part of our heritage.

David Thompson, of 293 Lorraine Street, described himself as a near-psychopathic tree lover. While he wholeheartedly supported regulating preservation of trees on public property, he was guarded in his approval of regulations affecting private property. He voiced concern that a future Village Forester, other than Ms. Young, might be more restrictive when interpreting preservation regulations and, also, that the need for approval of tree preservation plans might delay construction projects. He contended that losing 20 to 30 trees per year because of demolition/rebuild projects would be justifiable because of the economic benefits that would accrue to the community with new development. Mr. Thompson suggested that homeowners be asked to contribute just 25 percent, rather than 50 percent, of the cost of a parkway tree under the Village's Share-the-Cost tree-planting program as an incentive to stimulate the planting of new trees.

Janiece Waters, of 740 Grand Avenue, mentioned that in 1993 she was asked to join the group of people who had worked to create the initial version of the tree preservation ordinance now being considered. She stressed that the ordinance would apply to just older, larger trees, not every tree in the Village. Ms. Waters referred to an October 1993 article in Chicago magazine that mentioned the "...huge old trees that give Glen Ellyn its distinctive appearance." The proposed ordinance, she felt, was about the legacy present homeowners will leave to the community.

Mary Yehling, of 478 Hill Avenue, spoke of a construction project on a lot with many mature trees. The developer had been granted a zoning variance for the project, with the stipulation that the trees would be preserved. No protective measures were taken, and almost all of the trees were needlessly destroyed. Ms. Yehling strongly urged the passage of an ordinance that would provide the Village with authority to establish a balance between the rights of developers and the rights and needs of property owners living in proximity to property to be developed.

Robert Cvengros, a life-long Glen Ellyn resident, remarked that he may have the largest honey locust tree in the County. He plans to expand his house and will work with the Village to preserve the trees on his property. He was, however, concerned that adoption of the proposed regulations might occur too quickly; and he suggested that effort be expended to solicit additional input from the community.

Daryl Drake, of 422 Phillips Avenue, an architect who has designed many of the additions to single-family homes that have been constructed in Glen Ellyn and has, himself, designed three demolition/rebuild projects, mentioned that he advises clients to preserve trees whenever possible. He spoke of restrictions that have been enacted within recent years, including

regulations governing floor area ratio, yard setbacks, and grading. While he did feel it acceptable to regulate what occurs on parkways, particularly the work of utility companies, he urged the imposition of no additional restrictions on activities on private property.

Michael Lynch, of 166 Crest, asked about the legality of the proposed regulations. Attorney Diamond advised that the draft ordinance is clearly within the law. Government has the right to regulate conduct on private property with the potential to impact public health, safety, and welfare; and Glen Ellyn, a home-rule community, thus has the right to regulate actions related to trees on private property. Diamond cited existing regulations applicable to private property governing such issues as building code standards and drainage requirements. Glen Ellyn would not be the first community to pass such an ordinance. Similar ordinances adopted by other communities have been tested, and there have been no constitutional challenges.

Leah Conti, of 635 South Park Boulevard, owns a large lot containing many trees. She felt that she should have the ability to decide what trees she wants to retain and asked that the Village Board consider what really needs to be regulated. In reply to her suggestion that the Board provide assistance to residents in removing storm-related tree debris, President Wark indicated that the Board will be scheduling a public meeting to consider the possible institution of a storm damage policy.

Ned Heidenreich, of 704 Grand Avenue, spoke of the impact on himself of the removal of a 200-year old tree from a neighbor's property. Zoning-related regulations provide protection not just for the community; that protection extends to the individual as well. The issue under consideration, he suggested, is not about trees; it is about heritage.

President Wark concluded the evening's discussion by thanking those in attendance for their comments.

ADJOURNMENT

At 11:40 p.m., Trustee Hase moved, Trustee Perlstein seconded the *MOTION that the Regular Meeting of the Village Board of Trustees be adjourned*. All Trustees present voted "Aye". Motion carried.

NEXT MEETING

The next Regular Meeting of the Village Board of Trustees is scheduled for Monday, September 14, 1998, at 8 p.m. in the Galligan Board Room of the Glen Ellyn Civic Center.

Respectfully submitted,



Patricia O'Connor
Village Clerk

9-21-98

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Several persons indicated support for establishing a committee comprised of students, school and Village staff members, and local residents to develop a specific proposal for establishing a permit parking system as well as any other viable solutions for addressing the present parking situation. The committee would be asked to make a presentation of their proposals to the Village Board once they are finalized.

RECESS (9:33 p.m. - 9:40 p.m.)

