

REGULAR COUNCIL MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

April 5, 2010 - 6:00 P.M. - Council Chambers - Town Hall

CALL TO ORDER

INVOCATION BY COUNCILMAN T. HOWARD

PLEDGE OF ALLEGIANCE

OPEN FORUM / PUBLIC PARTICIPATION

STAFF UP-DATE

AGENDA ADDITIONS/DELETIONS AND ADOPTION:

1. Consider Adoption of the Minutes
 - Regular Council Meeting of March 1, 2010 (Page 2 of 150)
 - Recessed Council Meeting of March 4, 2010 (Page 14 of 150)
 - Special Council Meeting of March 11, 2010 (Page 15 of 150)
2. Presentation by Commander John J. Keegan Commanding Officer Surface Combat Systems Center (SCSC) (Page 18 of 150)
3. Department of Forestry on Tree City USA, Arbor Day Ceremony (Rob Lewis) (Page 19 of 150)
4. Census Bureau Presentation and Proclamation (Page 71 of 150)
5. Public Hearing Request to Vacate Subdivision Lot Lines (Gene W. & Stephanie Taylor) (Page 74 of 150)
6. Public Hearing Request to Vacate Subdivision Lot Lines (Shirley Lewis & Marvin and Florence Westpal) (Page 81 of 150)
7. Public Hearing on the Ettinger Parcel Rezoning (Page 93 of 150)
8. Public Works Committee Report of March 2, 2010 (Mayor Tarr) (Page 136 of 150)
9. Budget and Personnel Committee Report of March 9, 2010 (Councilwoman Conklin) (Page 139 of 150)
10. Review of the Planning Commissions By-Laws (Page 140 of 150)
11. Appointment of the Building Code of Appeals (Page 146 of 150)
12. Mayor & Council Announcements or Comments
(Note: Roberts Rules do not allow for discussion under comment period)

ADJOURN:

MINUTES OF THE MARCH 1, 2010
CHINCOTEAGUE TOWN COUNCIL MEETING

Council Members Present:

John H. Tarr, Mayor

James Frese, Councilman

Terry Howard, Councilman

Ellen W. Richardson, Councilwoman

John N. Jester, Vice-Mayor

Nancy B. Conklin, Councilwoman

John H. Howard, Councilman

Call to Order

Mayor Tarr called the meeting to order at 6:00 p.m.

Invocation

Councilman T. Howard offered the invocation.

Pledge of Allegiance

Mayor Tarr led in the Pledge of Allegiance.

Open Forum / Public Participation

Mayor Tarr opened the public forum.

- Mrs. Peggy Thomas asked why Council changed the meeting time to 6:00 p.m. She feels they have made a mistake by changing the time.

Councilmen J. Howard and Frese explained the reason for the change.

Mrs. Thomas again expressed her objection.

Councilwoman Richardson stated that the 6:00 p.m. meeting is a hardship for her.

Vice Mayor Jester and Councilwoman Conklin also commented on the reasons why it was moved earlier.

- Mrs. Helen Birch remarked on the current assessments of her property. She advised that she inquired about her taxes and wrote to the Board of Equalization for an appointment. She asked why her taxes didn't go down when she gave half of her property to her sons.

Vice Mayor Jester explained that the waterfront lots were reassessed higher and her taxes didn't go down.

Mayor Tarr advised her that the Board of Equalization will schedule a hearing date and Mr. Hurdle would contact her.

- Mrs. Helen Merritt feels there should be a doctor on call on the weekends. She asked if Council could look into this for the Island.

- Mr. Joe Justice returned to Council for an update on the flood gates and drainage issues.

Public Works Director Spurlock stated that Clark-Nexsen is in the process of gathering information.

Mr. Justice expressed his need for urgency in the resolution of this matter.

Mayor Tarr closed the Forum

Staff Update

Police Department

Captain Robby Fisher handed Council the February Police Report. He added that they ordered the bulletproof vests and they are due to arrive on Wednesday. He announced a fund raiser that the Police Department is co-sponsoring with the Fire Department, a benefit dinner on May 7th, 2010 for Mr. Jay Lewis who is in need of a pancreas and kidney transplant. He added that they are sponsoring a poker-run to benefit Mr. Jay Lewis on May 8th also.

Captain Fisher also announced that the officers will go to the elementary and high schools to promote the bicycle safety program. They plan to conduct a DUI prevention/information program at the high school. He stated that the Bike Rodeo is scheduled for May 8th.

Vice Mayor Jester commented on the report of 911 calls being mostly wireless.

Public Works Department

Public Works Director Spurlock stated that Clark-Nexsen has completed the survey for Pension Street, which will help in the drainage and grading plans. He advised that they started working on Smith Street then on to Wayne Road and Horseshoe Drive. They have started a computer water modeling program and should see results on that study within the next two weeks.

Public Works Director Spurlock advised Council that the Harbor's video surveillance system has been installed and they are waiting on DSL. He stated that the skid-steer is scheduled to be delivered this week and the Ocean Boulevard extension survey is complete. He added that the survey is in his office for review.

Public Works Director Spurlock reported that snow removal has been the focus in February. He cited three VDOT employees, Mr. Mark Rew, Mr. Delmas Taylor and Mr. Mike McCullough for their outstanding assistance during this time. He stated that routine street sweeping and pothole repair continues along with drainage maintenance. They are preparing to install whatever Clark-Nexsen suggests with their study. He also advised that routine water maintenance continues along with a new service installation on Stasio Lane. The Water Department has completed the repairs of a major leak on Willow Street. He advised that in March they will be installing all new services along Pension Street.

Councilman T. Howard noticed the sidewalk work on Pension Street and appreciates the work being done.

Public Works Director Spurlock also added that he is waiting on the report from Clark-Nexsen so he can decide what to include in the paving contract.

General Government

Town Manager Ritter reported that staff just completed the annual compliance mail-out. This year in the mail-out was the Water Quality Report, FEMA letter on flood elevation, Emergency Operations letter and the Police Survey for accreditation. He stated that Mrs. Chesser is still receiving and processing Business License renewals. He advised that the 2nd notices for delinquent taxes and certified letters have been mailed. He asked Council to review the Delinquent Tax Memo from Mrs. Hipple and suggested contacting her with any questions. He stated that decals go on sale March 15th. He added that the decals for all other municipalities in the county have arrived and are ready to pick up. He also added that all accounts are in balance. He also reported that the supplemental bills have been processed and mailed. He reported on revenue for February.

	<u>Year to Date</u>	<u>Prior Year</u>	<u>Difference</u>
Real Estate	\$594,776	\$588,033	(up) \$ 6,743
Tangible Tax	\$155,354	\$164,617	(down)\$ 9,263
Meals Tax	\$376,358	\$376,158	(up) \$ 200
Sales Tax	\$ 66,480	\$ 76,316	(down)\$ 9,836
Transient Occupancy	\$508,360	\$506,209	(up) \$ 2,151
Water Rent	\$627,093	\$586,017	(up) \$41,076

Town Manager Ritter stated that he went to Richmond with Harbor Master Merritt and Mr. Ernie Bowden on February 16th to get funding from the Port Authority for a grant for the fuel system. He also stated that he is currently working on the budget and advised that it will be ready by April 1st. He will schedule budget hearings after the draft budget is completed. He is also continuing the work on the Personnel Policy Hand Book. Town Manager Ritter advised Council that the consulting firm is unable to make the scheduled meeting on Wednesday and asked to reschedule for Thursday at 10:00 a.m.

Councilman J. Howard stated that the fuel system is coming from the Harbor Fund and not taxes.

There was discussion regarding the reasons for the increase in some of the revenue categories.

Town Planner Neville advised that the Planning Commission is working on the Work Plan and asked Council to provide ideas to him as to how to address drainage issues. He advised that there is still a vacancy on the Building Code Board of Appeals and the advertisement has been reissued.

Councilman Frese asked Town Planner Neville if he was working with Public Works Director Spurlock on the drainage.

Town Planner Neville advised that he was.

Emergency Management

Mr. Bryan Rush reported that the Public Safety Committee will hold a Public Forum at 6:00 p.m. on March 17th. He stated that they would like to advise the public of the new Emergency Operations Plan. They will also have speakers and a lot of information to make the Island safer. They also want to promote the CERT program.

Mr. Rush explained the current staffing of the Town's Emergency Management Services. He reported the following:

January 2010 – 47 calls for service; 26 ALS calls; 17 BLS calls; 4 fire services; 2 mutual aid calls which are when the ambulance is out on a call and Oak Hall came to assist with those calls. There were 30 transports to PRMC; 6 transports to SMH; there were some non-transports and 1 cancelled call prior to their arrival.

Mr. Rush reported that the average response time for January while fully staffed was 4.8 seconds; partially staffed was 10.5 seconds; mainland response was 15.5 seconds.

February 2010 – 44 calls for service; 21 ALS; 14 BLS; 6 fire calls; 3 public service calls; 2 mutual aids where Oak Hall came to assist on those calls; 1 using the Maryland State Police Aviation; 2 responses where 1 was given to Pocomoke and 1 was given to Oak Hall, which was an accident and the other units transported; 21 transports to PRMC; 5 transports to SMH; 1 DOA.

Mayor Tarr asked Mr. Rush to explain the EMS transport policy.

Mr. Rush advised that this area works under the Tidewater Emergency Medical Services Protocol. He explained that it tells EMS personnel what they can and can't do. He informed Council that it states that the EMS will only transport patients to a fully licensed upstanding emergency room. He stated that they cannot transport to just any facility. He also explained the hours of the local medical facilities. He advised that the EMS can assist in calling to get them seen by a local doctor but protocol will not allow EMS to transport them there only to an emergency room.

Vice Mayor Jester asked if the summertime calls were double.

Mr. Rush advised that they are.

Vice Mayor Jester asked how many trained volunteers are running calls.

Mr. Rush advised that there are 28 volunteers and 4 of those are ALS providers along with drivers.

Councilman J. Howard stated that the public needs to know that the stock fell when Dr. Amrien died. He added that the regulations and liabilities won't allow a doctor to come out after hours like he used to do. He doesn't understand why they can't.

Mr. Rush stated, to make the practice appealing to expand the hours during the weekend.

Councilman J. Howard suggested that a Nonemergency Patient Care Facility would be fantastic here, especially during the summer.

Councilman T. Howard stated that Council can't give up.

Councilwoman Richardson commended the EMS personnel for doing a wonderful job.

Agenda Additions/Deletions and Adoption

Mayor Tarr advised that he would like to add executive session to discuss the proposition of a business and legal matter with Town Attorney Poulson.

Councilman T. Howard motioned, seconded by Councilwoman Richardson to approve the agenda with the addition of executive session. Unanimously approved.

1. Consider Adoption of the Minutes

- **Regular Council Meeting of February 1, 2010**

Councilman T. Howard motioned, seconded by Councilman Frese to approve the minutes of the Regular Council Meeting of February 1, 2010. Unanimously approved.

2. VDOT Bridge Update

Mr. Tom Rakowski with VDOT stated that they are on schedule to open April 1, 2010. He advised that the traffic pattern will have to change one more time for the completion of the ramp. He also reported that the bascule span is undergoing testing procedures and will be fully operational by the end of this week. He reported that the traffic signal will be operational soon with the Opticon system, where the EMS can over-ride the system. He also understands that there are several mobile homes waiting until the bridge is opened.

Mr. Rakowski also reported that the changes for the landscaping have been done. He was unable to get the paving of Main Street approved in the budget. He also added that petition of the mainline is April 2nd, the completion of the line to Marsh Island is scheduled for August 26th and the swing-span demolition will be completed by December 13th. He explained the options of demolition and removal of the swing-span bridge.

Mr. Rakowski again explained the change in traffic pattern at the request of Councilman T. Howard.

Mayor Tarr asked about an Open House.

Mr. Rakowski stated that they can schedule a date where people can walk out on the new bridge before it is opened to vehicle traffic. He suggested discussing it further next week when they meet again.

Mayor Tarr asked Mr. Rakowski to review and set a date so the Town could advertise. He also stated that there are requests to have pictures taken before the old bridge is demolished.

Vice Mayor Jester mentioned the mulch at the foot of the new bridge that ended up in the road because of the flooding. He suggested stones instead.

3. Healthcare Committee Report

Mr. Bryan Rush, Chairman of the Healthcare Committee, gave his presentation. He began explaining that the reason for the Committee was because the Town's current health care was coming to an end. He stated that over the months they have conducted surveys from other municipalities regarding health insurance plans and costs. He added that in December United Healthcare notified the employees that the current health plan would cease June 30, 2010.

Mr. Rush stated that they conducted further research with other insurance companies, employees who expressed their concerns, along with retirees and Council. He stated that the employees' concerns were out-of-pocket expenses such as higher premiums, co-pays and deductibles. He explained in detail the Medicare Parts and their differences along with the "doughnut hole" expenses to the retiree. He then looked into a supplement for the retirees.

Mr. Rush also reviewed the current cost to the Town, projected cost to the Town along with possible solutions and recommendations to the "doughnut hole" expenses. He also addressed those retirees 64 years old and younger. He suggested that the Town pay the entire premium with a stipulation. He explained the stipulation, that it is based on years of service for new hires. He suggested 25% of insurance premium paid by the Town for the first 5 years of employment. He stated that this would eliminate those new hires that are close to retirement age and the Town having to pay the full amount of premiums.

Mr. Rush also stated that the active employee plan should include the out-of-state doctor component. He stated that there are many plans to mix and match specific coverage. He made recommendations to Council regarding budget amounts for premiums. He mentioned utilizing an insurance broker. He feels they should be knowledgeable, have bargaining power and work with the Town as a team. Mr. Rush stated the Committee decided to ask a broker from USI. He stated that they will communicate with the employees along with management of the accounts. He added that the strategy is planning to get the most for the money.

Mr. Rush continued by pointing out the advantages of utilizing a consultant with USI. He added that there is a new local office in Exmore. He also stated that they have online access to the individual accounts and an insurance portal. He reported that brokers are normally paid on a percentage from the healthcare provider and it is currently 3%. He stated that if there is no broker the 3% is pocketed by the provider. He added that in this case the percentage is built into the premium. The Committee recommended appointing a broker and using USI, LLC as the Town's broker.

Mr. Rush summarized by reviewing the Committee's recommendations:

1. Save money, provide benefits and do it as efficiently as possible.
2. Putting \$30,000 for projected savings to cover the "doughnut hole" expenses of the retirees.
3. Pay the retiree's (from under 65) active employee rate – certain percentage per years of service.

4. Fund \$525 per employee per month in the upcoming budget.
5. Appoint USI, LLC as the Town's broker.

Councilman Frese asked what the current allowance for insurance is.

Mr. Rush advised that it is \$499.

Mayor Tarr suggested tabling the questions and scheduling a workshop in the next 2-3 weeks to discuss this further.

Mr. Rush stressed to Council that it is important to resolve this soon as the deadline approaches.

Mayor Tarr thanked Mr. Rush on a good presentation and stated that he would get back to him. He reminded Council they would have about a week and a half to ask questions so they could move on this.

Council concurred on a job well done.

4. Consider 50% Match to Virginia Commission for the Arts Grant for \$5,000

Mr. Bob Behr, President of the Chincoteague Cultural Alliance, thanked the Town and staff for their assistance in the past. He reviewed the schedule for the upcoming season. He stated there are 30 events scheduled. He requested that Council consider the 50% match of \$5,000 so they would have a total of \$10,000. He added that they are a nonprofit organization and their staff is all volunteer.

Councilman T. Howard stated that the current schedule is impressive and he applauded their hard work. He feels it is money well spent.

Vice Mayor Jester stated that there are an increasing number of attendances to the events.

Mayor Tarr stated that if the grant comes in less the Town's match would be less.

Mr. Behr also added that the deadline is April 1, 2010.

Councilman J. Howard motioned, Seconded by Councilwoman Conklin to approve the 50% match up to \$5,000 to the Chincoteague Cultural Alliance for the Virginia Commission for the Arts grant. Unanimously approved.

5. Enterprise Zone Update

Town Planner Neville reviewed the report he gave Council and stated that there is an April 1st deadline. He stated that for any businesses or property owners that may qualify there are 2 elements, a creation grant or real property investment grant. He added that there is a benefit to participate. He feels this is a good thing to offer and if Council feels this is worthwhile he can advertise on the website. Town Planner Neville discussed other areas to possibly include in the program. He stated there is an additional month if the Town wants to propose additional properties. He suggested adding some Eastside properties because of aquaculture.

Mayor Tarr stated that the Town has to make a request to include any area to the Enterprise Zone. He added that it doesn't have to be Eastside, it could be anywhere.

Town Planner Neville stated that they were removing properties that couldn't benefit such as residential properties.

Mayor Tarr added that years ago the area had to be contiguous and currently they do not. He stated that we need to see if there are properties to be taken out and properties to add.

Town Planner Neville stated that the Town would need to let the County know within the next several weeks.

Mayor Tarr stated that Town Planner Neville will be working on the review of properties and bring it back to Council.

6. Possible Adoption of the Wind Energy Ordinance

Town Planner Neville explained that Town Attorney Poulson returned two versions. He stated that one version would be on a conditional use permit and the other was special use and special exception permit. He stated that there were also looking to adopt the minimum safety standards.

Town Planner Neville also stated that the recommendation from the Commission is that the small Wind Energy System Ordinance with a conditional use version be adopted with a lower fee than the \$1,500. He feels this is ready for Council action this evening.

Councilman Frese commented on the high fee.

Town Planner Neville advised that the fees go for advertisements which run approximately \$45 per week and it runs for 2 weeks.

Councilman T. Howard feels that the conditional use is the best way to go with a lesser fee.

Vice Mayor Jester concurred.

There was discussion regarding the fee and fee schedules along with the fee listed in the ordinance.

Town Planner Neville stated that the Ordinance normally doesn't give a specific fee amount.

Mayor Tarr feels there needs to be consistency with the process. He added that the fee doesn't need to be less than the fee for a BZA appeal. Discussion continued regarding the fees and the possible change in the future from conditional to special use.

Councilman Frese made a motion to use the Wind Energy Ordinance with the "special exception" version of the ordinance. There was no second, the motion died.

Vice Mayor Jester motioned, seconded by Councilwoman Conklin to approve the Wind Energy Ordinance with the “conditional use” version.

Ayes: Jester, Conklin, T. Howard, J. Howard, Richardson

Nays: Frese

Motion Carried.

Vice Mayor Jester motioned, seconded by Councilman T. Howard to approve the Wind Energy Ordinance conditional use fee of \$450.00. Unanimously approved.

7. Update Planning Commission report on the Ettinger Rezoning Application

Mr. Ray Rosenberger, Planning Commission Chairman, explained that there was a meeting between the Commission and the property owner. He stated that Town Attorney Poulson was given information for his review. He stated that they will continue the discussion further at the next Planning Commission meeting after they review the response from Town Attorney Poulson.

Town Planner Neville stated he spoke with Mr. Ettinger and he met with the Oyster Bay II Board of Directors and will be issuing a summary and response for the Commission to review.

Councilman J. Howard motioned, seconded by Councilman T. Howard to extend the rezoning application for another 30 days. Unanimously approved.

8. Update of Home Occupation Regulations Ordinance

Town Planner Neville stated that the Commission reviewed different Home Occupation Ordinances from different municipalities. He advised that they have compiled a draft ordinance for review by Council.

Vice Mayor Jester asked about the parking requirements for those home occupations that didn't require a space.

Councilman J. Howard feels it's too much for certain home occupations. He feels that a home occupation with several signs, flags and visiting customers in a residential area doesn't belong. He added that it's too flashy for the Island.

There was further discussion regarding the sign ordinance.

Town Planner Neville asked if Council wanted the Commission to clean up the Ordinance in that sense.

Lengthy discussion continued and Council feels there should be some constancy and separation of the home occupation in a residential area as opposed to those in a commercial area.

Mayor Tarr asked if this item would be on the agenda for the Planning Commission.

9. Update of the Sign Ordinance on Political Signs

Town Attorney Poulson stated that he needs to address campaign signs and removable signs. He stated that there may be some provisions regarding political signs which may be different than political campaign signs.

Mayor Tarr feels that the Ordinance isn't quite right.

Town Attorney Poulson explained that under the First Amendment Rights the Town can do some restricting. He added that the Town can't do more restricting than they can with other signs. He also explained the differences between political signs and political campaign signs. He stated that he sees no reason why a political campaign sign should remain up 90 days after the election.

Mayor Tarr asked Town Attorney Poulson if he would check into this further.

10. Public Safety Committee Report of February 2, 2010

Mayor Tarr stated that most of the report was reviewed by Mr. Rush. He asked if there were any questions. He added that there will be a draft of the Emergency Notification System Plan.

There was a question as to the emergency call-out to cell phone numbers.

Mayor Tarr advised that the call-out can go to any number. He suggested going onto the website and submitting the information.

11. Cemetery Committee Report of February 4, 2010

Councilwoman Richardson stated that they are planning a cleanup day at the School Street Cemetery and Taylor Cemetery on March 13th, with a rain date of March 20th.

Mayor Tarr suggested advertising on Channel 9 and in the paper.

Councilwoman Richardson invited anyone who wanted to help.

12. Apply to USDA, Community Facilities Grant for a Vehicle Mobile Data Terminal Project

Town Planner Neville stated that he has worked with the Police Department on this grant and there is a match to be approved by Council. He stated that there is no deadline. He added that this will be placed on the schedule for the upcoming budget. He stated that this terminal will help the police obtain information from the databases allowing communications by means other than the public airways. He informed Council that the total amount of grant is \$70,000 with a 75% (\$52,500) contribution from the USDA. He added that they are looking for a local match of 25% (\$17,500).

Mayor Tarr asked if there are any operating costs associated with this system.

Town Planner Neville advised that the setup and training is included in a one year service and the terminals work through the current server the Police Department already uses.

Councilman Frese motioned, seconded by Vice Mayor Jester to adopt a resolution to authorize the application to the USDA for the Community Facilities Grant to purchase a Vehicle Mobile Data Terminal. Unanimously approved.

13. Mayor & Council Announcements or Comments

Councilman T. Howard stated that he went to the Elementary School to read to the children and spoke with Mrs. Olsen. They are concerned about the budget cuts to the school. He read a statement that he would like Council to agree to send to our state and local representatives.

Mayor Tarr strongly urged Council to attend the County's budget hearings and meetings.

Vice Mayor Jester commended the Public Works Department on the work they've completed in February.

Councilman J. Howard asked about the parking issues at the beach.

Mayor Tarr stated that he spoke with Mr. Lou Hinds and was advised that they have a Plan and are hoping to have a public meeting in April to review it. He also added that the Park Service Superintendent was here about the parking spaces.

Councilman J. Howard also mentioned looking into the Town's property on LeKites Drive and wants to know the options.

Councilwoman Richardson asked about the sidewalk at the foot of the new bridge. She would like to see the sidewalk extended north of the Hurdle property toward the Jester property connecting to the existing sidewalk. She feels it would be safer.

Public Works Director Spurlock advised he would look into the matter further and gather information regarding expense and right-of-way.

Mayor Tarr stated that he attended the County's budget workshop. He advised Council that they are proposing to cut the Town's tipping fees. He also stated that they have done away with the decals. He explained that if the personal property taxes aren't paid they will not be able to renew their tags or licenses through the DMV. He commented that this makes it hard on our officers and may be something the Town should review in the future.

Mayor Tarr reminded Council of their meeting with Springstead on Thursday.

14. Closed Meeting in Accordance with Section 2.2-3711(A)(1)&(5) of the Code of Virginia.

- **Discussion of the Award of a Public Contract**

Councilman Frese moved, seconded by Councilman T. Howard to convene a closed meeting under Section 2.2-3711(A)(1)&(5) of the Code of Virginia to discuss the award of a public contract. Unanimously approved.

Councilman Frese moved, seconded by Councilwoman Conklin to reconvene in regular session. Unanimously approved.

Councilman Frese moved, seconded by Councilwoman Richardson to adopt a resolution of certification of the closed meeting.

WHEREAS, the Chincoteague Town Council has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711(A)(1)(5) of the Code of Virginia requires a certification by this Town Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Chincoteague Town Council hereby certifies that to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

VOTE: Ayes- Frese, T. Howard, Richardson, J. Howard, Jester, Conklin
Nays – None

RECESS

Councilman T. Howard motioned, seconded by Councilwoman Richardson to recess the meeting until Thursday, March 4th, 2010. Unanimously approved.

Mayor

Attest: Town Manager

**MINUTES OF THE MARCH 4, 2010
CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING**

Council Members Present:

John H. Tarr, Mayor	John N. Jester, Vice-Mayor
James Frese, Councilman	Nancy B. Conklin, Councilwoman
Terry Howard, Councilman	John H. Howard, Councilman
Ellen W. Richardson, Councilwoman	

Call to Order

Mayor Tarr called the meeting to order at 10:03 a.m.

Invocation

Councilman T. Howard offered the invocation.

Pledge of Allegiance

Mayor Tarr led in the Pledge of Allegiance.

1. Closed Meeting in Accordance with Section 2.2-3711(A)(6) of the Code of Virginia.

• Discussion with consultants pertaining to actual or probable litigation.

Councilman Frese moved, seconded by Vice Mayor Jester to convene a closed meeting under Section 2.2-3711(A)(6) of the Code of Virginia to discuss with consultants pertaining to actual or probable litigation. Unanimously approved.

Councilman Frese moved, seconded by Councilwoman Richardson to reconvene in regular session. Unanimously approved.

Councilman T. Howard moved, seconded by Councilman Frese to adopt a resolution of certification of the closed meeting.

WHEREAS, the Chincoteague Town Council has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711(A)(6) of the Code of Virginia requires a certification by this Town Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Chincoteague Town Council hereby certifies that to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

VOTE: Ayes- Frese, T. Howard, Richardson, J. Howard, Jester, Conklin
Nays – None

Adjourn

Vice Mayor Jester motioned, seconded by Councilman Frese to adjourn the meeting. Unanimously approved.

Mayor

Attest: Town Manager

MINUTES OF THE MARCH 11, 2010
CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING

Council Members Present:

John H. Tarr, Mayor	John N. Jester, Vice-Mayor
James Frese, Councilman	Nancy B. Conklin, Councilwoman
Terry Howard, Councilman	John H. Howard, Councilman
Ellen W. Richardson, Councilwoman	

Call to Order

Mayor Tarr called the meeting to order at 10:07 a.m.

Invocation

Councilman T. Howard offered the invocation.

Pledge of Allegiance

Mayor Tarr led in the Pledge of Allegiance.

Agenda Additions/Deletions and Adoption

Councilman Frese motioned, seconded by Councilwoman Richardson to approve the agenda. Unanimously approved.

1. Closed Meeting in Accordance with Section 2.2-3711(A)(6)&(7) of the Code of Virginia.

- **Consideration of the Investment of Public Funds**
- **Legal Matters – Probable Litigation**

Councilwoman Conklin moved, seconded by Councilman Frese to convene a closed meeting under Section 2.2-3711(A)(6)&(7) of the Code of Virginia to discuss the award of a public contract. Unanimously approved.

Councilman T. Howard moved, seconded by Councilman Frese to reconvene in regular session. Unanimously approved.

Councilman T. Howard moved, seconded by Councilman Frese to adopt a resolution of certification of the closed meeting.

WHEREAS, the Chincoteague Town Council has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711(A)(6)&(7) of the Code of Virginia requires a certification by this Town Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Chincoteague Town Council hereby certifies that to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this

certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

VOTE: Ayes- Frese, T. Howard, Richardson, J. Howard, Jester, Conklin
Nays – None

2. Discussion on Healthcare and the Committee's Recommendation

Mr. Rush explained that the Reason the Committee decided to go with USI is that they had a lot of resources that would help the Town come up with better rates. He also added that the broker will meet with the Town regularly.

Councilwoman Conklin asked if that particular broker worked with the Town previously with the current insurance company.

Mr. Rush advised that she was employed with the current insurance company but not as a Broker.

Town Manager Ritter added that the Town was with VACO and they were our broker and in 2006-2007 VACO was no longer in that business. He added that the Town has not used a broker since.

Councilwoman Conklin asked how much a broker would cost.

Mr. Rush advised that it will not cost the Town anything. He stated that the Town has been paying 3% for years and not utilizing a broker which is included in the premium. He added that the 3% fee going straight into the insurance company's pocket.

Councilman Frese asked if USI was nationwide.

Mr. Rush advised they are considered #8 nationwide.

Councilman J. Howard motioned, seconded by Councilman Frese for the Town to go ahead with USI, LLC as the Broker for healthcare. Unanimously approved.

Councilman Frese complimented Mr. Rush and the Committee for a good job.

Mr. Rush thanked Council and advised that the Committee will continue to work out plans and prices.

3. Broadband update

Mrs. Edwards explained the contract process.

There was discussion regarding the contract details, process along with the collateral information. Mrs. Edwards explained that the Town will have to put up a \$100,000 certificate of deposit for the DHCD to hold as collateral for their portion of the grant. Discussion continued about the VEC requirement.

Mayor Tarr stated that the Town will be required to put another \$100,000 in Virginia Community Capital to be held in a money market account for approximately 30 months for collateral for the project.

Mrs. Edwards stated that they will release that collateral as soon as the 20 jobs are registered through the VEC.

Town Manager Ritter asked Council for permission to get the \$100,000 CD for the DHCD requirement. He also suggested having another Council meeting on the 22nd or 23rd to review any changes to the contract.

Councilman Frese motioned, seconded by Councilman T. Howard to approve the purchase of a \$100,000 Certificate of Deposit to use as the collateral for the Broadband Project. Unanimously approved.

4. Request to Send a Letter to the Board of Supervisors on the Eastern Shore Tourism

Mayor Tarr advised that there is a request from Mr. Steve Potts with the Eastern Shore Tourism Committee to send a letter to the Board of Supervisors regarding a cut of funds for the upcoming budget.

Vice Mayor Jester added that the Board of Supervisors is trying to put as much to the schools budget as possible because of the cut in state funds. He stated that they have made cuts everywhere including 20 employees.

Discussion continued regarding the cuts.

Mayor Tarr feels that Chincoteague should promote tourism. He added that the County should be supporting tourism also.

Vice Mayor Jester advised with the cuts the Eastern Shore Chamber will not be able to remain open 12 months out of the year.

Councilman J. Howard motioned, seconded by Councilwoman Conklin to ask Mr. Steve Potts to speak with Supervisor Thornton and after that meeting if the Commission if necessary and Council still wishes, compose a letter of support. Unanimously approved.

Adjournment

Councilwoman Richardson motioned, seconded by Councilman T. Howard to adjourn the meeting. Unanimously approved.

Mayor

Attest: Town Manager

COMMANDER JOHN J. KEEGAN
COMMANDING OFFICER
SURFACE COMBAT SYSTEMS CENTER (SCSC)
WALLOPS ISLAND, VA

Commander Keegan, originally from East Northport, NY, received his commission in May 1990 upon graduation from Villanova University with a Bachelor of Electrical Engineering (BEE) degree.

His initial assignment following commissioning and attendance at SWOS (Division Officer Course) was Prospective Auxiliaries Officer of Pre-commissioning Unit ASHLAND (LSD 48). Upon ASHLAND's commissioning in May 1992, CDR Keegan served as Auxiliaries Officer, M-Division Officer and eventually, as Combat Information Center. CDR Keegan's next assignment, in December 1994, was Pre-commissioning Unit PELICAN (MHC 53) as the Prospective Operations Officer. He served as PELICAN's Operations Officer upon her commissioning in August 1995 until June 1997 when he transferred to Department Head School. Following graduation from Department Head School in February 1998, he reported to USS DEFENDER (MCM 2) as Chief Engineer.

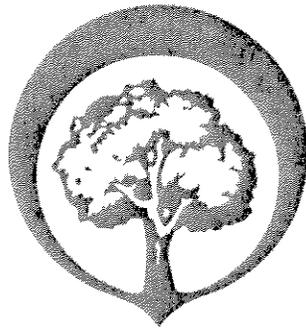


Selected for lateral transfer to the Engineering Duty Officer (EDO) community in November 1998, CDR Keegan continued to serve as Chief Engineer on DEFENDER until March 2000. Upon his relief, he reported in April 2000 as a student at the Naval Postgraduate School in Monterey, CA in the Naval/Mechanical Engineering curriculum. Graduating in June 2002 with a Masters of Science in Mechanical Engineering (MSME), he attended the EDO Basic Course and reported to the Supervisor of Shipbuilding, Conversion and Repair (SUPSHIP), Pascagoula, Mississippi in September 2002. During this tour, CDR Keegan witnessed the merger of SUPSHIP Pascagoula and SUPSHIP New Orleans into SUPSHIP Gulf Coast, completed his Engineering Duty Qualification and served as the Test Officer during construction of LHD 8 and LPD 19. In October 2004, CDR Keegan reported for duty at Program Executive Office (PEO) Ships in the Program Office for Support Ships, Boats and Craft (PMS-325) as the Acquisition Manager for the Joint High Speed Vessel (JHSV) program, a billet he held until October 2005 when he became the Assistant Program Manager (APM) for the Mobile Landing Platform (MLP), a key enabler of the Maritime Prepositioning Force (Future) [MPF(F)]. In January 2007, CDR Keegan reported to Navy Personnel Command as the Assistant Engineering Duty Officer Detailer (PERS-445B).

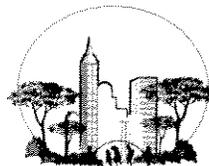
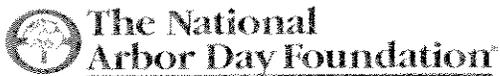
CDR Keegan became the 10th Commanding Officer of the Surface Combat Systems Center (SCSC), Wallops Island, Virginia in November 2008.

CDR Keegan is an Acquisition Corps (AC) member and DAWIA certified Level III in Program Management and Level II in Systems Engineering and Production, Quality Assurance and Manufacturing. A member of the American Society of Naval Engineers (ASNE), he served as the Monterey Peninsula Section Chairman during 2001 and was named the Society's 2001 Recruiter of the Year. He is a registered Professional Engineer (Mechanical) in the state of California. CDR Keegan also holds a Masters of Business Administration (MBA) degree from the University of Texas at Tyler.

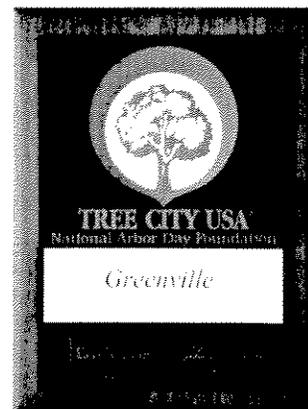
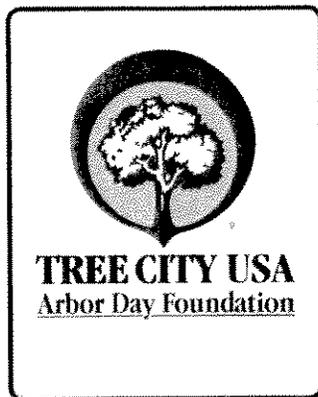
CDR Keegan is married to the former Susan Lewis of Pottstown, PA. They reside on Chincoteague Island, VA with their two daughters, Caitlin (1997) and Caroline (2000).



TREE CITY USA APPLICATION



As a TREE CITY USA, your community will receive...



...highway signs for community entrances

... a Tree City USA flag

...a walnut-mounted plaque

... along with the joy of stewardship and the gratitude of future generations

The National Arbor Day Foundation, in cooperation with the U.S. Forest Service and the National Association of State Foresters, recognizes towns and cities across America that meet the standards of the TREE CITY USA program.

At least half of the trees in a typical city are on public property...along streets, in parks, and around public buildings.

The TREE CITY USA program is designed to recognize those communities that effectively manage their public tree resources, and to encourage the implementation of community tree management based on four TREE CITY USA Standards.

These four standards provide structure for a community forestry program, require that program to demonstrate

success based on the judgment of the state forester's office, and provide for an awareness and appreciation of trees among the residents of the community.

TREE CITY USA recognition can make a strong contribution to your community's pride, and it will keep you in touch with other communities and resources which can help you improve your program.

Application Procedures

The TREE CITY USA application must be completed by an appropriate city official (mayor, city forester, chairman of the tree board, etc.).

Mail the completed application to your state forester along with all requested supporting material no later than December 31.

Your state forester will evaluate the application and forward it to The National Arbor Day Foundation. You will be advised whether your community qualifies for TREE CITY USA recognition.

Because your TREE CITY USA application must be certified by your state forester you are encouraged to contact your state forester's office early in the application process for technical advice and assistance in meeting the standards of a good community forestry program.

Tree City USA Standards

STANDARD 1: A Tree Board or Department

A tree board is a group of concerned citizens, usually volunteer, charged by ordinance to develop and administer a comprehensive community tree management program for the care of trees on public property. Tree boards usually function with the aid of professional foresters. In communities with a population of more than 10,000, city forestry departments with salaried employees are often feasible. These departments may or may not be supported by advisory boards or administrative commissions.

STANDARD 2: A Community Tree Ordinance

The community tree ordinance needs to designate the tree board or department and give them the responsibility for writing and implementing the annual community forestry work plan. The ordinance should determine public tree care policies for planting, maintenance and removals. Ideally, the city tree ordinance will make provisions for establishing and updating a list of recommended street tree species to be planted with spacing and location requirements. A sample tree ordinance may be obtained by writing The National Arbor Day Foundation.

STANDARD 3: A Community Forestry Program with an Annual Budget of at least \$2 per capita.

Many communities begin their program by taking an inventory of the trees growing on public property. The species, location, and condition of each tree are noted

(i.e. healthy, needs pruning, should be removed, etc.) and the inventory data is summarized in a written report for presentation and approval by the city council. The report should be an objective analysis of the present state of the urban forest with recommendations for future management. The essential, ongoing activity for the care of trees along streets, in parks, and on other public places is the community forestry program. The annual work plan should address planting, watering and fertilizing, dead and hazardous tree removal, safety and fine pruning, and insect and disease control. To be named as a TREE CITY USA, a town or city must annually spend at least \$2 per capita for its annual community forestry program. Consider all funds spent for tree care - budget for street tree department or board, park department's tree expenditures, dead tree removal, etc.