4. Proposed Forestry Ordinance (Foster and Young)

A draft ordinance to adopt standards regulating the protection and removal of trees on both public and private property was first presented to the Village Board at a Special Workshop on March 9, 1998; and substantial public commentary in reaction to a subsequent draft of the ordinance occurred at the August 24 Regular Meeting of the Board. President Wark explained that this evening's discussion would involve just the Village Board and staff in an effort to refine terms of the ordinance to more accurately reflect the intent of the Board. Another meeting will be scheduled to solicit public input regarding the next draft of the ordinance.

Public Works Director Foster and Forestry Superintendent Young led discussion, which initially focused on information outlined in a document dated September 3, comparing possible options and levels of regulation for dealing with nine issues involving trees on private property. The same document also compared levels of regulation involving the same issues exercised by the villages of Highland Park, Lake Forest, and Winnetka.

Board members communicated general support for regulations pertaining to trees on public property (parkways) that were incorporated into the draft ordinance under review. The ultimate consensus of the Board was to refrain from regulating the removal/replacement of trees on private property when not related to construction projects; the majority of Trustees did prefer some level of regulation on private property when construction work is planned.

Discussion then focused on identifying issues meriting additional consideration and possible inclusion in the final ordinance:

- * To what types of projects should regulations apply? - more than just "new" construction but less than all projects requiring building permits.
- * Should regulations apply to clearly-defined areas found on any given property, such as setbacks required by the Zoning Code, or to the entire property?

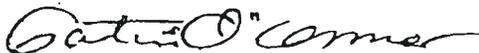
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- * Accent should be placed on educating and encouraging builders and homeowners to protect trees outside building "footprints" or within specific areas of a lot during construction rather than on prohibiting the removal of certain trees.
- * Builders involved in new construction projects should be required to submit tree preservation plans with applications for building permits.
- * Any direction given builders and property owners regarding the protection and preservation of trees should be based on a set of objective standards and not based solely on the discretion of the Village Forester.
- * Judgment regarding whether special measures should be taken to preserve a specific tree should be based on quality of both the tree species and the individual tree rather than just the size of the tree.

5. Other Business

- A. President Wark remarked he hoped it would be possible for the Village Board to review draft amendments to the Zoning Code involving standards applicable to the Central Business District at the September 28 Board Meeting.
- B. In response to inquiries by Trustees Blackledge and Fasules, Assistant to the Village Manager Cox provided a brief update on the installation of a communications network at the School District 41 administration building that would connect all Glen Ellyn schools.

Prepared by,



Patricia O'Connor
Village Clerk

9-28-98

MINUTES
SPECIAL WORKSHOP
GLEN ELLYN VILLAGE BOARD OF TRUSTEES
MONDAY, SEPTEMBER 28, 1998
(FOLLOWING PRE-BOARD MEETING)

Time of Meeting: 7:33 p.m. - 8:00 p.m.

Present: President Wark; Trustees Blackledge, Fasules, Hase, Perlstein, and Renfro
Absent: Trustee O'Brien
Staff: Webster, Cox, Diamond, Dunn, Foster, and Parch

Purpose of Meeting: Continued Discussion of Proposed Tree Preservation Ordinance (Foster)

The Special Village Board Workshop had been scheduled to immediately follow this evening's Regular Village Board Meeting. However, the Pre-Board Meeting was very brief; and Village Attorney Diamond confirmed that it would be appropriate to hold the Workshop at the conclusion of that meeting, prior to the Regular Meeting, since it was anticipated that the Workshop would also be quite brief. The purpose of the Workshop was to provide staff an opportunity to further clarify those issues the Board had identified for possible inclusion in, as well as exclusion from, the proposed tree preservation ordinance when it was last discussed at the Board's September 21 Informal Workshop.

On September 21, the Board had indicated concurrence with regulations in the draft ordinance that were applicable to trees on public property but chose not to regulate the removal of trees on private property when not associated with a construction project. Regulating tree removal/preservation/-replacement on private property when associated with a construction project was, however, generally felt to be desirable at some level. Public Works Director Foster's September 24 memorandum outlined primary issues related to the establishment of regulations covering the latter. Basic regulations being proposed in the memo included:

- * The Village Forester would educate developers and homeowners about tree protection measures early in the process of applying for building permits.
- * A tree preservation plan would be required for all new-home construction and all other projects that would increase building footprint on a lot by more than 300 square feet. The plan would be submitted with the application for a building permit, and the Village Forester would be authorized to enforce an approved plan.
- * The Village Forester would be authorized to regulate the removal of trees within just the front, rear, and side yard setbacks required by the Zoning Code. While the Village Forester

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could encourage developers/homeowners to consider alternate design plans to save desirable trees elsewhere on a lot, the removal of trees within a proposed building footprint or anywhere else within the buildable area of a lot could not be prohibited.