STANDARD 4: An Arbor Day Observance and Proclamation

An Arbor Day observance can be simple and brief or an all-day or all-week observance. A proclamation issued by the mayor must accompany the observance and declare the observance of Arbor Day in your community. You can obtain a free "Celebrate Arbor Day!" packet by writing The National Arbor Day Foundation. Along with ideas for celebrating the holiday, the packet contains a sample proclamation.

TREE CITY USA Application

Mail completed application with requested attachments to your state forester no later than December 31.
The TREE CITY USA award is in recognition of work completed by the community during the calendar year.
Please provide information for the year ending.
(Some states require information in addition to the requested on this application. Check with your state foresters.)

As _____ of the community of _____
(Title - Mayor or other city official)

I herewith make application for this community to be officially recognized and designated as a Tree City USA for _____, having achieved the standards set forth by The National Arbor Day Foundation as noted below.
(year)

Standard 1: A Tree Board or Department

List date of establishment of board, board members, and meeting dates for the past year; or name of city department and manager.

Standard 2: A Community Tree Ordinance

Date ordinance established _____
Attach ordinance.

Standard 3: A Community Forestry Program with an Annual Budget of at Least \$2 Per Capita

Total community forestry expenditures \$ _____
Community population _____
Attach annual work plan outlining the work carried out during the past year. Attach breakdown of community forestry expenditures.

Standard 4: An Arbor Day Observance and Proclamation

Date observance was held _____
Attach program of activities and/or news coverage. Attach Arbor Day proclamation.

Signature	Title	Date
Please type or print the following:		
Mayor or equivalent:		
Name: _____	City Forestry Contact:	Name: _____
Title: _____	Title: _____	Title: _____
Address: _____	Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____	City, State, Zip: _____
Phone #: _____	Phone #: _____	Phone #: _____
Email: _____	Email: _____	Email: _____

NOTE: Application will not be processed without attachments.

Certification
(To Be Completed By The State Forester)

(Community)

The above named community has made formal application to this office. I am pleased to advise you that we reviewed the application and have concluded that, based on the information contained herein, said community is eligible to be recognized and designated as a Tree City USA, for the _____ calendar year, having in my opinion met the four standards of achievement in urban forestry.

Signed _____ State Forester _____ Date _____

Person in State Forester's Office who should receive recognition material:

Name: _____ UPS Address: _____
Title: _____ City, State, Zip: _____
Agency: _____ PH #: _____ Email: _____

Your completed Application must contain:

- Completed application form
- Copy of ordinance
- Standard 3 work plan
- Standard 3 expenditure breakdown
- Standard 4 Arbor Day observance information
- Standard 4 Arbor Day proclamation

Optional:

- Photos for possible inclusion in National Arbor Day Foundation publications

Please send your completed application to your state forester's office for certification. If you do not have the state forester's address contact Program Services, The National Arbor Day Foundation, 888/448-7337 or go to arborday.org/programs/urbanforesters.cfm

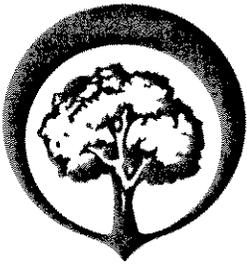


**The National
Arbor Day Foundation®**

100 Arbor Avenue • Nebraska City, NE 68410

arborday.org





TREE CITY USA® BULLETIN

8

No.

Dr. James R. Fazio, Editor • \$3.00

Don't Top Trees!

Tree topping is the senseless brutalizing of older trees. It brings about the uglification of America's urban forest, striking some communities like a plague.

Seeing trees that have been permanently desecrated by topping both angers and saddens me. I'm angered because it is so senseless and so destructive. I'm saddened because I know that people have spent good money to perform this mutilation, often with the best of intentions.

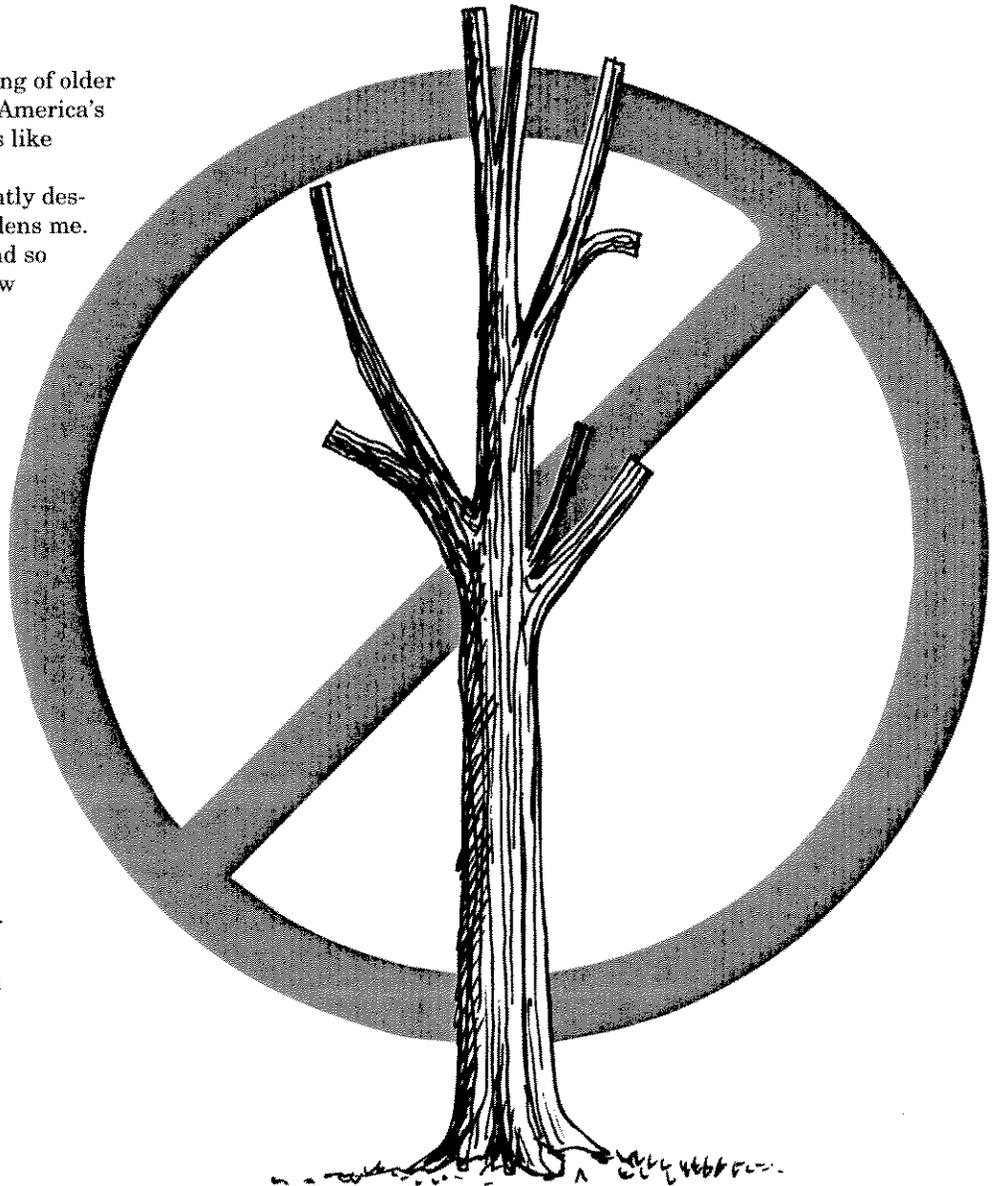
It's not that people who pay for trees to be topped aren't good people. They're just uninformed about the consequences of topping and about the better alternatives that are available to them.

Nationally, neither individuals nor communities are spending enough money on tree care. It just makes no sense to use the money that is being spent on a practice as detrimental as topping.

Jim Fazio has skillfully described the reasons you should not top trees, and the available alternatives, in this very important *Bulletin* edition.

I hope you will be relieved of the slightest temptation to top trees on your property, and that you will lend strong support to ending the topping of trees in your community.

John Rosenow
President
The National Arbor Day Foundation



Published by



**The National
Arbor Day Foundation®**

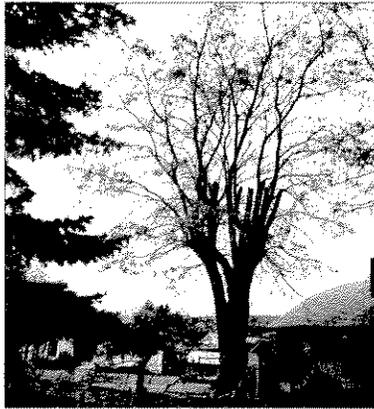
100 Arbor Avenue • Nebraska City, NE 68410

What Is Topping?

The sight of topped trees is all too common in the communities and along the roadways of America—trunks with stubby limbs standing naked in the landscape, trees stripped of all dignity and grace. To one who loves trees, the sight usually evokes anger and disgust.

As more is learned about the long-term effects of tree topping, the more senseless this practice becomes. It is more than an assault on beauty, it is unnecessary stress and increased risk to the tree's health. It is also a self-defeating exercise usually not worth the expense, and the results pose a danger from rot and weakly attached re-growth. In short, as one arborist said, "Topping is the absolute worst thing you can do for the health of your tree."

Trees are often topped because they grow into utility wires, interfere with views or solar collectors, or simply grow so large that they worry the landowner. Some people—having seen trees topped in a park or other public place under the care of an "expert"—top their trees because of a mistaken impression that the practice is good for trees, especially because of the obvious flush of new growth that follows. Topping is also a result of irreputable "tree experts" knocking on doors and convincing the homeowner that for safety reasons, the job should be done. Their services are then offered—quick 'n cheap.



David Raub, University of Idaho

James R. Fazio

Susan A. Stone

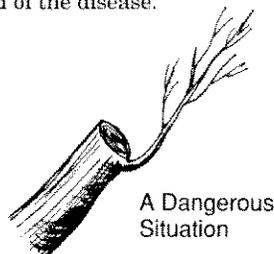
Why NOT To "Top" — Eight Good Reasons

1 Starvation: Good pruning practices rarely remove more than ¼ to ⅓ of the crown, which in turn does not seriously interfere with the ability of a tree's leafy crown to manufacture food. Topping removes so much of the crown that it upsets an older tree's well-developed crown-to-root ratio and temporarily cuts off its food-making ability.

2 Shock: A tree's crown is like an umbrella that shields much of the tree from the direct rays of the sun. By suddenly removing this protection, the remaining bark tissue is so exposed that scalding may result. There may also be a dramatic effect on neighboring trees and shrubs. If these thrive in shade and the shade is removed, poor health or death may result.

3 Insects and Disease: The large stubs of a topped tree have a difficult time forming callus. The terminal location of these cuts, as well as their large diameter, prevent the tree's chemically based natural defense system from doing its job. The stubs are highly vulnerable to insect invasion and the spores of decay fungi. If decay is already present in the limb, opening the limb will speed the spread of the disease.

4 Weak Limbs: At best, the wood of a new limb that sprouts after a larger limb is truncated is more weakly attached than a limb that develops more normally. If rot exists or develops at the severed end of the limb, the weight of the sprout makes a bad situation even worse.



5 Rapid New Growth: The goal of topping is usually to control the height and spread of a tree. Actually, it has just the opposite effect. The resulting sprouts (often called water sprouts) are far more numerous than normal new growth and they elongate so rapidly that the tree returns to its original height in a very short time—and with a far more dense and dangerous crown.

6 Tree Death: Some species of trees are less tolerant to topping than others. Beeches, for example, do not sprout readily after severe pruning and the reduced foliage most surely will lead to death of the tree.

7 Ugliness: A topped tree is a disfigured tree. Even with its regrowth it never regains the grace and character of its species. The landscape and the community are robbed of a valuable asset.

8 Cost: To a worker with a saw, topping a tree is much easier than applying the skill and judgment needed for good pruning. Therefore, topping may cost less in the short run. However, the true costs of topping are hidden. These include: reduced property value, the expense of removal and replacement if the tree dies, the loss of other trees and shrubs if they succumb to changed light conditions, the risk of liability from weakened branches, and increased future maintenance.

Topping vs. Pruning

When a decision is made to reduce the size of an older tree, it can be topped, or it can be pruned properly. Although the speed and nature of regrowth will depend on species and local factors, any comparison of irresponsible topping vs. competent pruning will be dramatic.

Topping by Any Other Name Is Just as Ugly

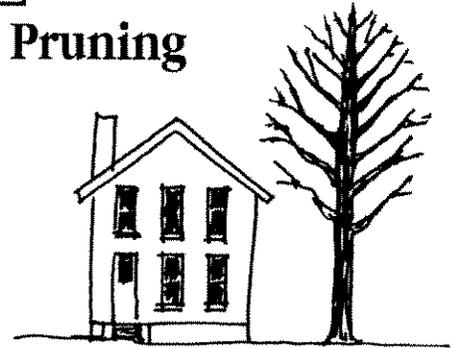
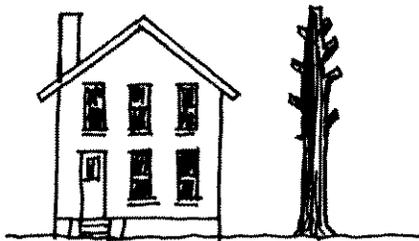
Sometimes pseudo tree experts use different terms for the malpractice of topping. Here is a rogues' gallery of synonyms:

- Stubbing
- Heading
- Heading-back
- Stubbing-off
- Tipping
- Hatracking
- Topping-off
- Dehorning
- Lopping
- Roundover



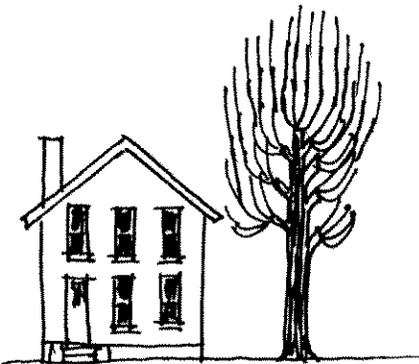
Topping

Pruning



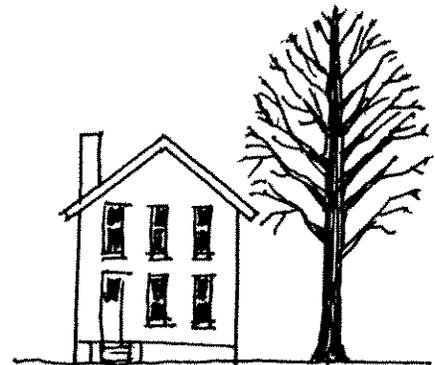
Year 1

The topped tree is an ugly stub and a remnant of a once lovely tree. If pruned properly, size is reduced but form and beauty are retained.



Year 3

Vigorous sprouts have sprung out of the topped tree in large numbers and are growing with abnormal rapidity. The pruned tree adds growth more slowly and distributes it more normally.



Year 6

In a relatively short time, the topped tree is as tall—and far bushier and more dangerous—than it was to begin with. The properly pruned tree is safer, more beautiful, and its size better controlled.

Alternatives To Topping

There are times when the size and shape of a shade tree need to be controlled. With care and skill, this can be accomplished without marring the tree's beauty or usefulness. Responsible pruning even contributes to the health and safety of a tree.

As alternatives to topping, some general principles are:

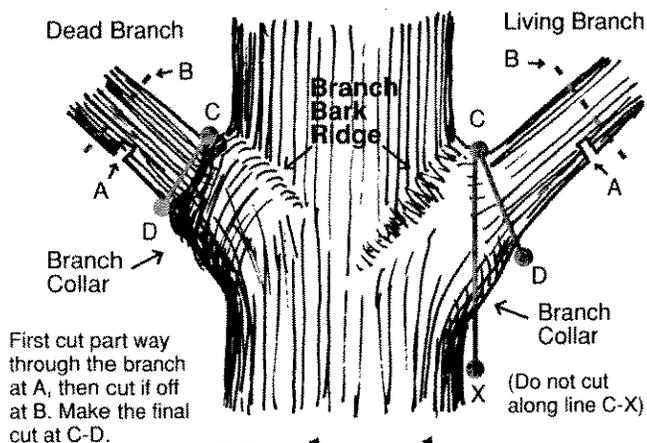
- ✓ Start out right by planting trees that will fit your available space *when they reach maturity*. See *Tree City USA Bulletin No. 4*, "The Right Tree for the Right Place."
- ✓ Begin proper pruning early in the life of a tree. See *Tree City USA Bulletin No. 1*, "How to Prune Young Shade Trees."
- ✓ To slow growth of a tree; avoid the use of nitrogen fertilizer.
- ✓ Prune properly and regularly. A light pruning every three years will keep your tree in healthy condition. It will also have less drastic effects on both the landscape and your financial assets compared with neglecting older trees or resorting to topping.



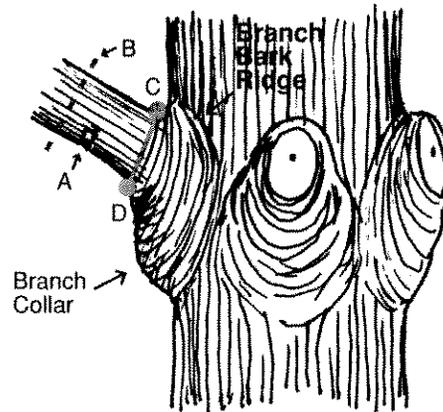
James R. Fazio

Careful planning at planting time is the best way to reduce the need later to control size or shape of a tree. Placing utilities underground and planting the right species in the right place will allow trees to retain their natural form and beautify landscapes along streets and in parking lots.