- * Trees located within required yard setbacks that are 10 inches or greater in diameter must be protected and could be removed only upon issuance of a tree removal permit. Certain slow-growing, highly-desirable hardwoods with smaller diameters could also be restricted from removal. However, there would be no prohibition against the removal of unsuitable trees or suitable trees in poor condition located anywhere on a lot.
- * All suitable trees 10 inches or greater in diameter that are removed from a lot must be replaced on an inch-for-inch basis, but with a total upper limit of 30 inches.

One Trustee expressed concern about the level of discretion seemingly being delegated to the Village Forester. It was stressed that the Village Forester would base determinations regarding which trees must be saved and which may be removed on standards found in the Arboricultural Specifications Manual, which categorizes the various species of trees as either suitable or unsuitable, outlines tree protection requirements, and provides tree planting guidelines as well as other tree-related data. Specific standards from the Manual will be incorporated into the tree preservation ordinance for objective implementation.

Several Trustees discussed their concerns related to a perceived "loophole" in the proposed ordinance that would, because the removal of trees on private property not under construction would not be regulated, make it possible for developers or homeowners to remove trees before plans for a construction project were submitted to the Village for a building permit. Other Trustees, however, felt that this issue had been resolved by the Board when the ordinance was last discussed. While a "loophole" might indeed exist, they were confident that most property owners realize the value mature trees add to their property and that they would, thus, not remove trees needlessly.

The draft version of the proposed tree preservation ordinance will be further modified to reflect regulations as outlined in Foster's memorandum, with some consideration given to the "loophole" concern. Another meeting will be scheduled to present the revised ordinance to the public for additional input.

Prepared by,



Patricia O'Connor
Village Clerk

on October 12. However, Trustees Renfro and Fasules communicated their preference that the Board not undertake even a "straw" vote this evening, as they did not want to in any way influence the Plan Commission's determination. There was general concurrence with Diamond's suggestion that, as an option, the Board table consideration of the ordinance until October 12. President Wark advised that the ordinance would be handled in just one reading on that date.

Trustee Renfro moved, Trustee Fasules seconded the *MOTION that consideration of an ordinance amending the Zoning Code as it relates to the CSA and CSB Central Business District zoning districts be tabled until October 12, 1998.*

Upon roll call, Trustees Renfro, Fasules, Blackledge, Hase, and Perlstein voted "Aye." Motion carried.

MOTION - Civic Center Brick Screen Wall Repair Project - Soumar Masonry Restoration, Inc.

Trustee Fasules moved, Trustee Perlstein seconded the *MOTION that a contract be awarded to Soumar Masonry Restoration, Inc., of Elmhurst, Illinois, for the Civic Center Screen Wall Repair Project in the amount of \$49,000 (including a 10-percent contingency) to be expensed from the FY 98/99 Facilities Maintenance Reserve Fund.*

Upon roll call, Trustees Fasules, Perlstein, Blackledge, Hase, and Renfro voted "Aye." Motion carried.

AUDIENCE PARTICIPATION

President Wark read a proclamation recognizing the 75th anniversary of the Busy Bee Barber Shop, located at 417 North Main Street. Norm Tolle, who has been with the Busy Bee for 21 years, was present to accept the proclamation.

MEETING REMINDER

X
A Special Village Board Workshop had been scheduled immediately following this evening's Regular Village Board Meeting to provide an opportunity for the Village Board to continue discussion of issues proposed for inclusion in a draft tree preservation ordinance. President Wark advised that the Workshop had been held at the conclusion of the Pre-Board Meeting that occurred prior to the Regular Meeting. At the conclusion of the brief Workshop, the Board asked that staff prepare a draft ordinance reflecting preferences of the Board. The ordinance will be reviewed at an upcoming Village Board meeting, and public input will be welcome at that time. President Wark invited any interested persons in this evening's audience to speak and offered to provide copies of documents distributed to the Board in preparation for the Workshop to anyone who might wish to receive them.

10-26-98

Trustee O'Brien moved, Trustee Hase seconded the *MOTION to waive competitive bidding and approve award of a contract to Scheffler's Flowers of Winfield, Illinois, for installation and maintenance of holiday decorations in the Central Business District in the amount of \$20,000, including a 4-percent contingency, to be expensed to the FY 98/99 Special Programs Fund.*

Upon roll call, Trustees O'Brien, Hase, Blackledge, Fasules, and Perlstein voted "Aye." Trustee Renfro abstained. Motion carried.

- B. Village Manager Webster invited residents to attend the Community Forum that will be held on Sunday, November 1, at 1 p.m. at Benjamin Franklin Elementary School. The seven theme groups, or committees, that evolved from the Vision Glen Ellyn process will update the community on their activities over the past year and on their plans for the future.

MOTION - Tree Preservation Ordinance

As Village President Wark noted, the Village Board had considered the proposed adoption of a tree preservation ordinance at four previous meetings. Heavy citizen comment occurred at the August 24, 1998, Village Board Meeting; and the draft ordinance now under review reflected input provided by the general public, the Village Board, and Village staff. President Wark remarked that, in the final analysis, the Village Board will base its final determinations on what it believes is best for all residents of Glen Ellyn.