Proper Pruning Principles



Hardwoods



Conifers

Thanks largely to the work of Dr. Alex L. Shigo and other scientists at the USDA Forest Service's Northeastern Forest Experiment Station in Durham, NH, much is now understood about a tree's natural system of defense against infections from wounds. Based on this knowledge, these methods of making pruning cuts are recommended to help

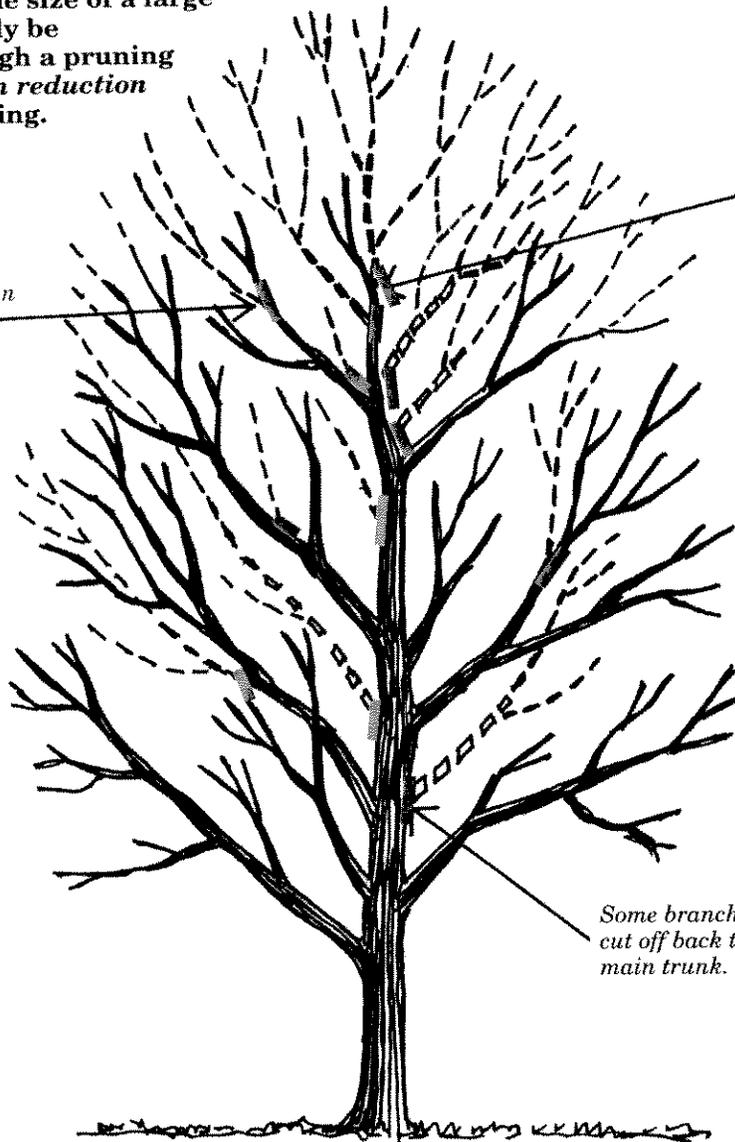
work *with* rather than against a tree's natural tendency to wall off injured tissues and prevent the spread of decay. In these illustrations, final cuts should be made from points C to D. Do *not* cut along the C-X, which is simply an imaginary vertical line to help you locate C-D.

Reducing the Height of a Large Tree

There are sometimes legitimate reasons to reduce the size of a large tree. This can usually be accomplished through a pruning method called *crown reduction* rather than by topping.

Perimeter limbs are pruned where they join large-diameter side branches.

The tallest branches are cut back to a large-diameter secondary branch so that a leader remains.



Some branches may be cut off back to the main trunk.

Arborists have different terms for pruning operations, usually based on the purpose for pruning and diameter of the limbs to be cut. These go by such names as hazard reduction pruning, crown raising (removal of lower limbs), crown cleaning, and others. A good reference on the technicalities of pruning is Richard W. Harris' *Arboriculture* (Prentice-Hall, Inc., Englewood Cliffs, NJ 07632). For standardized definitions, obtain a copy of *Tree, Shrub and Other Woody Plant Maintenance — Standard Practice* (ANSI A300-1995) from the International Society of Arboriculture (P.O. Box 3129, Champaign, IL 61826-3129).

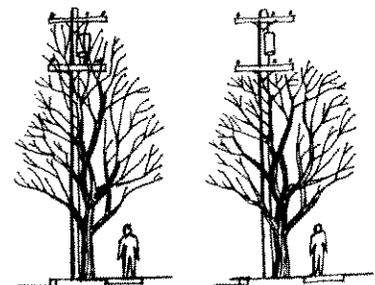
As an alternative to topping, the technique of most importance is one called crown reduction. The results can be most amazing. When done correctly, crown reduction can be like a good haircut — virtually unnoticeable.

Crown reduction is a "thinning cut" that reduces height and spread without resulting in stubs and creating the kind of problems associated with topping. Rather than the ends of branches simply being lopped off, or truncated, selected limbs forming the perimeter of the tree are pruned at their junction with side branches that are at least 1/3 the diameter of the branch being removed. In this way, the remaining limbs can take over as the new leaders. This prevents or reduces latent

buds from sprouting into the bushy growth that results from lopping off branch ends. For even more assurance against sprouting, large cuts can be treated with naphthaleneacetic acid (NAA), but this should be applied only by or with the advice of an arborist.

With care, crown reduction can be achieved while at the same time retaining the species' natural form. At other times, this method may be modified to allow utility lines to pass through while sparing the tree from removal.

An example of crown reduction to control tree growth beneath utility lines.



Crown Reduction

How an Urban Forestry Program

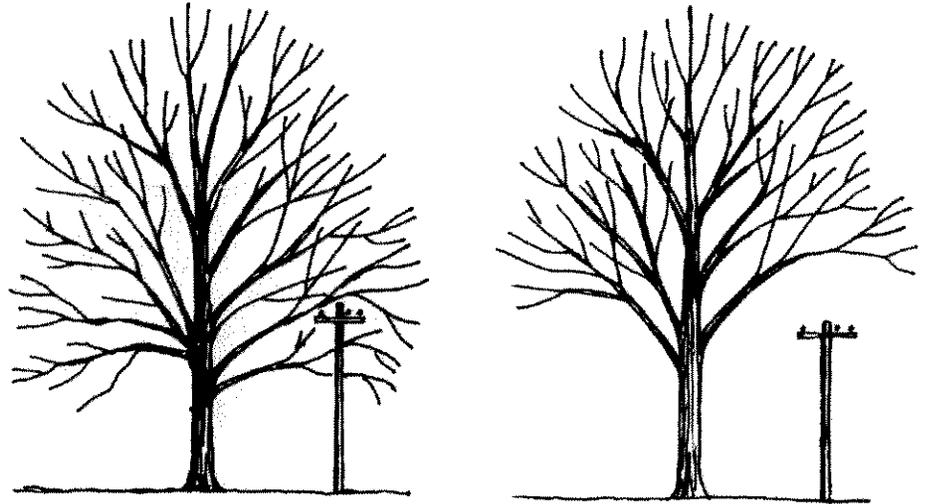
An active community forestry program can be the strongest line of defense against the defacement of trees by topping.

Shigo's 90-3-90 Rule:

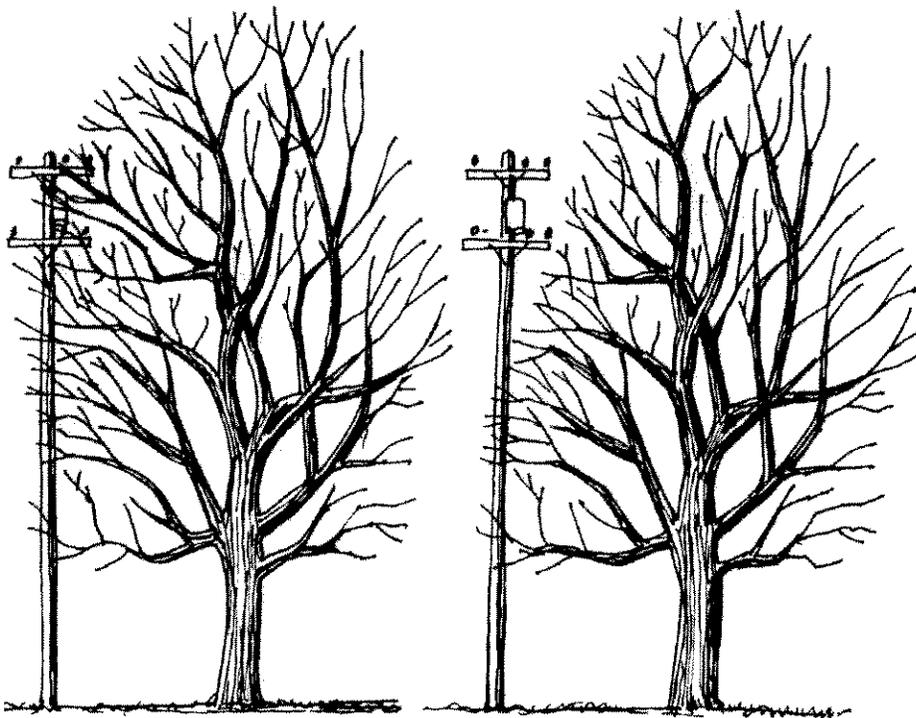
90% of the time
3 branches can be removed to provide
90% of the clearance.

Working with Utility Companies

A major challenge of urban forestry is working with utility companies to help keep overhead wires safe from tree damage while at the same time assuring that street trees are not mutilated by topping. Fortunately, this problem is diminishing as increasing numbers of companies assign tree trimming to trained arborists, many of whom are members of professional groups such as the Utility Arborist Association. Workers who are not members should be encouraged to join and can do so by contacting the executive director, P.O. Box 3129, Champaign, IL 61826-3129.



Under Pruning



Side Pruning

In utility line maintenance, modifications of crown reduction pruning can be used as an alternative to topping or making a tree lopsided to keep it away from wires.

Under pruning is a technique that in some areas can be used on large, structurally sound trees. In this case, the lower branches are removed that may interfere with utility lines. To preserve the tree's symmetry, lower limbs on the opposite side of the tree might also be removed. Additional pruning to remove dead wood or weak limbs will help keep the tree healthy and less likely to drop limbs during a storm. However, depending on species, climate and locale, branches overhanging utility lines may not be allowed and side pruning will need to be used instead.

Side pruning is sometimes used when a tree is located close beside transmission lines. Limbs are removed that extend toward a pole or the wires. As with under pruning, selective pruning on the opposite side of the tree can sometimes prevent or reduce a lopsided appearance.

In all cases, the crown reduction technique of cutting at limb junctions will allow limbs to be removed without harmful, hedge-like truncations.



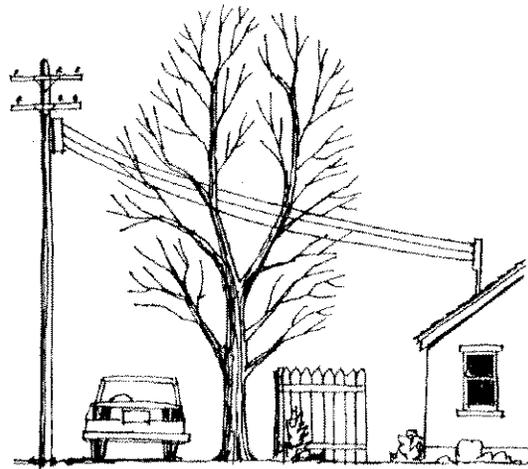
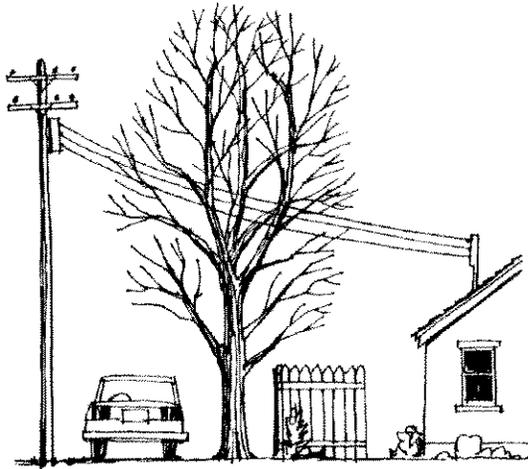
TREE CITY USA®

Can Put an End to Topping

Through pruning, sometimes referred to as creating a doughnut hole, is an alternative to topping when trees that have been planted beneath wires grow too large. Although not appropriate around high voltage lines because of the dangers involved, this can be useful around secondary lines or those leading into individual houses or buildings. With care and the use of drop-crotch principles, inner limbs

can be removed without creating a highly noticeable tunnel appearance.

At times, due to prior topping or extremely bad placement under wires, it is best to remove a tree and replace it with a more suitable tree. In some communities utility companies offer free replacement. For more information about planting the right tree in the right place, see *Bulletin No. 4*.



Through Pruning

Education

To stop topping throughout the United States, education is needed in four ways:

- Homeowners who do their own pruning need to understand the principles presented in this bulletin.
- Property owners who hire an arborist must be aware enough of proper practices to insist that work on their trees be done without topping. Most responsible arborists will not include "topping" in their ads and some even refuse to perform this practice if requested by the tree owner.
- Citizens need to understand that topping or "rounding" trees are not in the best interests of tree health so that they do not request utility arborists to perform these practices.
- Utilities and tree care companies must routinely train workers in the proper ways to prune shade trees.

Growth Award

While working to eliminate topping, communities can also earn points necessary for the Tree City USA Growth Award. Suggested activities include:

- B2. Forming a utility partnership.
- C8. Improving the city tree ordinance.
- D2. Improving maintenance by public utilities.
- D7. Developing a special program to eliminate destructive practices.

Ordinances

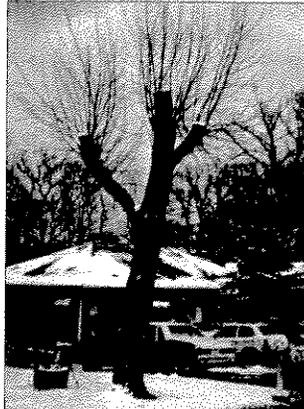
When education and voluntary action fail to stop tree topping, some communities decide to take the most serious form of action. In this case, tree topping is outright prohibited or closely controlled through the use of a municipal ordinance. Usually this is part of a broader tree ordinance, the subject of a future issue of *Tree City USA Bulletin*.

Here is an example of an applicable section taken from a model ordinance developed by Kansas State University's Forestry Extension.

SECTION XIII

Tree Topping

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Board.



Tree topping is mutilation. The practice should be stopped.

Other Sources of Information

BOOKS

Six books provide especially helpful and up-to-date guides to good pruning. They are the result of Dr. Alex Shigo's three decades of studying tree response to wounding and other problems. Written in understandable language, these unique books are for anyone who actually works with trees, or as the author puts it—for the person who touches trees. For price and purchasing information, contact: Shigo and Trees, Associates, P.O. Box 769, Durham, NH 03824.

- A New Tree Biology—Facts, Photos and Philosophies on Trees and Their Problems and Care* (595 pp.)
- Tree Pruning—A Worldwide Photo Guide* (192 pp.)
- Pruning Trees Near Electric Utility Lines* (34 pp.)
- Modern Arboriculture* (424 pp.)
- Tree Anatomy* (104 pp.)
- Tree Basics* (40 pp.)

Other books that provide especially helpful information about proper pruning include:

- Arboriculture* by Richard W. Harris, James R. Clark and Nelda P. Matheny (687 pp.)
- Pirone's Tree Maintenance* by John Hartman, Thomas Pirone and Mary Ann Sall (560 pp.)
- Tree Detailing* by Michael Littlewood (193 pp.)

If you are interested in purchasing these or other tree-related books, please visit www.arborday.org/books.

VIDEOTAPES

Trenching and Tunneling & Utility Pruning. A two-video set directed primarily at workers in the utility industry. However, many of the techniques and concepts are applicable to anyone who works with trees. Contact: International Society of Arboriculture, P.O. Box 3129, Champaign, IL 61826-3129.

ARTICLE

This article summarizes a research project about why people request or allow their shade trees to be topped:

Underlying Beliefs and Attitudes About Topping Trees by James R. Fazio and Edwin E. Krumpke. *Journal of Arboriculture*, July 1999.

SPANISH LANGUAGE EDITION

A one-page summary of *Tree City USA Bulletin No. 8*, in Spanish, is available at no cost. You may phone Member Services at 402/474-5655 or use the coupon on this page to obtain a copy.

Tree City USA Bulletin ORDER FORM

Name _____
 Organization _____
 Address _____
 City _____ State _____ Zip _____

	1 Issue \$3.00 ea.
1. How to Prune Young Shade Trees	1. \$ _____
2. When a Storm Strikes	2. _____
3. Resolving Tree-Sidewalk Conflicts	3. _____
4. The Right Tree for the Right Place	4. _____
5. Living With Urban Soils	5. _____
6. How to Hire an Arborist	6. _____
7. How to Save Trees During Construction	7. _____
8. Don't Top Trees!	8. _____
— Bull. No. 8 Spanish Language Summary (Free)	_____
— Tree City USA Annual Report	_____
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National Arbor Day Foundation, 211 N. 12th St., Lincoln, NE 68508

1599 008 50002909

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Standard 1: A Tree Board or Department
 Standard 2: A Tree Care Ordinance
 Standard 3: An Annual Community Forestry Program
 Standard 4: An Arbor Day Observance and Proclamation

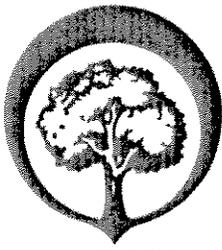
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Published for the Friends of Tree City USA by

The National Arbor Day Foundation®
 100 Arbor Avenue Nebraska City, NE 68410
arborday.org





**TREE CITY USA.
BULLETIN**

9

No.

Dr. James R. Fazio, Editor • \$3.00

How to Write a Municipal Tree Ordinance



Tree City USA is a powerful force for the promotion of tree care and urban forestry. It is a program that has caught the imagination of citizens, elected officials and urban tree professionals. Over 2,800 communities now fly the flag of accomplishment, a composite area that is home to some 107 million Americans.

At the heart of the Tree City USA program are four basic requirements: The community must have (1) a tree board or department, (2) an annual community forestry program backed by the expenditure of at least \$2 per capita for trees and tree care, (3) an annual Arbor Day proclamation and observance, and (4) a tree care ordinance.

In this special issue of *Tree City USA Bulletin*, sections of a model ordinance are presented, explained and illustrated with actual examples. Not every section will be appropriate to all communities, and there are others in use that are not included in this general coverage of the topic.

The purpose of this issue is to provide a starting point for the thousands of communities that do not have an adequate tree ordinance. Although an ordinance is only as good as the administrative program that backs it up—including support for education and, when necessary, enforcement—a municipal tree ordinance and involvement in the Tree City USA program are giant strides in the direction of healthier urban trees and a quality environment.

John Rosenow, President
National Arbor Day Foundation

Published by



**The National
Arbor Day Foundation®**

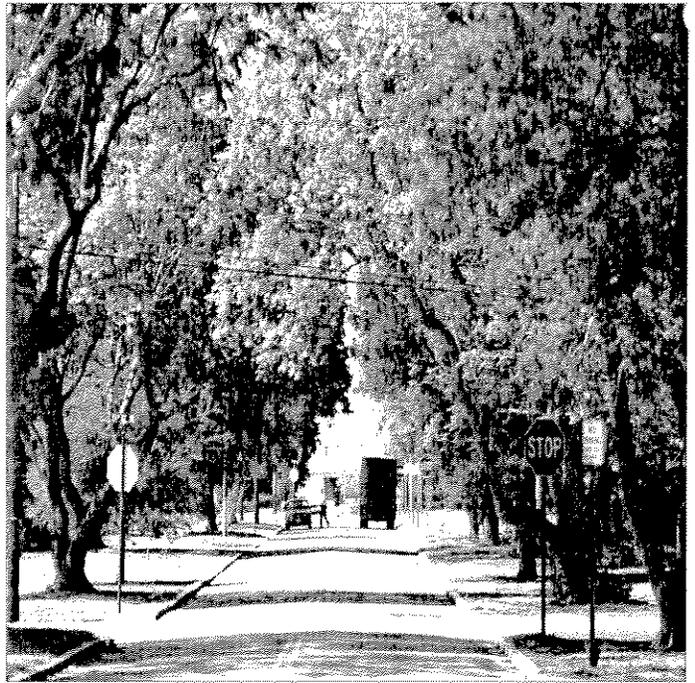
100 Arbor Ave • Nebraska City, NE 68410

Why a Tree Ordinance?

Ordinances reflect the values of a community, the values its residents believe are worth protecting to maintain their quality of life and an environment that is both safe and pleasant. A community's trees, often called the "urban forest," are very much the kind of community asset that deserves to be protected and managed for the common good.

A tree ordinance encourages beautification, air cooling and purification, noise abatement, property value enhancement and the other attributes of trees within a city. It also enables citizens to prevent and control the spread of diseases, to preserve trees in the path of development, and to avoid unnecessary costs associated with sewer clogging, sidewalk replacement and tree-related accidents. An ordinance may also give force and direction to professional tree care within the municipality's work force and helps control unscrupulous or careless operators.

Ordinances vary in length and complexity, but the key to effectiveness is to write the ordinance simply, clearly and tailored to the needs of *your* community. In the end, a tree ordinance is just another tool for proper tree care. Like any tool, it needs to be of high quality, matched properly to the job, and used with skill and care.



The Search for an Ideal Ordinance

For several decades, citizens who want better tree protection in their communities have searched for "model" ordinances to guide the way. The ordinance sections and their descriptions found in this *Bulletin* are based largely on just such a model ordinance developed by Philip J. Hoefer of the Colorado State Forest Service. They are condensed from *Municipal Tree Ordinance Manual*, a publication of the International Society of Arboriculture and currently out of print.

An important point made by Hoefer is that in addition to an ordinance, there should be an appended "standards and specifications" document. This presents detailed guidelines for arboricultural practices such as planting and pruning, tree care, removal, landscaping, contracting and similar activities that are important in any community forestry program.

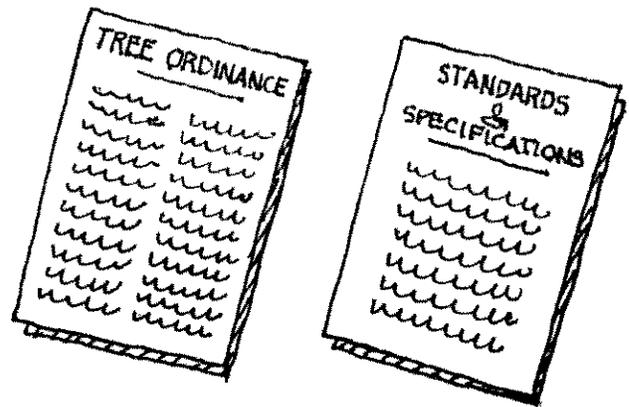
It is recommended that the standards and specifications section be a separate but companion part of a municipal ordinance. This is because including such a large amount of detail directly in the ordinance itself is cumbersome and difficult to change. For greater flexibility it is better to keep the ordinance brief, but to authorize the designated forestry body (board, commission or department) to promulgate rules, regulations, standards and specifications. These can be published separately and revised as necessary, but still be subject to final approval by the city council or other elected officials.

Importantly, each community has different circumstances that need to be addressed in an ordinance and its accompanying standards and specifications. Use the model ordinance sections in this *Bulletin* and the ordinances of other communities as starting points for developing your own ordinance or to revise one that is not

working well, but add or delete sections to match the unique needs and circumstances of *your* community. Be sure to search your own city codes for any references to trees that may already exist. Finally, use the services of an attorney to review or help write all drafts to assure that your final product is legally sound as well as beneficial to the future of your community's trees.

To locate sample ordinance provisions, type "sample tree ordinances" into your favorite search engine or "ordinances" into the search feature on the following sites:

- www.isa-arbor.com/home.asp
- www.treelink.org



A workable ordinance should be short.

Detailed performance standards and specifications are best placed in a separate document.

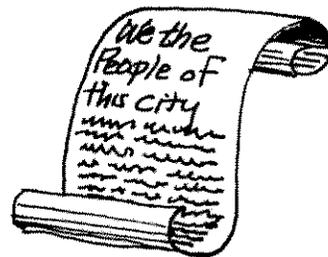
Suggested Sections for a Tree Ordinance

Although no two tree ordinances will be exactly alike, there are some basic elements that will help assure that the document is workable and effective. These elements are called *sections*, and they are presented here with examples and principles that illustrate *why* each one is necessary.

I. PURPOSE

PRINCIPLE: An opening statement that clearly sets forth the purpose of the ordinance will help avoid ambiguity in interpretation. This initial section is usually capitalized and in bold print.

Example: IT IS THE PURPOSE OF THIS ORDINANCE TO PROMOTE AND PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY PROVIDING FOR THE REGULATION OF THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES, SHRUBS, AND OTHER PLANTS WITHIN THE CITY OF _____.



A clearly stated purpose prevents misinterpretation.

II. AUTHORITY AND POWER

PRINCIPLE: Someone within city government must have the clearly designated authority to administer the provisions of the ordinance. This section defines, designates, or creates a department, board, commission, or person responsible for the planting, care and protection of the city's trees.

Example: There is hereby created and established a City Tree Board for the City of _____, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the city council. Members of the board shall serve without compensation.

[HOME RULE AUTHORITY: In order to avoid conflicts with state laws governing trees, a statement transferring regulations to the city may be necessary. State, county and city laws will explain this process. If needed, the statement should be added as a section.]



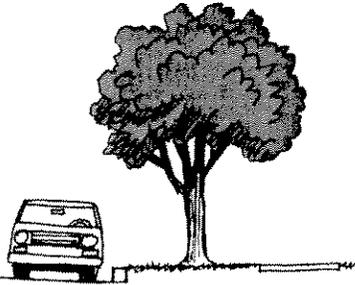
A tree ordinance and tree board or commission usually go hand in hand. Limited and staggered terms of office lend vitality and continuity to a board. Member diversity assures a blend of ideas and broader public support. A good mix might be one interested attorney, two green industry professionals and two interested residents or business leaders.

III. TERM OF OFFICE

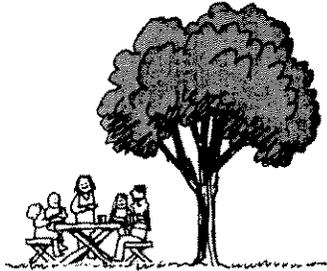
PRINCIPLE: Reasonable and clearly stated terms of office for volunteer boards or commissions will help infuse the program with new ideas on a periodic basis and will help avoid the problems created by obstructionists with life or long-term tenure. This section defines length of service, a method for filling vacancies, and the number of consecutive terms (if any) that can be served. Staggering terms can help assure continuity and stability.

Example: The term of the five persons to be appointed by the mayor shall be three years, except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

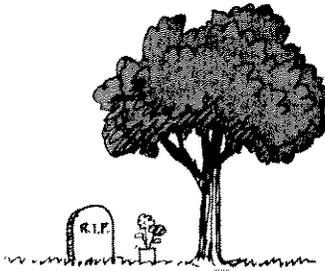
An ordinance must specify what property it covers, such as...



...along rights-of-way



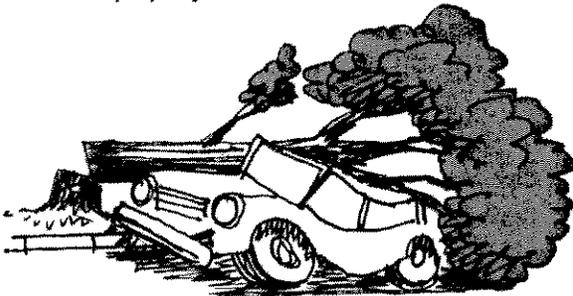
...in public parks



...in cemeteries.



A license requirement protects both trees and property owners.



An insurance provision helps protect city government and unwary home or business owners who hire someone to do tree work.

IV. APPLICABILITY

PRINCIPLE: This section is needed to make it clear what property is covered by the ordinance. This usually includes trees on rights-of-way, public parks, cemeteries, and other public grounds, and sometimes even on private property.

Example: This ordinance provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the city; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

V. DEFINITIONS

PRINCIPLE: To prevent misunderstanding, words that may be unfamiliar to lay citizens should be defined. If a standards and specifications appendix accompanies the ordinance many arboricultural terms can be placed there instead of in this section.

Examples of words or terms to define: arborist, contractor, city forester or city arborist, tree, public tree, private tree, tree lawn, parkway, right-of-way, easement, etc.

VI. LICENSING

PRINCIPLE: One way to protect trees and citizens from irresponsible companies or individuals who pose as arborists is to require practitioners to have a license. Conditions for obtaining the license may even require that the person be a *certified arborist*. (See *Bulletin No. 6*.) This section provides licensing authority and includes details such as fees, frequency of renewal, testing procedures, types of licenses, suspensions and appeals, surety bonds, showing identification on equipment, etc.

Example: It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vines within the City without first producing evidence of certification/license before the City. (An explanation of requirements and fees is then presented.)

VII. INSURANCE

PRINCIPLE: Arborists work under dangerous circumstances and around high value property. Since it is often difficult for homeowners to ascertain whether property and tree workers are adequately covered, or to insist on such coverage, a provision in the tree ordinance can easily correct the situation.

Example: Before any license shall be issued, each applicant shall first file evidence of possession of worker compensation and liability insurance in the minimum amounts of \$1,000,000 for bodily injury or death and \$100,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

VIII. LANDSCAPING

PRINCIPLE: This section can assure that trees will be a part of new developments. But planted vegetation can be an asset or a liability — depending on what is planted and how it is done. This part of the ordinance can define a process for having new landscape plans reviewed and approved by the city forester or tree board, with the issuance of building permits only after such a review.

Example: In new subdivisions or when the development of commercial property occurs, the city forester shall review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided.

IX. TREE PLANTING, MAINTENANCE, AND REMOVAL

PRINCIPLE: Good tree care and management is possible only if people have specific information about practices that result in safe, healthy trees that contribute to a quality environment rather than to creating problems. The purpose of this section is to provide that information in the form of requirements. In many ways, it is the heart of a good ordinance. Actually, the material in this section is best included in a separate standards and specifications chapter; but placing it directly in the ordinance is an option. Either way, all specifications should be reviewed at least every five years, and should include such specifics as desirable and undesirable tree species, spacing, pruning techniques, hazardous trees, sight obstruction, and vandalism.

A good way to clearly specify pruning and other tree work standards is to follow those established by the National Arborist Association. For specifying what is expected in planting stock, consult the American Association of Nurserymen's *American Standard for Nursery Stock* (See page 8).

Examples:

Tree Species — The Town Tree Board develops and maintains a list of desirable trees for planting along streets in three size classes: small, medium and large.

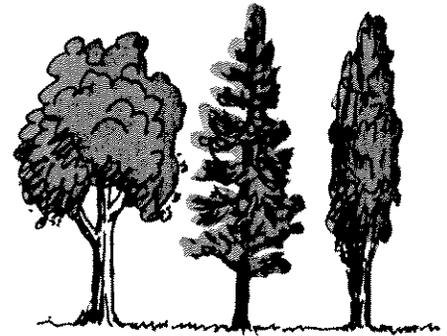
Spacing — The spacing of street trees will be in accordance with the three species size classes listed in this ordinance, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

Utilities — No street trees other than those species listed herein as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

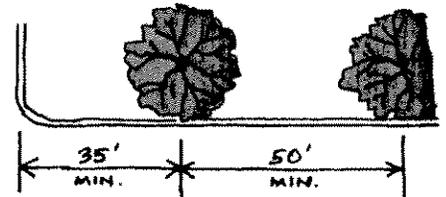
Distance from Curb and Sidewalk — The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section ____ of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

Topping — It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Board.

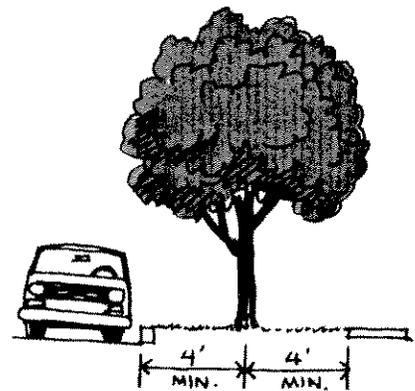
Important details of planting and tree care can be placed in the ordinance or in an appendix, or, better, in a separate standards document. Specification examples include...



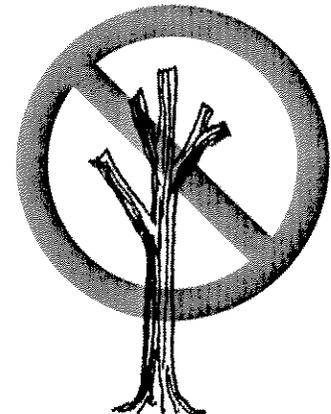
...suitable species



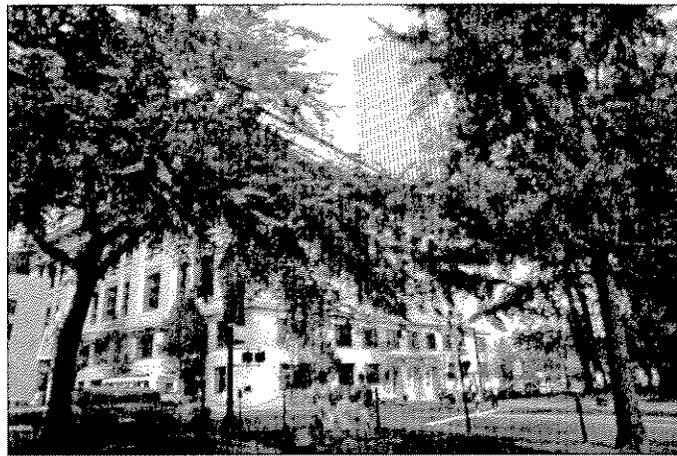
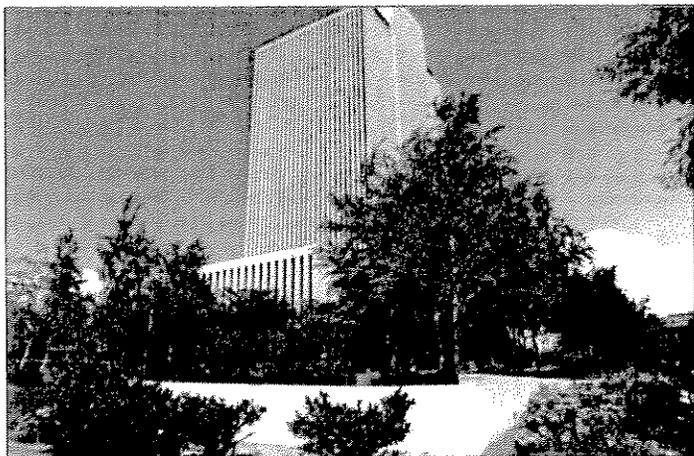
...spacing



...a distance from curb and sidewalk



...and acceptable pruning practices.



Tree ordinances are important for big cities and small towns.

Other Sources of Information

• Handbooks and Guides

Two excellent publications are available to provide detailed guidance for developing tree ordinances. Included are examples and the rationale behind various ordinance provisions.

U.S. Landscape Ordinances: An Annotated Reference Handbook by Buck Abbey. 1998.

John Wiley & Sons, New York

If you are interested in purchasing this or other tree-related books, please visit www.arborday.org/books

Guidelines for Developing and Evaluating Tree Ordinances by E. Bernhardt and T. Swiecki
California Dept. of Forestry & Fire Protection
Urban & Community Forestry Coordinator
2524 Mulberry St.
Riverside, CA 92501
(<http://phytosphere.com>)

• Sample Ordinances

To review one or more sample ordinances from communities similar to yours, contact Program Services, The National Arbor Day Foundation at the address on this page, or phone 402/474-5655.

• Current Standards

For the latest accepted standards in important areas such as ordering planting stock and pruning trees, obtain copies of the following:

American Standard for Nursery Stock
American Nursery and Landscape Association
1250 I St., N.W. Suite 500
Washington, DC 20005 (Phone: 202/789-2900)

ANSI A300-1995 For Tree Care Operation, Tree, Shrub and Other Woody Plant Maintenance — Standard Practices
National Arborist Association
P.O. Box 1094
Amherst, NH 03031 (Phone: 603/673-3311)

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9. Writing a Municipal Tree Ordinance	9. _____
— Tree City USA Annual Report	_____

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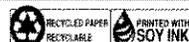


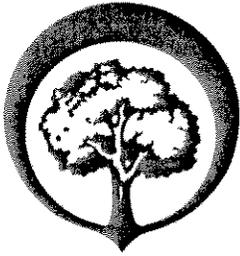
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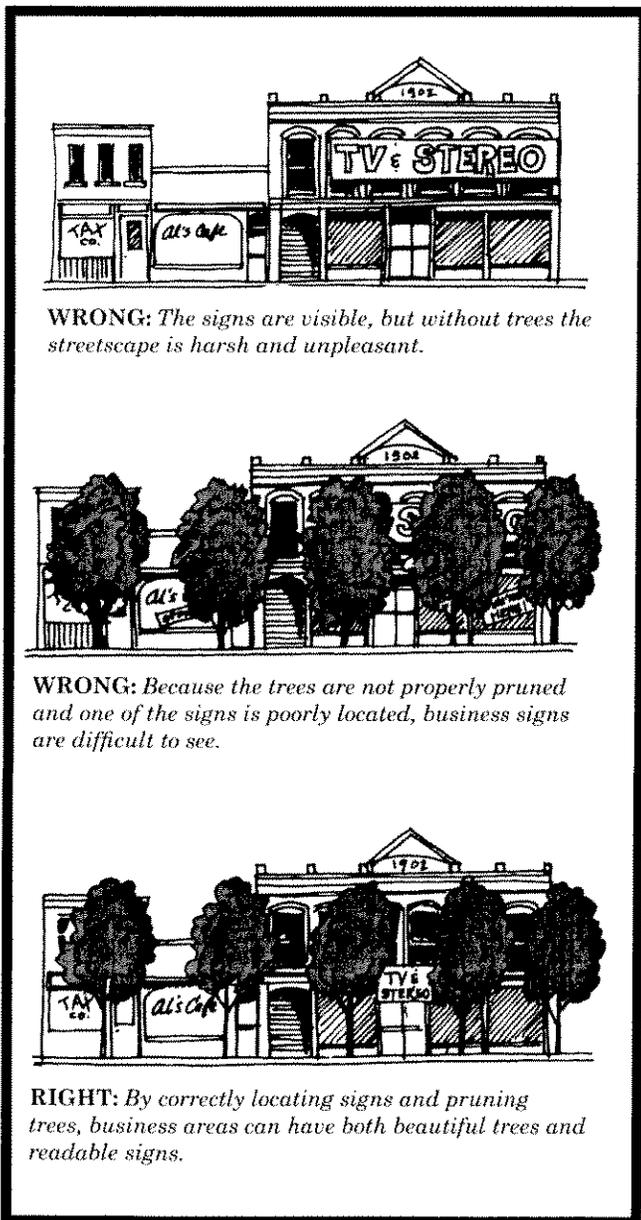


TREE CITY USA® BULLETIN

No. **11**

Dr. James R. Fazio, Editor • \$3.00

How to Prevent Tree/Sign Conflicts



WRONG: The signs are visible, but without trees the streetscape is harsh and unpleasant.