Public Works Director Foster provided an overview of some key elements of the ordinance. Regulations fell into two broad categories - those affecting trees on public property/parkways and those affecting trees on private property undergoing construction. Removal of trees on private property not undergoing construction would not be regulated.

Development projects subject to regulation would include, generally, new-home construction and construction that would increase existing building footprint or impervious surface on a lot by more than 300 square feet. A tree preservation plan would be required in conjunction with this type of project and would cover what would be considered the tree preservation area, which is the area surrounding the buildable area of a lot. The buildable area would be that area not falling within front, rear, and side yard setbacks required by the Zoning Code. Any trees within the buildable area could be removed at the property owner's discretion. Owners/builders would be educated on and required to implement protective measures to preserve any "protected" and "significant" trees found inside the tree preservation area. Any tree with a diameter of 10 inches or greater would be considered a protected tree, and certain species of hardwood trees with diameters of 5 inches or greater would be considered significant trees that should also be protected.

President Wark invited members of the audience to speak.

Tom Ryerson, of 73 Brandon Avenue, appearing as the attorney for the Glen Ellyn Homes development firm, enumerated several reasons why he considered the ordinance vulnerable to legal challenge and asked that the Board leave the current regulatory scheme in place.

Village Attorney Diamond, at President Wark's request, responded to Mr. Ryerson's allegation regarding legal vulnerability of the proposed ordinance by assuring the Board that it has the authority to regulate preservation and removal of trees on private property. He pointed out that governmental bodies are empowered to regulate many types of issues related to the use and development of private property; he concluded by stating that he would not want to discourage the Board from passing a tree preservation ordinance.

Architect David Schulz, of 405 East Center Street in Itasca, questioned some of the provisions within the proposed ordinance. He asked that the Village Board ponder the true definition of "community forest" and suggested that, as an alternative to adoption of the proposed ordinance, an advocate be appointed to oversee and a trust be established to continue enhancement of Glen Ellyn's community forest.

Thomas Waters, of 740 Grand Avenue, described the dramatic change in the streetscape of his neighborhood following the removal of several large oak trees several years ago. He mourned the rapid loss of mature trees throughout the Village, observing that it would take more than three generations to replicate them if replacements were planted now. This subtle erosion of our environment, he remarked, can be controlled, however; and he urged passage of the proposed ordinance.

Cathy Anderson, of 538 Lowell Avenue, was concerned that residents might be forced to replace trees that perish due to damage caused by lawn mowers or other negligence. Forestry Superintendent Young advised that this is not the case now, and the proposed ordinance would not impose such a requirement.

Michael Lynch, of 166 Crest Road, shared his personal belief in the concept of a constitutional republic rather than a democracy based on majority rule and questioned the constitutionality of the proposed ordinance.

Joseph Abel, of 200 Forest Avenue, suggested that, as an alternative to what he felt was a complicated, intrusive ordinance, tree preservation efforts be incorporated into the building permit process. The Village Forester could discuss simple tree preservation measures, such as fencing, with homeowners and developers preparing for construction and then monitor to ensure that appropriate measures are implemented.

The Rev. David Plant communicated his disagreement with the concept of a community forest that supersedes private, individual ownership. He asked that the Village refrain from regulating trees on his or others' private property.

President Wark asked Trustees for their comments.

Trustee Hase indicated concurrence with a suggestion by Mr. Abel that the Village allow homeowners and developers to prepare their own tree surveys rather than require that surveys be professionally prepared. She clarified, in reference to comments by some of the audience members who had spoken, that the level of authority allocated to the Village Forester would be limited. The Forester would have no discretion within the buildable area of a lot; discretion over which trees might be removed from this area would rest entirely with the property owners. The Forester could enforce ordinance requirements only within the required yard setbacks, or tree preservation area, of a lot.

Trustee Perlstein, like Attorney Diamond earlier, observed that the Village already regulates numerous activities related to construction on private property; he sees this issue as simply an extension of that type of discretion. He supports the institution of regulations that would protect significant trees. The ordinance as proposed is, he feels, actually quite minimal in its impact and less than he, himself, would prefer.

Trustee Blackledge questioned almost all provisions of the proposed ordinance. The intent is to preserve trees. This could be accomplished, she suggested, by strengthening efforts to educate builders and the general public.

Trustee O'Brien communicated his support for regulations covering trees on public property as well as trees on private property undergoing construction, as long as those regulations apply to just those trees on the perimeter of the buildable area, in what would be considered the tree preservation area.

Trustee Renfro indicated that he would not support provisions related to private property and, in addition, that he found some of the proposed regulations related to public trees disturbing. He feared that residents would be charged if trees perish because of damage.

Trustee Fasules shared the same reactions to the proposed regulations. He noted that remedies are already available for dealing with damage to public trees.

At the suggestion of Attorney Diamond, Trustee Hase moved, Trustee Perlstein seconded the *MOTION to direct Village staff and the Village Attorney to present an ordinance that would regulate trees on public property and on private property in regard to construction.*

Upon roll call, Trustees Hase, Perlstein, Blackledge, O'Brien, and Renfro voted "Aye." Trustee Fasules voted "Nay." Motion carried.

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the Trustees communicated a willingness to approve the new plan, the remaining half reiterated earlier concerns related to the precedent that would be set by doing so; they also did not feel that the petitioners had proved the existence of either a hardship or unique circumstances in their situation. President Wark advised that he would vote to deny the petition.

The Chinchillas were also asking that the 6-foot fence, a portion of which is already in place along the west, or rear, property line, be allowed to continue at that height instead of sloping to a lower height as it approaches the northwest corner of the property. The Board asked that sight lines for the property directly west of the subject property be checked before a determination is made on this request.

There was general consensus to approve, without significant discussion, the remaining items on the December 14 draft agenda:

- A-6D. Village Code Amendment Regarding Police Chief's Authority to Regulate Parking in Public Parking Lots
- A-8. 22 W 451 Ahlstrand Drive Annexation and Recapture Agreements
- A-9. Newton Avenue Water Tank - Professional Services Agreement

- 5. Pickwick Place Shopping Center - Extension of Deadline Related to Sales Tax Sharing Agreement (Dunn)

Thomas Eilers, of the Madison Corporate Group; attorney Austin Hirsch; and architect David Kennedy were present to represent the ownership of the Pickwick Place Shopping Center. The Village Board communicated its concurrence with the recommendation of Village Attorney Diamond that the deadline for completion of all requirements for commencement of the sales tax sharing agreement be extended from December 31, 1998, to March 31, 1999. This item will be included on the agenda for the December 14 Board Meeting.

- X 4. Proposed Tree Preservation Ordinances (Foster)

The Village Board last discussed the proposed development of a tree preservation ordinance at its October 26 Regular Meeting. Village Attorney Diamond subsequently prepared two separate ordinances, one dealing with public and the other with private trees, that reflected input from the Village Board and staff, private citizens, and developers. Diamond reviewed some key issues and regulations associated with each ordinance.

The Village Board, Diamond confirmed, has the legal right to regulate activities that might impact trees on public property, such as the location of driveways that cross parkways.

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protection of public trees during construction on private property, and the choice of contractors who work on public trees. The Village also has the right to seek reimbursement for any public tree that has been damaged or removed.

Under standards imposed by the new ordinances, contractors who wish to work on either public or private trees in the Village would be required to register on an annual basis, at no charge, and provide information about their qualifications and activities, including the number, location, size, and species of trees considered "protected" trees that they removed during the previous year.

Developers/property owners who are planning certain levels of construction work on private property would be required to submit tree preservation plans at the time they apply for building permits. Property owners would, themselves, choose which trees they wish to protect during construction; these would be considered "protected" trees. Village building inspectors would confirm that appropriate protective measures were being utilized during construction and would have the authority to stop construction if measures were not in place. Specific trees to be protected would not be determined by the Village or dictated by standards within the tree preservation ordinance, neither would the Village prevent the removal of any trees on private property.

Diamond regarded the Village's involvement in preservation of the community forest as, essentially, consumer protection. The intent of the registration requirement is to confirm qualifications of tree contractors. The intent of the tree preservation plan requirement, and follow-up confirmation that protective measures have been initiated and maintained, is to attempt to ensure that trees a property owner wishes to save will still be in place and in a healthy condition following construction. Primary focus will be on education.

Regulations impacting trees on private property were substantially modified from those suggested in earlier drafts of a tree preservation ordinance. Diamond pointed out that the requirement that tree contractors advise the Village of any "protected" trees removed in a given year will aid the Village in determining whether the regulations in the current ordinances are adequate or whether an undesirable number of such trees are being removed. Regulations could be made more stringent in the future if this were ever felt necessary.

Tom Gale, partner in Glen Ellyn Homes, while commenting that the current ordinances were a big improvement over previous drafts, also questioned some areas of the ordinances and indicated that he would provide written comments to Diamond and the Village Board.

Thomas Waters, of 740 Grand Avenue, doubted whether tree contractors would maintain or submit accurate records of trees they had removed. An early draft of the ordinance required

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the issuance of a permit before certain trees could be cut down. Mr. Waters felt that this requirement should be enacted, as he feared the private tree ordinance in its present form would do little to curtail unnecessary tree damage or removal.