WRONG: Because the trees are not properly pruned and one of the signs is poorly located, business signs are difficult to see.

RIGHT: By correctly locating signs and pruning trees, business areas can have both beautiful trees and readable signs.

Signs are the lifeblood of most businesses. But so is a friendly, inviting shopping environment. Trees can provide a softened touch to an otherwise harsh downtown area and reduce even the most imposing buildings to human scale, and they can do it without interfering with signs.

The saying goes that some people shop to live, and others live to shop. That may be so, but one thing that is certain is that few of us enjoy the trudge between stores. In recent years, smart shopping mall designers have taken note of this fact and have gone to great lengths to provide interesting, appealing indoor decor to enhance the between-shop experience.

Outside the mall in the sprawling parking lots and in the central business area of town, trees can be an important way to provide an interesting, attractive business environment. They do this by giving the area a unified appearance even if stores vary widely in architectural design; they also “soften” hard building materials, sidewalks and harsh streets, and add color, character and seasonal variety. Of course, they also provide their cool, welcome shade in summer.

How ironic, then, that some merchants oppose tree planting or ask that trees be removed. The reason is usually signs. Signs are a merchant’s link to customers and they must be seen to do their job. If a tree blocks the view, the conclusion by many business owners is that the tree must go.

Fortunately, there are proven ways to prevent the conflict between visible signs and the benefits of trees. Through improved signage, proper planting and planned tree care, an improved business environment can be created and both the businesses and the community will benefit from the presence of trees.

Published by

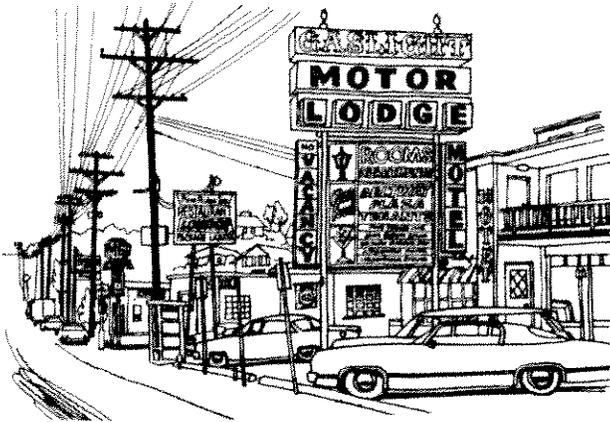


**The National
Arbor Day Foundation®**

100 Arbor Avenue • Nebraska City, NE 68410

Basics of Effective Signs

Much of the tree/sign conflict disappears when businesses reject the old methods of trying to shout each other! Instead, if all agree to “speak quietly” and are assured an equal opportunity to be heard, the chaos, ugliness and information overload of signs can be transformed into pleasant, useful communication. Quite simply, two principles behind effective signs are: 1) less is best, and 2) tell it at a personal level. Put another way, simple signs say more, and placement – not excessive size or cost – is the key to success.

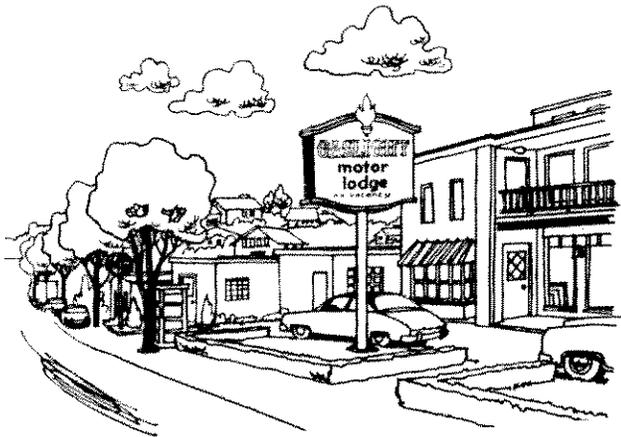


Simple Signs Say More

Research has found that the visual clutter of business areas presents more information than the human mind can use or remember. The result is an information overload that actually interferes with effective communication.

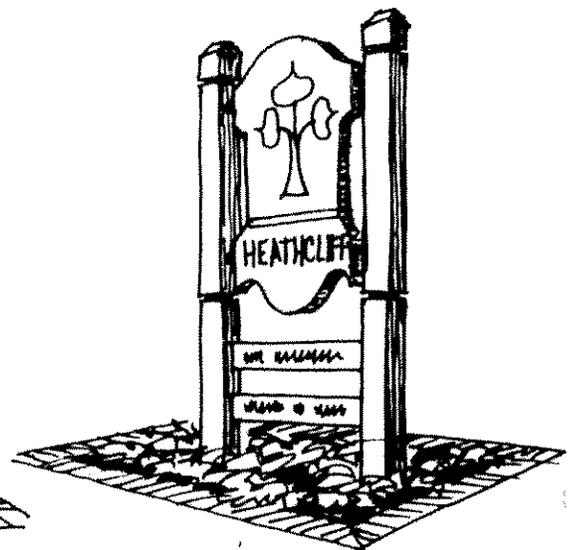
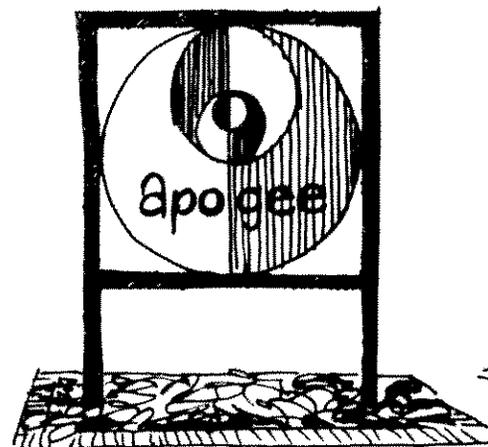
According to the American Society of Landscape Architects, a sign that presents more than 10 “items of information” is lost on its observer. (Count one item of information for each syllable, symbol, abbreviation, broken plane such as two lines rather than one, or discontinuous odd shapes.) For signs to be legible in downtown areas or at malls where traffic moves slowly or pedestrians are the “targets” for information, the total sign space needed for 10 items of information is only 6-8 feet.

From this kind of research comes the logical suggestion that if fewer and smaller signs were used, businesses could actually improve their ability to help customers find them and, in a general way, learn what they have to offer. However, success rests on two other important tenets. One is that signs should be used primarily for “indexing,” that is, for identifying the business rather than subjecting viewers to myriad advertisements over which they have no control. The other is that all businesses agree (or are required) to honor a given size of sign space.

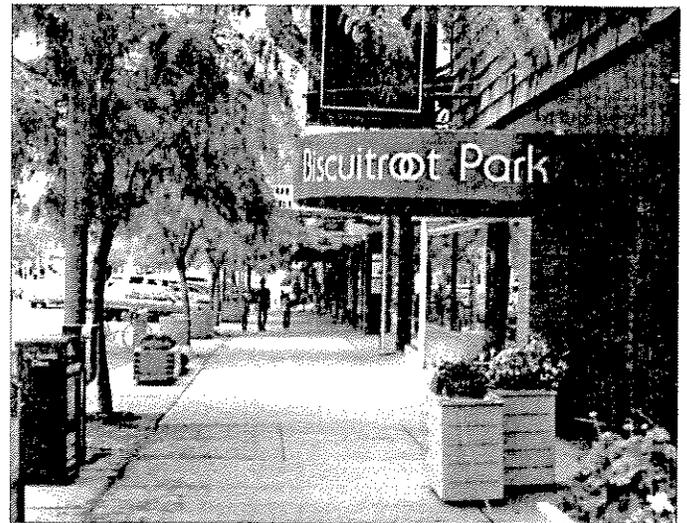
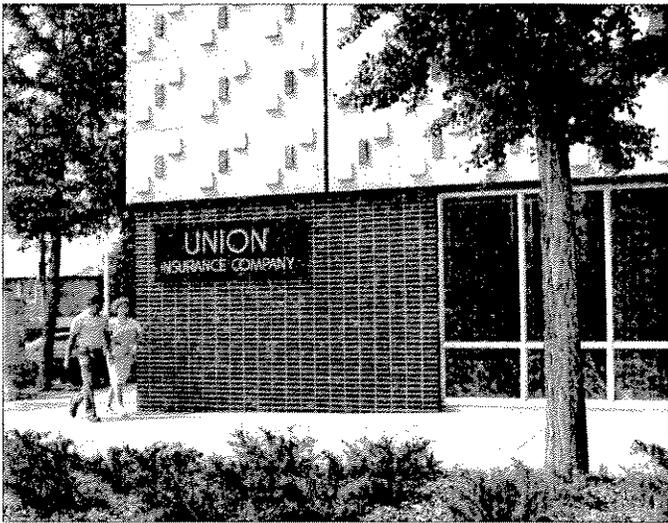


Simple signs are more attractive and communicate more effectively.

Ground Level Is Effective



Ground level signs are relatively inexpensive, easily seen, and help create a friendly, human-scale environment.

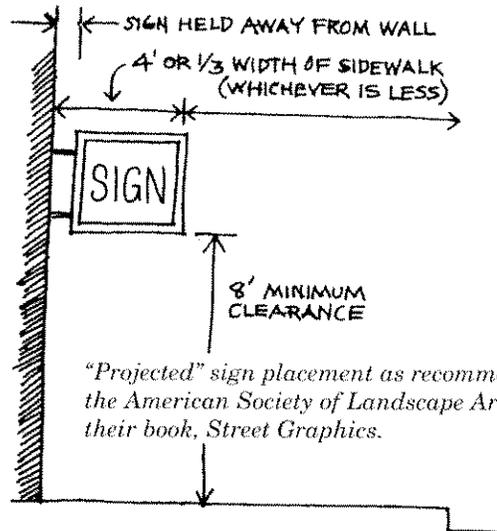


Well-located signs are easily viewed near eye level and are less likely to conflict with shade trees. Such signs also help create a sense of human scale, warmth and pedestrian appeal regardless of the monumental height of buildings or length of the mall.

Placement is the Key to Success

It would make no sense at all for a television commercial to be blared from a loud speaker truck. For effectiveness, the message is delivered "individually" right in the intimacy of your living room. So it should be with business signs. Rather than placing signs that can best be read by pigeons – and where trees almost inevitably block the view – it is best for the visual environment and for business to bring signs down to the human level.

By placing signs where people walk past shops and other businesses or drive slowly through downtown areas, communication effectiveness will be improved and the signs will be *beneath* the canopy of shade trees.



By lowering the movie announcement, this sign would be more visible to motorists and pedestrians – and there would be no conflict with the thornless honeylocust tree that graces this downtown street.

Plant and Prune for Signs

To prevent treesign conflicts, half of the problem can be solved through better sign size and placement, but half of the responsibility rests with those who plant and care for street and mall trees. Here are some suggestions.



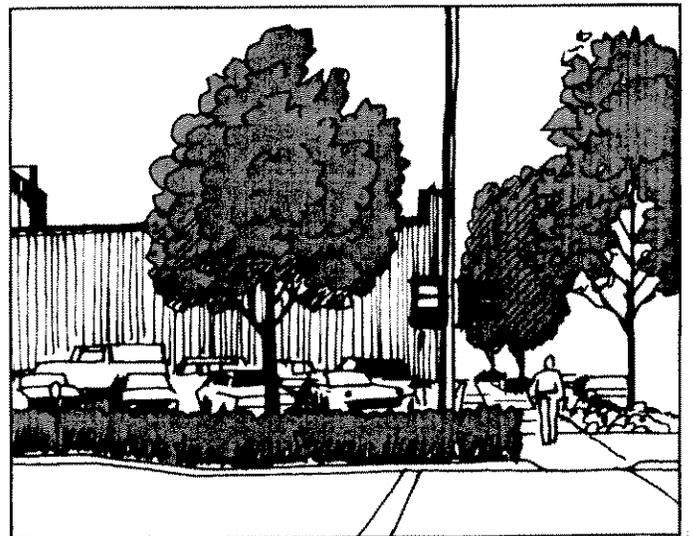
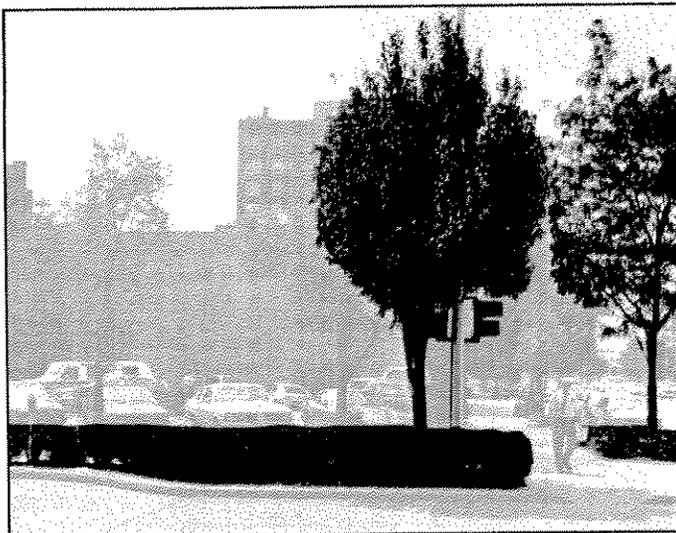
Rather than following a rigid spacing plan, planting in coordination with signs, storefronts and other existing facilities can help to reduce opposition from business owners.

1. Plant in the Right Place

Rigid spacing of street trees is sometimes necessary or desirable from the aesthetic standpoint, but to solve the problem of tree/sign conflicts flexibility must be the rule. Variable spacing, as well as a mixture of species and tree sizes, can add interest and aesthetic appeal to a community's streets and shopping malls.



Planting "islands" and scattered placement of public trees can provide the benefits of the urban forest while accommodating the desires of business owners.



There is no substitute for common sense. The flowering pear tree in the photo at left was planted virtually in front of a traffic signal. It could have easily been planted to the left in the large planting area, as shown in the illustration.

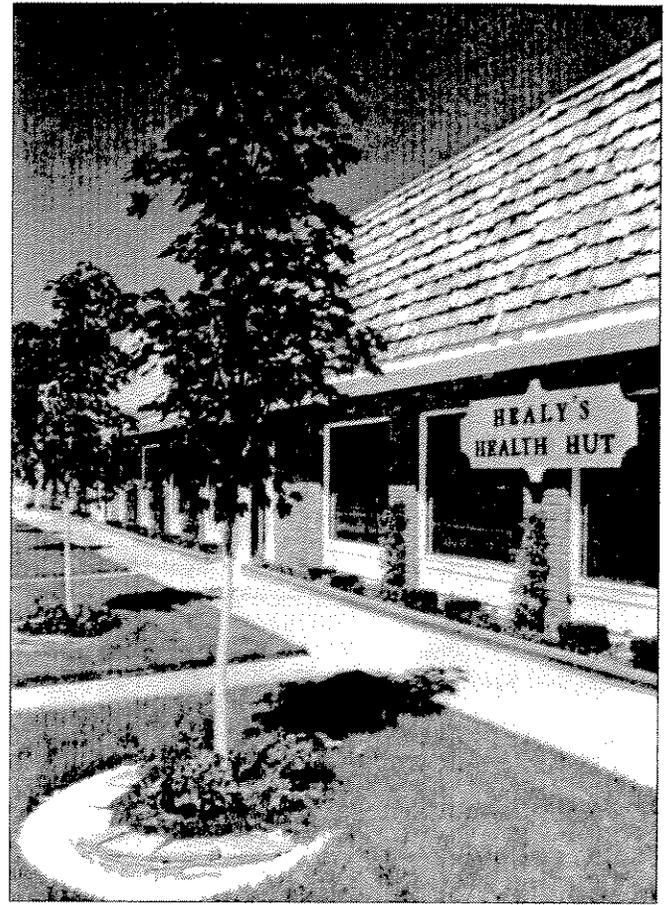
2. Plant the Right Tree

Sometimes uniformity of species and sizes is necessary from a design standpoint, particularly to “unify” a downtown area or city block. However, just as flexibility in spacing can reduce tree/sign conflicts, so can the selection of trees to match specific storefronts or other commercial situations.

For example, to accommodate a higher sign such as a vertical multi-story theater name, planting species nearby that are small at maturity makes good sense. Similarly, overhead wires, traffic signals and street lights need to be considered when selecting trees. Where partial blockage of a sign is unavoidable, a species such as a honeylocust or scholartree (*Sophora spp.*) with a light, airy crown might be a good choice. Another point in favor of a mixed-species approach is that if a new disease or insect epidemic should strike, the results will not be as devastating as they are in a monoculture situation.

You might want to reread Bulletin No. 4, *The Right Tree for the Right Place*, to review the basics of proper tree selection.

When planning downtown street plantings, a team consisting of a landscape architect or other streetscape designer, an arborist or urban forester, the city engineer, and a business owner should work together to pool their talents and interests. The result of this approach will be an aesthetically pleasing and workable urban forest in the community’s business districts.

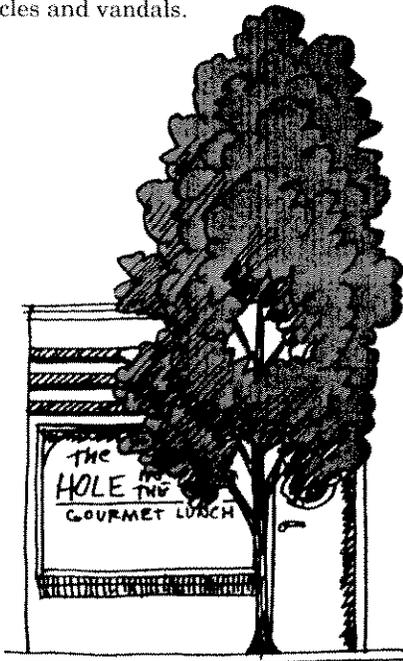


Genetically developed columnar varieties of many street tree species are now available. Their use in some downtown situations can help reduce tree/sign conflicts.

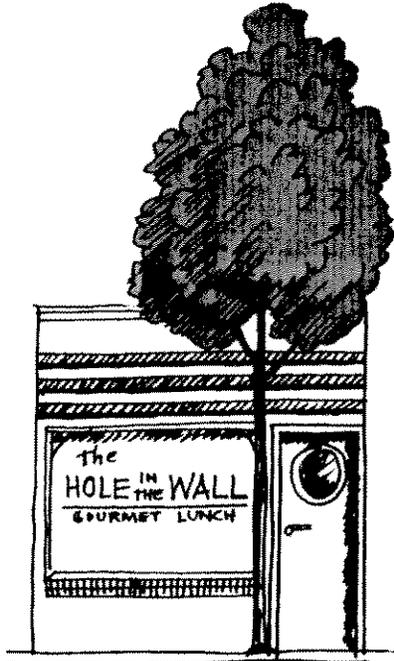
3. Prune to Aid Visibility

Whether it is a limb obstructing a stop sign or a shade tree in front of a store, trees in any community require annual inspections and regular pruning to prevent tree/sign conflicts.

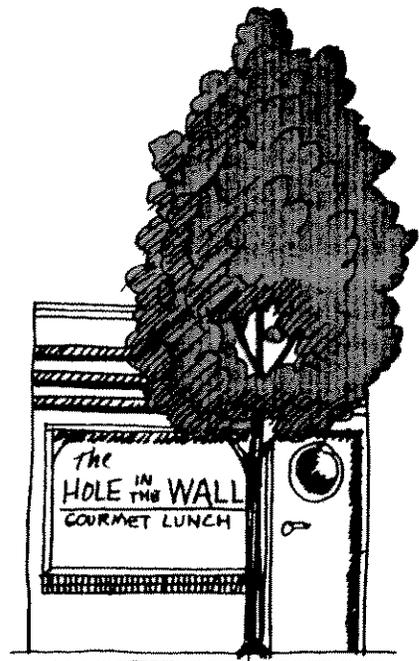
“Crown lifting” is a technique used by arborists to remove a tree’s lowest limbs over several years. This is done gradually so that no more than 25% of the living crown is removed during any single pruning. Eventually the lowest part of the crown is 8-14 feet above the sidewalk, well out of the way of street-level signs, vehicles and vandals.



WRONG: The unpruned tree blocks the sign.

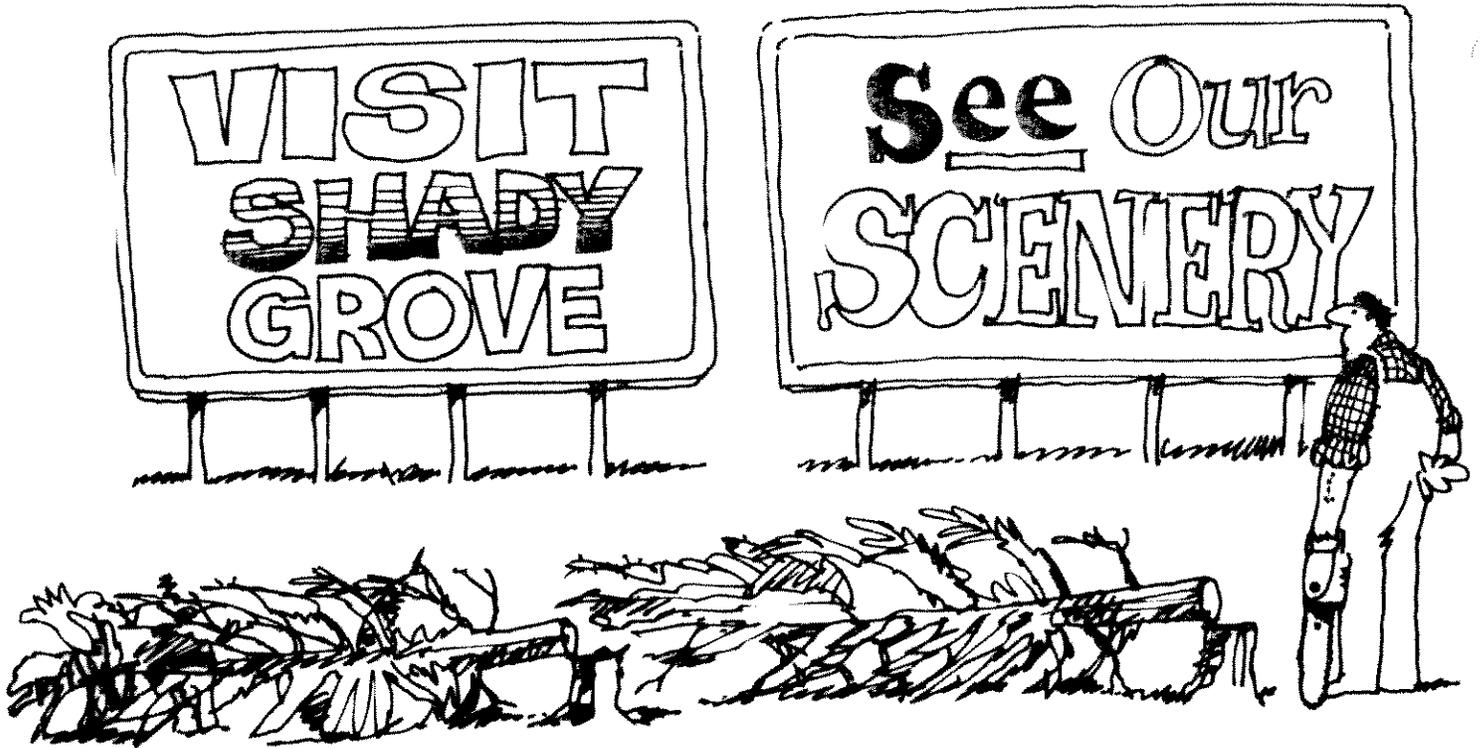


WRONG: The crown is lifted too high, which results in a weak tree. Generally the crown should be at least 2/3 the height of the tree, the trunk only 1/3.



RIGHT: The tree is pruned above the sign, but retains the 2/3, 1/3 ratio. Proper pruning techniques are used – never topping!

A Word About Billboards



Highway beautification has been called one of the environmental movement's greatest failures. Although five states and over 1,000 communities have banned the construction of billboards, up to 15,000 new signs are built each year on major U.S. highways.

While off-premise signs such as billboards do not usually conflict with trees, there are exceptions and the consequences are shocking. According to the Southern Environmental Law Center in *Visual Pollution and Sign Control: A Legal Handbook on Billboard Reform*, no billboard issue has aroused more citizen opposition than the destruction of trees and vegetation on public rights-of-way to make signs more visible. The Center reports that thousands of permits are issued each year for such work. Worse yet, many of the trees which have been cut for this reason were originally planted under federally funded landscaping schemes!

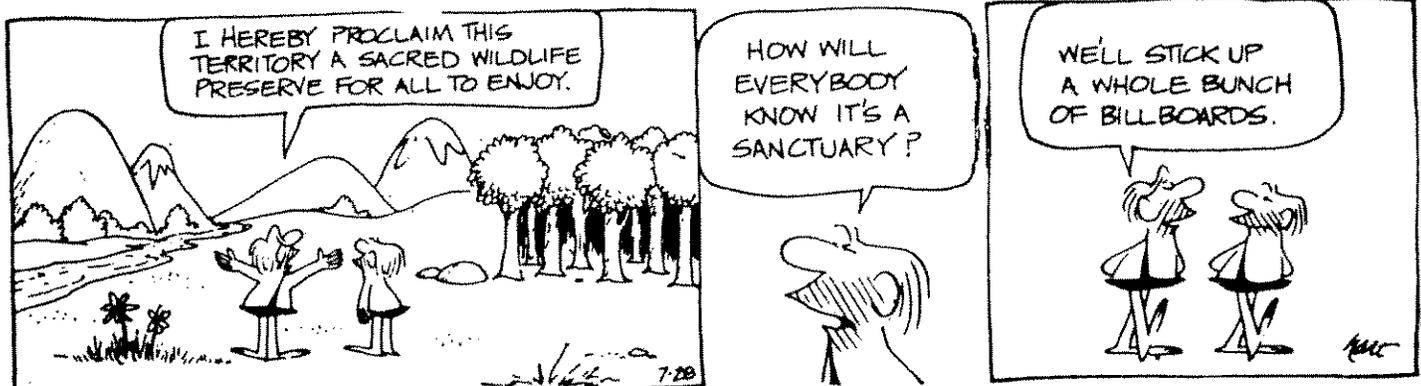
Although the practice is legally questionable, according to the Center, the Federal Highway Administration grants states the discretion to remove trees from federal roadsides. The Center reports that some states allow tree cutting by statute, while

others have promulgated regulations permitting "vegetation control." About half our states prohibit the practice.

To learn about the specifics of billboard regulations in your state – or lack of them – contact your Department of Transportation or other state agency that is responsible for such regulatory matters. If you learn that you live in a state that allows tree removal from public rights-of-way to accommodate billboard or monopole (those large signs supported by a single metal pole) visibility, legislative reform may be in order.

When There's Room for Compromise

In Cincinnati, a compromise with billboard companies has been worked out that might serve as a model for other cities. When a company wants a tree removed from the public right-of-way, the company pays the appraised value of the tree and the money is then used by the city forester to buy new trees for planting nearby. This has resulted in a net gain in trees and good relationships that have meant free public service space on billboards for themes related to trees, tree care and conservation.



by permission Johnny Hart and Creators Syndicate

Signs and Community Forestry

Few issues evoke as much emotion from urban foresters and arborists as the subject of tree/sign conflicts.

When queried about what should be covered in this issue of *Tree City USA Bulletin*, those with whom we talked said that the amenity values of downtown trees far outweigh any problems caused by blockage of signs and should therefore be the overriding consideration.

We believe that with cooperation, compromise and planning, trees and signs are completely compatible and that this philosophy should guide the actions of an urban forestry program. However, the issue of tree/sign conflicts should be a definite area of concern in any urban forestry program.

Besides the practical actions illustrated in this issue, sign ordinances, appearance codes and appearance commissions can help protect trees by requiring the subjugation of signs to the greater benefits of community aesthetics.

A Legal Basis for Aesthetics

An interesting evolution in land-use law has been the clear trend toward judicial acceptance of aesthetic-based regulations. The current attitude seems to be reflected in a 1982 legal decision involving a dispute between a municipality and an advertising association, "... zoning solely for aesthetic purposes is an ideal whose time has come; it is not outside the scope of police power."

The earliest cases on behalf of sign limitations were viewed differently. In 1905, Passaic, New Jersey, lost its case on sign regulation with a rebuke that aesthetic considerations were a matter of "taste, luxury and indulgence" rather than matters of necessity.

Given that legal view, to create and enforce sign regulations, it was necessary to somehow link signs to health, safety and general welfare. This seemed to work, even if it required a stretch of the imagination such as condemning billboards because they provided hiding places for criminals, prostitutes and other miscreants! "Unsignliness" was tacked on as an "also" statement.

In the 1930s, aesthetics got a foot in the legal door by being linked to economic well-being, particularly in places like Florida where the relationship between tourism and the general welfare was clear.

Finally, in 1954 the United States Supreme Court confirmed that aesthetic standards are by themselves within the scope of legislative control. One of the court's landmark statements was "The concept of public welfare is broad and inclusive... The values it represents are spiritual as well as physical, aesthetic as well as monetary."

The validity of aesthetics within governmental "police power" has been underscored in court cases ever

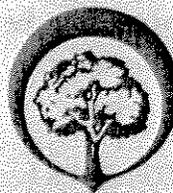
since. Even so, many communities still feel safer in trying to link sign ordinances to health, safety and protection of property values rather than relying on aesthetics alone as a legitimate concern of the community. But whatever the wording or classification of the ordinance within the legal codes, no community need shy away from setting standards when necessary to bring signs down to the level of humans who want to live and work in a pleasant, beautified urban environment.

Friendly Persuasion

By putting signs where they belong in the streetscape, regulations can help urban foresters do a better job of planting and maintaining trees that do not interfere with visibility. However, the best route to success is to have a business community that is supportive of downtown trees. There is no substitute for friendly persuasion, and toward that end the following techniques should be part of every urban forestry program:

- ✓ Cooperate with business owners when tree plantings are being planned.
- ✓ Adopt the techniques and practices outlined on pages 4 and 5.
- ✓ Direct special communication campaigns at the business community, stressing the relationship of trees to an improved shopping and business environment.
- ✓ Have a civic group, appearance review board, tree board, or the forestry department sponsor an annual design award for good signage that is compatible with trees and other landscape components.

Implementation of the techniques above can qualify for points toward your community winning a Tree City USA Growth Award. For an application form and list of all qualifying projects, contact your state forester's office or The National Arbor Day Foundation.



TREE CITY USA

Other Sources of Information



An urban forestry program that promotes trees in business districts also promotes good business. One survey found that over 80 percent of the respondents preferred shopping at a business that had substantial amounts of landscaping.

Excellent tree reference materials are available to help communities enjoy the benefits of improved downtown areas. The first two of the following are available from: American Planning Association, 122 S. Michigan Ave. Suite 1600, Chicago, IL 60603. (www.planning.org/bookservice)

- *Appearance Codes for Small Communities* by Peggy Glassford. Planning Advisory Service Report No. 379 (26 pp.)
- *Aesthetics and Land-Use Controls: Beyond Ecology and Economics* by Christopher J. Duerksen. Planning Advisory Service Report No. 399 (45 pp.)

Another book to help reduce tree/sign conflicts:

- *Fighting Billboard Blight: An Action Guide for Citizens and Public Officials* (85 pp.) and other titles on visual awareness. Visit www.scenic.org or contact:

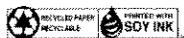
Scenic America
1634 I Street, Ste. 510
Washington, DC 20006

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Published for the
Friends of Tree City USA
by

 **The National Arbor Day Foundation**
100 Arbor Avenue • Nebraska City, NE 68410

arborday.org



Video

Signs, Signs: The Economic and Environmental Benefits of Community Sign Control.

Scenic America, whose motto is *Change is inevitable – ugliness is not*, offers this excellent video for \$23.50 ppd. It uses Raleigh, NC, Holland, MT, and Houston, TX as examples and is a helpful tool for increasing public awareness about the importance of sign controls.

Scenic America
1634 I Street, Ste. 510
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| 2. When a Storm Strikes | 2. | |
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| 4. The Right Tree for the Right Place | 4. | |
| 5. Living With Urban Soils | 5. | |
| 6. How to Hire an Arborist | 6. | |
| 7. How to Save Trees During Construction | 7. | |
| 8. Don't Top Trees! | 8. | |
| 9. Writing a Municipal Tree Ordinance | 9. | |
| 10. Plant Trees for America! | 10. | |
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Order Tree City USA Bulletins online at arborday.org or send this form and mail with your payment to:

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211 N. 12th St., Lincoln, NE 68508
888/448-7337

(Make checks payable to National Arbor Day Foundation)

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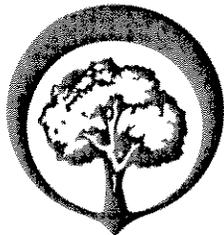


TREE CITY USA

The Tree City USA program is sponsored by The National Arbor Day Foundation in cooperation with the USDA Forest Service and National Association of State Foresters. To achieve the national recognition of being named as a Tree City USA, a town or city must meet four standards:

- Standard 1: A Tree Board or Department
- Standard 2: A Tree Care Ordinance
- Standard 3: An Annual Community Forestry Program
- Standard 4: An Arbor Day Observance and Proclamation

Each winning community receives a Tree City USA flag, plaque, and community entrance signs. Towns and cities of every size can qualify. Tree City USA application forms are available from your state forester or The National Arbor Day Foundation.



TREE CITY USA[®] BULLETIN

No. 22

Dr. James R. Fazio, Editor • \$3.00

Tree City USA: Foundation for Better Tree Management

When a community becomes a Tree City USA, it means more than being able to display a road sign or fly the flag. Tree City USA is a foundation for effective, well-organized tree care programs. Along with the community pride are practical benefits such as helping to gain financial support for tree projects, contributing to safer and healthier urban forests, and allowing municipal officials to deliver better service to the voting public.

A letter we once received from the city forester in Waukesha, Wisconsin, is a classic in illustrating one of the many advantages of being in the network of Tree City USA communities. Since its inception in 1976, Tree City USA has become a program of incalculable value to the welfare of the nation's urban and community forests.

This program of the Arbor Day Foundation and its partners was created to recognize cities and towns that are effectively managing their trees. By establishing four basic standards that must be met to become a Tree City USA, the goal was also to encourage the implementation of well-planned local forestry programs.

In most of the communities it serves, Tree City USA has been successful in meeting these goals. And with success has come the kind of local support described so well by David Liska. It has also led to support from outside sources, as revealed by others in this issue.

WAUKESHA PARK AND RECREATION DEPARTMENT



W. R. OLIVER, Director

Mr. John Rosenow, Chief Executive
Arbor Day Foundation
100 Arbor Avenue
Nebraska City, NE 68410

Dear Mr. Rosenow:

On May 10, 1990, Waukesha experienced a devastatingly spectacular freak snow storm. This 9-inch, wet, heavy snowfall, accompanied by high winds, occurred just after full leaf-out. Sixty percent of our 30,000 street trees sustained damage and 1,000 required removal. Currently we are making steady progress with our corrective repair and maintenance work.

To accomplish this enormous restoration task we approached the city's finance committee for emergency funds. After our presentation to the committee, the initial and immediate response of the chairperson was, "We are a Tree City USA, we are proud of the designation and we intend to keep it." The vote was unanimous in favor of all our requests.

My point here (and I can not emphasize this enough) is that our designation as a Tree City USA was a tremendous positive influence in securing the support for necessary repairs and the continuation of Waukesha's urban forestry programs.

I will close by simply saying to others, if you are not a Tree City USA now - become one; if you are already - sustain the title. The benefits to be accrued are manifold, take my word for it!

Respectfully submitted,

David P. Liska

David P. Liska,
City Forester

Published by



Arbor Day Foundation[™]

100 Arbor Avenue • Nebraska City, NE 68410

Benefits of Being a Tree City USA

"Being a Tree City USA has provided direction and greater purpose to our relatively new community forestry program. It is also a source of pride for those of us who live and work here and drive past the road signs or see the flag flying at our city hall annex."

— Margaret Littlejohn
City Tree Commission Member
Moscow, Idaho (Pop. 19,500)

"Since Springfield has become a Tree City USA, I have watched our urban forestry program grow in leaps and bounds. I have seen citizens become more concerned about their trees and how they should be properly maintained, and I have seen children's lives touched by the countless wonders of trees."

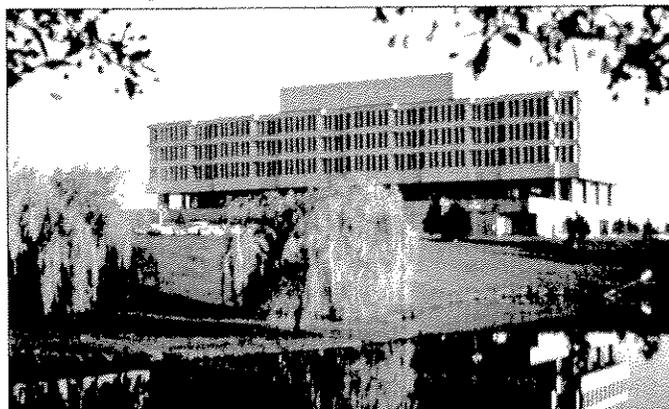
— Mike Dirkson, City Arborist
Springfield, Illinois (Pop. 105,000)



Annual, systematic tree care is essential in a good community forestry program.



Applying for Tree City USA recognition puts a community in touch with experts who can help with technical advice.



Being a Tree City USA helps shape an attractive community image.

Every community, regardless of size, benefits in a different way from being a Tree City USA. Reports of these benefits have reached the Arbor Day Foundation through the years and are summarized below in six general categories:

Framework for Action

Meeting the four standards for becoming a Tree City USA provides initial direction for an urban or community forestry program. Like the first rungs on a ladder, the standards help get a community started toward annual, systematic management of its tree resources.