Don Sutherland, of 220 Newton Avenue, also predicted that the private tree ordinance, as now proposed, would have little impact. He was concerned that developers could easily circumvent tree protection efforts by simply neglecting to include some trees in their tree preservation plans.

Ken Kloss, of 371 North Park Boulevard, commented on a perceived level of tree preservation during construction of the Baker Hill development.

While most Trustees indicated their willingness to approve both ordinances, some questioned their ability to support the private property ordinance. The validity of registration information that could be expected from tree contractors was a major concern. There was general consensus for the suggestion that the two ordinances be voted on separately. The ordinances will be included on the agenda for the December 14 Village Board Meeting.

3. Proposed Zoning Code Amendments (Dunn and Williams)

The Village Board last discussed proposed amendments to the Zoning Code at a Special Workshop on November 9. Planner Williams initiated this evening's discussion with a reference to a December 4 memorandum from herself and Planning and Development Director Dunn, which responded to issues raised by the Board on November 9 as well as issues raised by several developers.

At the November 9 Workshop, some Board members had questioned proposed modifications to current regulations related to accessory structures on corner lots and landscape and other obstructions adjacent to driveways. The consensus of the Board this evening was to refrain from changing current regulations. Also, Dunn and Williams were recommending that the new regulations become effective 45 days after passage of the ordinance approving the Code amendments. The Board indicated its preference that the effective date be 60 days after passage.

Randel Little, of 860 West Driveway, who lives south of Roosevelt Road across from the new Baker Hill Shopping Center, discussed the new illumination standards being proposed and suggested that they be made applicable to all commercial properties, including Baker Hill. Dunn advised that the new standards would apply to just new development that is approved after the standards go into effect. There was some discussion regarding the possibility of establishing an abatement period, as suggested by one Trustee, that would phase in the new

12-14-98

Zoning Board of Appeals

Donna K. Hindman - reappointment as Chairman through December 31, 1999

Upon roll call on the Consent Agenda, Trustees Hase, O'Brien, Blackledge, Fasules, Perlstein, and Renfro voted "Aye." Motion carried.

PUBLIC HEARING - 22 W 451 Ahlstrand Road - Annexation Agreement

Trustee O'Brien moved, Trustee Renfro seconded the *MOTION that the public hearing be opened to receive comment on the proposed annexation agreement for the property located at 22 W 451 Ahlstrand Road.* All Trustees present voted "Aye." Motion carried.

As Planning and Development Director Dunn explained, an annexation agreement covering the property at 22 W 451 Ahlstrand Road was initially submitted in mid-1996 by previous owners of the property. New owners have signed both the annexation and recapture agreements now under consideration. The latter agreement would allow the owners to recapture \$5,000 of the cost to install certain public improvements if the property to the north should connect to those improvements.

Trustee O'Brien moved, Trustee Renfro seconded the *MOTION that the public hearing be closed.* All Trustees present voted "Aye." Motion carried.

ORDINANCE NO. 4669 - 22 W 451 Ahlstrand Road - Annexation and Recapture Agreements

Trustee O'Brien moved, Trustee Renfro seconded the *MOTION that Ordinance No. 4669 be passed, an Ordinance Authorizing the Execution of an Annexation Agreement and a Recapture Agreement for Property Commonly Known as 22 W 451 Ahlstrand Road.*

Upon roll call, Trustees O'Brien, Renfro, Blackledge, Fasules, Hase, and Perlstein voted "Aye." Motion carried.

ORDINANCE NO. 4670-YC - Tree Preservation - Public Property

Village Attorney Diamond, who had prepared the final drafts of the three proposed ordinances, reviewed some of the key provisions incorporated into the two ordinances concerning tree preservation efforts on public and private property. These provisions had evolved significantly through several drafts of what was originally one ordinance, primarily in response to substantial input from developers and private citizens. (The third ordinance would merely adopt the Arboricultural Specifications Manual, which would provide guidelines for tree planting, removal, and protection on public property.)

The intent of both ordinances would be to provide some degree of protection for Glen Ellyn's community forest. The public tree ordinance would regulate activities that might affect trees located on public property, primarily on parkways. The private tree ordinance, which had elicited the most public interest, would ensure that those trees property owners wish to have protected during construction projects are protected adequately. Provisions of this ordinance would become applicable only when construction projects beyond a certain level were planned. Property owners would have absolute discretion to determine which trees they would prefer to save and which they would prefer to remove. The Village would not attempt to prevent the removal of any trees on private property but would monitor tree protection measures implemented during construction.

Tom Ryerson, of 73 Brandon Avenue, attorney representing Glen Ellyn Homes, shared his reactions to the ordinances, questioning the level of financial compensation for damage to public trees in the public trees ordinance and the level of discretion he interpreted as being delegated to the Village Forester in the private trees ordinance. He asked that the Village Board deny the ordinances.

Tom Gale, partner in Glen Ellyn Homes who resides at 1535 South Prospect in Wheaton, showed photographs of work currently being done on some water lines along Duane Street and questioned whether regulations within the public trees ordinance would be equitably applied to both private contractors and Village employees. Like Mr. Ryerson, he referred to the number of changes made to the ordinances over the past several months, some of which were incorporated today. He, also, urged the Village Board to vote down the ordinances so that the public could have additional opportunity to review the most recent changes. Attorney Diamond pointed out that each of the modifications to the ordinances has succeeded in further reducing the level of regulation.

Trustee Perlstein moved, Trustee Hase seconded the *MOTION that Ordinance No. 4670-VC be passed, an Ordinance to Create a New Chapter 4 Entitled "Forestry Management" for Title 8 (Public Ways and Property) of the Glen Ellyn Village Code to Promote Tree Preservation on Public Property.*

Trustees Renfro and Fasules, while indicating that they might feel comfortable approving the ordinances in the future, advised that they could not vote to approve them this evening. They felt that the Village Board and the general public should have more time in which to review the most recent modifications before a vote is taken. Trustee Hase observed that the few changes presented to the Village Board at this evening's Pre-Board Meeting were only minor language changes, meant primarily to improve clarification. She did not feel these changes constituted justification for postponing the vote by the Village Board.

Upon roll call, Trustees Perlstein, Hase, Blackledge, and O'Brien voted "Aye." Trustees Fasules and Renfro voted "Nay." Motion carried.

* ORDINANCE NO. 4671-VC - Tree Preservation - Private Property

Trustee Perlstein moved, Trustee Hase seconded the *MOTION that Ordinance No. 4671-VC be passed, an Ordinance to Create a New Chapter 8 Entitled "Tree Preservation" for Title 4 (Building Regulations) of the Glen Ellyn Village Code to Promote Tree Preservation on Private Property.*

Upon roll call, Trustees Perlstein, Hase, and O'Brien and President Wark voted "Aye." Trustees Blackledge, Fasules, and Renfro voted "Nay." Motion carried.

* ORDINANCE NO. 4672 - Adoption of Arboricultural Specifications Manual

Trustee Perlstein moved, Trustee Hase seconded the *MOTION that Ordinance No. 4672 be passed, an Ordinance Adopting the Arboricultural Specifications Manual.*

Upon roll call, Trustees Perlstein, Hase, Blackledge, and O'Brien voted "Aye." Trustees Fasules and Renfro voted "Nay." Motion carried.

ORDINANCE NO. 4673-Z - Zoning Code Amendments

Village Planner Williams briefly reviewed some of the key amendments proposed for incorporation into the Zoning Code. She advised that three changes to existing regulations that had been proposed will be referred back to the Plan Commission for further consideration: reduction in permitted FAR from 4.5 to 4.0, imposition of a maximum ridge height of 35 feet, and application of illumination guidelines.

Tom Gale, partner in Glen Ellyn Homes who resides at 1535 South Prospect in Wheaton, asked about three issues: the proposed definitions of "setback line" and "alterations" and proposed regulations applicable to "temporary structures and materials" utilized during construction. He urged the Village Board to defer action on the ordinance as he feared problems might be created by some regulations being proposed.

Douglas Walksler, partner in Glen Ellyn Homes who resides at 1080 Wexford Court in Wheaton, displayed photographs of existing houses in Glen Ellyn with either detached garages, side-load garages, or front-load garages with auxiliary parking areas. His major concern was that the proposed "sliding scales" that would be utilized to determine setbacks for accessory buildings and impervious surfaces would discourage the construction of detached garages and auxiliary parking areas.

Dave Schulz, an architect who resides at 405 East Center in Itasca, displayed diagrams of side-load garages. He feared that enactment of the "sliding scales" could force the construction of more front-load garages rather than side-load garages, which he prefers. The latter, he observed, can create greater open space between houses.

10-14-06

COMPREHENSIVE FORESTRY ORDINANCE

Comparison of options and levels of regulations for specific major issues applicable to trees on private property when a part of a new development.

MAJOR ISSUES (Variables)	ALTERNATE #1 (Least restrictive)	ALTERNATE #2	ALTERNATE #3	ALTERNATE #4 (Most Involvement)
1. Village Forester discretion requiring tree removal permit issuance when part of a development project.	No discretion. Tree removal at owners request for all private trees regardless of location of trees and reason for removal. Village Forester limited to suggestions of alternatives.	Discretion applicable to only defined areas of individual lots. The areas could be defined as zoning set backs or similarly defined areas. In other areas of the lot, tree removal would be allowed with only suggestions of alternatives to save trees offered by Village Forester. When a conflict occurs between the owner and Village Forester regarding the removal of trees in the regulated area, tree removal permits would be issued through an appeals process.	Discretion applicable to Tree Preservation Plan developed to reflect trees found on individual lots. When a conflict occurs between the owner and Village Forester, tree removal permits would be issued through appeals process. Tree Preservation Plan would define Building Activity Areas in which permits for tree removal would be issued for all trees.	Total discretion on issuance of permits on entire lot by Village Forester. When a conflict occurs between the owner and Village Forester the owner would have to redesign the proposal to save trees.
2. Educate the developers, architects and builders on the value of private trees and damage construction activities can cause to tree. (Pre-1998 Ord. Practice No involvement by Village Forester)	Involve Village Forester in plan review to educate owner on how to properly preserve and protect trees. No further involvement on private property. (CURRENT PRACTICE)	Implement campaign to educate the general public utilizing press releases, newsletter inserts and personal appearances at various meetings by Village Forester.	Plan review meeting required as part of the Building Permit process. Utilize permit requirement as an opportunity to meet with owners, developers, architects and builders to discuss the impact proposed new development will have on private trees. This allows a discussion regarding trees at the time decisions are made regarding new construction which will affect large trees.	

Note: The alternates shown in bold and labeled (CURRENT PRACTICE) reflect the current alternative included in the Village Code as of 2004. Also shown in bold is the practice that was in effect prior to the adoption of the Tree preservation Ordinance in 1998.

MAJOR ISSUES (Variables)	ALTERNATE #1 (Least Restrictive)	ALTERNATE #2	ALTERNATE #3	ALTERNATE #4 (Most Involvement)
3. Tree removal size limitations on lots for which development is proposed.	No limitations on the size of trees removed from an individual lot. Contractors must report trees removed to the Village. This reflects the current situation. (PRE-1998 ORD. & CURRENT PRACTICE)	Limitation on trees deemed as a "heritage" tree. An example would be an oak tree having a diameter of 30".	No removal of trees above a certain size (i.e. 8", 12" or whatever is considered significant enough to save). Smaller trees over the entire lot could be removed without a permit.	Restrictions on the removal of any tree over the entire lot except for the absolute minimum required for development.
4. Replacement trees required due to proposed new development.	New trees required in conjunction with variances and special uses granted by the Village Board. This is the current practice and requirement of the Village. (PRE-1998 ORDINANCE & CURRENT PRACTICE)	New trees required when trees are damaged or removed contrary to an approved tree preservation plan.	New trees required when trees are removed above a certain size due to construction.	New trees required to replace all trees removed on a lot due to any reason.
5. Lot area regulated when development of lot is proposed.	None of the existing lot unless the Village Board is involved in the approval process. (PRE-1998 ORD & CURRENT PRACTICE)	Specific area such as the front yard setback.	Buildable area of the lot as defined by the zoning code. This would exclude from regulation all areas not included in the side yard, rear yard or front yard setbacks.	The entire lot as defined by a tree preservation plan. The lot would be broken into building activity areas and tree preservation areas.
6. Utility service line location regulation.	No involvement relative to the trees found on the property. (PRE-1998 ORD. & CURRENT PRACTICE)	Regulation of routes for home services. Specific installation requirements including overhead and underground locations in addition to the horizontal placement on the lot.		
7. Adjacent property tree impact on proposed development.	No limitations on building activity adjacent to neighbor's private trees. No consideration of impact development may have on trees on adjacent property by disturbing roots. (PRE-1998 ORD PRACTICE)	Suggest techniques to preserve and protect trees whose roots and crown encroach on property proposed for development.	Regulate preservation techniques and other tree protection measures given the design proposed for the new development. (CURRENT PRACTICE)	Regulate preservation techniques and other tree protection measures. Withhold permit approval for design suggested which threatens protected trees.

	MAJOR ISSUES (Variables)	ALTERNATE #1	ALTERNATE #2	ALTERNATE #3	ALTERNATE #4 (Most Involvement)
8.	Development applicable to regulation. (PRE-1998ORD PRACTICE No involvement by Village Forester)	All teardowns and new buildings build on a vacant lot.	In addition to Alternate #1, all additions adding site improvements on land 300 square feet and greater. (CURRENT PRACTICE)	All improvements disturbing a certain percentage of the lot. This could also reference a specific square footage of area disturbed.	All building permits issued by the Village would require submittal of a tree preservation plan complete with details on steps to protect trees not scheduled for removal.
9.	Consequences for Damage to Protected Tree	No consequences to property owner if a tree is damaged or removed. (PRE-1998 & CURRENT PRACTICE)	Replace trees removed on an inch for inch basis where there is room for new trees.	Bond required to be posted for a period of 5 years if a tree is damaged. Collect \$150/inch if a tree is removed and escrowed into a reforestation account.	Collect money from althernate 3 in addition to asking court to assess a fine.