Education

Education begins with discussion of the standards and getting organized to apply for Tree City USA status. It continues as the desire for Tree City USA recognition leads to contacts with the state forester's staff. In turn, this can set in motion aid from a variety of professionals in the form of technical advice, literature, films, and other assistance.

Public Image

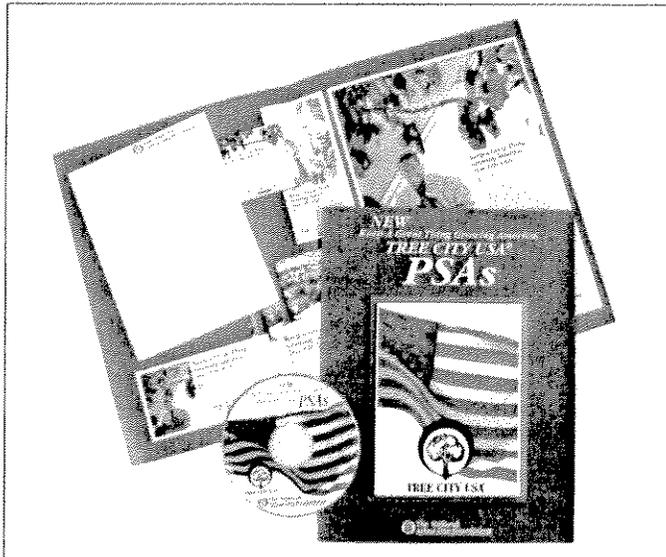
A community's public image is a very real phenomenon and important in many ways. Being a Tree City USA helps present the kind of image that most citizens want to have for the place they live or conduct business. The Tree City USA entrance signs along public highways tell visitors that here is a community that cares about its environment. It is also an indication to prospective businesses that the quality of life may be better here. It has even been known to be a factor in where meetings or conferences have been held. This reason alone caused a motel owner to start action for his community to join the network!



A Tree City USA award instills a sense of pride among volunteers, staff and residents.



Funding assistance for new trees sometimes goes first to communities with Tree City USA recognition.



Assistance is available to help publicize Tree City USA awards and ceremonies.

Citizen Pride

Pride is sometimes a less tangible benefit. Gaining and retaining Tree City USA recognition is an award to the tree workers, managers, volunteers, tree board members and others who work on behalf of better care of a community's trees. Non-involved citizens, too, often share a sense of pride that theirs is a Tree City USA. This may translate to better care of trees on private property or a willingness to volunteer in the future.

Financial Assistance

Preference is sometimes given to Tree City USA communities over other communities when allocations of grant money are made for trees or forestry programs. The reason is that there are invariably more requests than available funds when grants are available through state or federal agencies. If requests are equally worthy, some officials tend to have more confidence in communities that have demonstrated the foresight of becoming a Tree City USA.

Publicity

Presentation of the Tree City USA award and the celebration of Arbor Day offer excellent publicity opportunities. This results not only in satisfaction for the individuals involved and their families, but also provides one more way to reach large numbers of people with information about tree care.

As one forester put it, "This is advertising that money can't buy — and it is free."

Acknowledgments...

This bulletin was produced in cooperation with Thomas Schmidt of the Public Land Management Program; David Mooter, Community Forestry Program Leader, retired; and Kris Irwin, Assistant Community Forester; Nebraska Forest Service.

Tree City USA is a cooperative program of the Arbor Day Foundation, National Association of State Foresters and the USDA Forest Service.

How to Become a Tree City USA

Steps to Becoming a Tree City USA

1. Obtain an application form from your state forester or the Arbor Day Foundation.
2. At this point, a community may find that it meets the standards and can proceed with the application. If, on the other hand, it discovers it has additional work to do, the next step should be to seek help from the state forester's office.
3. When your community meets the four standards, have the one-page application and supporting materials submitted to your state forester by the mayor or other city official no later than December 31. There is no fee.
4. Verification and approval is done by staff in the state forester's office and the application is forwarded to the Arbor Day Foundation.
5. State foresters present the Tree City USA awards in various ways. Most commonly, the awards are given at an Arbor Day ceremony in the community or at a statewide awards program, usually in the state capitol and sometimes with participation of the governor. Community officials receive a Tree City USA flag, two road signs, a plaque and several commemorative items.
6. Recertification announcements are sent to communities annually, as well as an application for a Tree City USA Growth Award. The Growth Award encourages continual improvement of community forestry programs (See *Bulletin No. 18*).

The Four Standards— How to Put Them to Work

To qualify for Tree City USA, a town or city must meet four standards established by the Arbor Day Foundation and the National Association of State Foresters. These standards were established to ensure that every qualifying community would have a viable tree management plan and program. Importantly, they were also designed so that no community would be excluded because of size.

1. A Tree Board or Department

Someone must be legally responsible for the care and management of the community's trees. This may be a professional forester or arborist, an entire forestry department, or a volunteer tree board. Often, both a professional staff and advisory tree board are present, which is a good goal for most communities.

A tree board, or commission, is a group of concerned volunteer citizens charged by ordinance with developing and administering a comprehensive tree management program. Balanced, broad-based community involvement is encouraged. Boards function best if not composed entirely of tree-related professionals such as forestry professors, nursery operators, arborists, etc. Fresh ideas and different perspectives are added by citizens with an interest in trees that is entirely avocational. Limited, staggered terms of service will prevent stagnation or burnout, while at the same time assuring continuity.

2. A Community Tree Ordinance

The tree ordinance must designate the establishment of a tree board or forestry department and give this body the responsibility for writing and implementing an annual community forestry work plan. Beyond that, the ordinance should be flexible enough to fit the needs and circumstances of the particular community.

A tree ordinance provides an opportunity to set good policy and back it with the force of law when necessary. Ideally, it will provide clear guidance for planting, maintaining and removing trees from streets, parks and other public places.

For tips and a checklist of important items to consider in writing or improving a tree ordinance, see *Bulletin No. 9*.

3. A Community Forestry Program With An Annual Budget Of At Least \$2 Per Capita

Evidence is required that the community has established a community forestry program that is supported by an annual budget of at least \$2 per capita. At first, this may seem like an impossible barrier to some communities. However, a little investigation usually reveals that more than this amount is already being spent by the municipality on its trees. If not, this



The Tree City USA flag is a symbol of public pride.

How You Can Help Tree City USA

Over 3,200 communities ranging in population from under one hundred to over one million have been awarded Tree City USA status. The results touch the lives of some 120 million people who live in these towns and cities. You can help these numbers grow.

If you are not a resident of a Tree City USA, follow the steps on pages 4 to help your community achieve this distinction.

If you live in a Tree City USA, let your mayor and city council know you support the community forestry program and hope to see it maintained and strengthened in the years ahead. You can also make an important contribution by encouraging other communities to become a Tree City USA. Simply write for additional copies of this issue of the *Bulletin* and the booklet, *Tree City USA - Greening America*. Send these to friends or municipal officials in non-Tree City USA communities along with your personal recommendations.

What Help You Can Expect

Any new Tree City USA community can expect lots of help in getting started.

- The urban and community forestry coordinator in your state forester's office is ready to guide you through the application process, answer questions, make suggestions for Arbor Day, and help in many other ways. A directory of all state coordinators can be found at: arborday.org/foresters
- The Arbor Day Foundation has a program team assigned to facilitate the activities of Tree City USA. The program team maintains the records received from each city, provides the flags, plaques, signs and other materials, and can help with questions. For assistance, phone 888-448-7337.
- Publications are available through the Foundation including the Tree City USA Bulletin series and an annual report, as well as books such as *A Handbook for Tree Board Members* and *Urban & Community Forestry: A Practical Guide to Sustainability*.
- Supplies such as balloons, patches, buttons, apparel and more is available online at arborday.org.

may signal serious neglect that will cost far more in the long run. In such a case, working toward Tree City USA recognition can be used to re-examine the community's budget priorities and re-direct funds to properly care for its tree resource before it is too late.

Ideally, this standard will be met by focusing funding on an annual work plan developed after an inventory is completed and a report is approved by the city council. Such a plan will address species diversity, planting needs, hazardous trees, insect and disease problems and a pattern of regular care such as pruning and watering.

4. An Arbor Day Observance and Proclamation

This is the easiest and probably the most enjoyable standard to accomplish. An Arbor Day celebration can be simple and brief or an all-day or all-week observation. It can be a simple tree planting event or an award ceremony that honors leading tree planters. For children, Arbor Day may be their only exposure to the green world or a springboard to discussions about the complex issue of environmental quality.

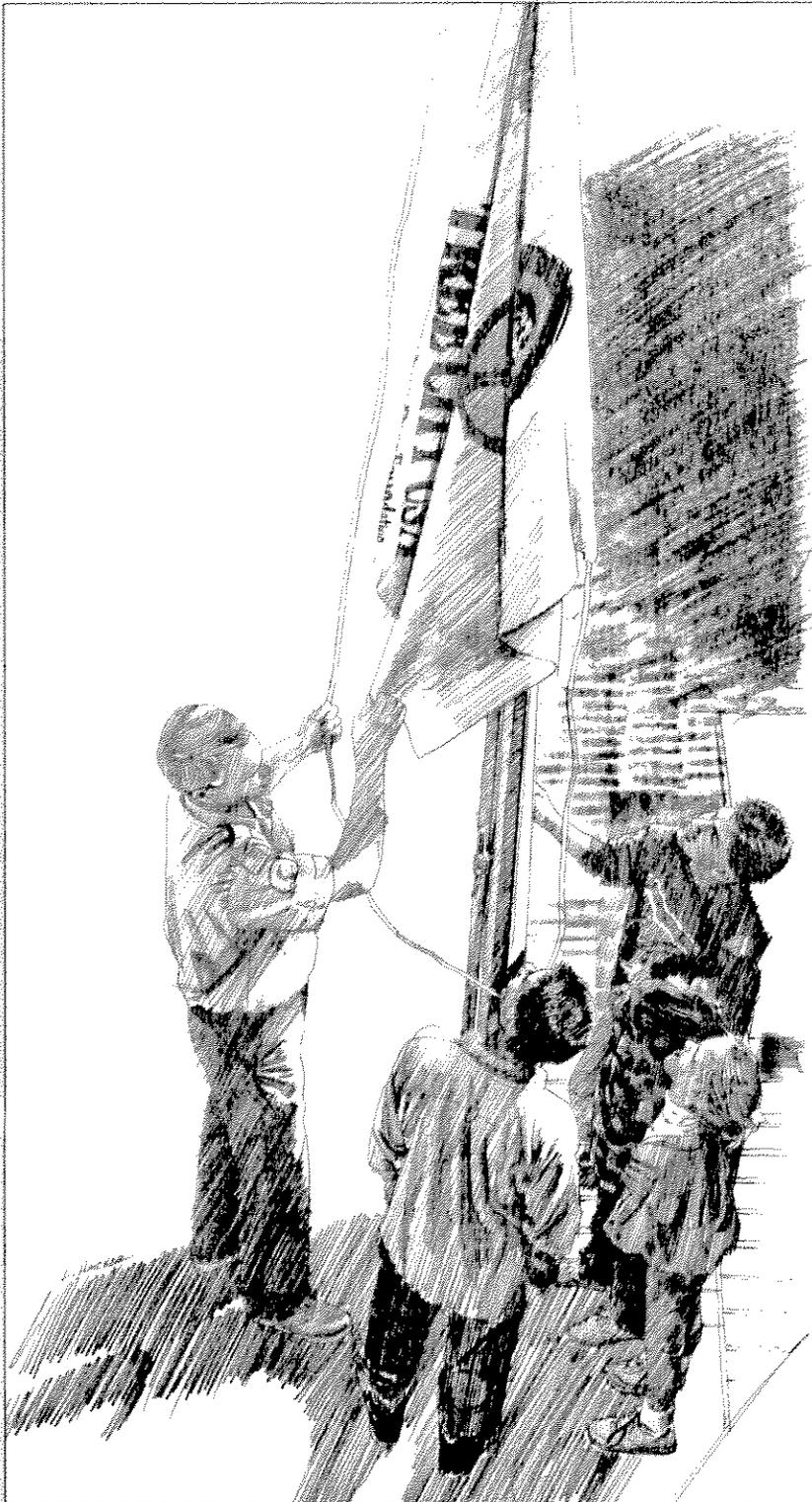
The benefits of Arbor Day go far beyond the shade and beauty of new trees for the next generation. Arbor Day is a golden opportunity for publicity and to educate homeowners about proper tree care. Utility companies can join in to promote planting small trees beneath power lines or being careful when digging. Smokey Bear's fire prevention messages can be worked into the event, as can conservation education about soil erosion or the need to protect wildlife habitat.

Still another way to develop Arbor Day is to link it with a tree-related festival. Some that are currently celebrated include dogwood festivals, locust blossom festivals and Macon, Georgia's Cherry Blossom Festival that annually brings more than \$4.25 million into the local economy.

In meeting the four standards, help is available! The urban and community forestry coordinator in your state forester's office will be happy to work with communities in taking these first steps toward better community forestry.



Tree City USA and Community Forestry: The Role of Urban and Community Foresters



The Foundation, cooperating organizations, and the nation's media work together to educate the public about the value of community forestry and Tree City USA through print and broadcast public service advertising.

From the inception of the Tree City USA program, its success can be credited to an active partnership between the USDA Forest Service, National Association of State Foresters and the Arbor Day Foundation. The USDA Forest Service has consistently provided financial assistance and technical advice, the state foresters have provided local assistance as well as serving as key promoters, certifiers and coordinators in each state, and the Foundation provides educational materials and management of the cooperative venture. In addition, hundreds of professionals and volunteers work together on behalf of Tree City USA, and the program is endorsed and promoted by the U.S. Conference of Mayors and the National League of Cities.

Looking into the future, the key individuals for making the program grow are the state urban and community forestry specialists. This cadre of professional men and women has expanded in recent years in response to greater emphasis on community trees and their role both in local environmental quality and environmental well-being on a global scale. Some states have a single coordinator; others have a staff in one central location; and others have individuals scattered through the state with single or multi-county responsibility. Whatever the administrative structure, the common goal is to promote better management and health of the state's urban and community forests.

Tree City USA has proven to be an excellent way to help achieve this goal, so it is no surprise that many urban and community forestry specialists are among the program's best ambassadors.

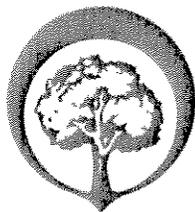
The 'Soft Sell' Works Best

To help others use Tree City USA to promote community forestry in more towns and cities, several veteran foresters were asked to share their insights on what approach has worked best. These foresters have been very successful in promoting community forestry in their states. They often use Tree City USA as the "hook" or the "carrot," as they say.

But they also call their approach the “soft sell,” which means the real key to success is working their program ideas into the communities rather than inflexibly trying to impose the same program in all places.

Here are ten suggestions based on the success of these community forestry coordinators:

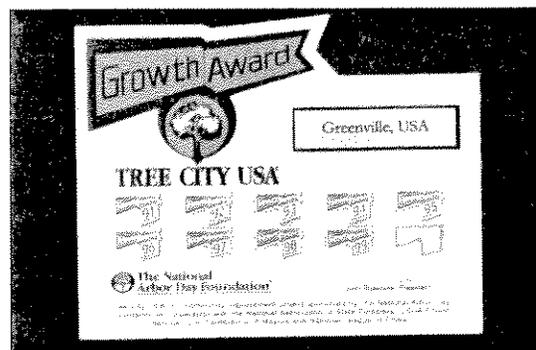
- 1. Begin with solid staffing at the state level.** Be sure the hiring process screens for professionals who are technically competent and enjoy working with lay citizens in an education and support role. Communication skills — including the ability to listen — and plenty of patience are essential.
- 2. Let all communities know you are there to help and give them an idea of what services can be provided.** Then, respond to requests and prioritize your efforts based on the degree of interest expressed by the various communities.
- 3. Early in the process, identify potential local partners.** There is usually a group, maybe several, that can be brought into the initial meetings. At the same time, identify the one or two individuals who are the “doers” — the natural leaders. They need not be knowledgeable about trees, but they do need enthusiasm and lasting commitment. Without at least one such person, a community forestry program cannot exist.
- 4. Win city council support.** When there is interest in the community, go before the city council to win its support and have a tree board officially established.
- 5. As a matter of routine practice, make sure that city staff are involved in all decisions.** Park, utility, street, budget and attorney’s office personnel can be the key to long-term success or an impassable barrier.
- 6. Begin with simple projects that are sure to succeed.** A few park plantings or beautification around an entrance sign will do more to launch a lasting program than a grandiose plan or exhausting project. Follow up with other “bite-size” projects.
- 7. Develop a plan, but fit the plan to the community.** A plan hammered out in a local cafe and written on a paper napkin may be more effective than an inch-thick document. However, in most cases, a street and park tree inventory is the way to begin, using it to then develop a five-year or longer action plan. The i-Tree software suite available free from the USDA Forest Service provides all the tools necessary to keep track of a tree inventory and provide analysis of the tree resource. You can download it at: www.itreetools.org
- 8. Use award recognition to build awareness and support.** The appropriate time to introduce potential Tree City USA recognition will vary with the circumstances, but usually this is done best at one of the



TREE CITY USA®

Tree City USA Growth Award

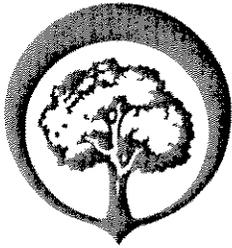
One year after a community receives a Tree City USA award, it may apply for a Growth Award. This honor is given when a community exceeds the four standards outlined on pages 4 and 5. Growth Award criteria serve as an excellent guide to expanding and improving any community forestry program. Over 40 suggestions are included under the four activity categories: Education and Public Relations, Partnerships, Planning and Management, and Tree Planting and Maintenance. Contact your state forester’s office or the Arbor Day Foundation for the award criteria and an application form.



initial meetings. When the interest is there, assist in preparation of the application and support materials. Use the award as a way to publicly recognize accomplishments to date and all who have helped.

- 9. Know when to let go.** In a successful program, the local board will want to make the decisions. The state community forester’s job is to provide enough education to assure that good decisions will be made, and to be available with technical advice as needed.
- 10. Keep in touch.** Through newsletters, invitations to workshops and occasional personal visits, keep each new program moving forward. The Tree City USA Growth Award can be useful for suggesting new projects that help make a good community forestry program even better.

Through the cooperative efforts of all who make these programs work, it is indeed possible to improve America’s urban and community forests. Instead of more trees succumbing to disease or other sources of destruction than are being planted, we can work toward replacement and filling the empty planting sites. We can work toward diversity of both species and age classes, and toward matching the right tree to each site. Hazards can be reduced and energy-conscious placement can be encouraged. In short, working together — with the full support of municipal government — we can transform neglected or deteriorating situations into managed community forests that are healthy, safe and a source of pride. These are the goals of Tree City USA.



TREE CITY USA[®] BULLETIN

No. 24

Dr. James R. Fazio, Editor • \$3.00

Trees and Parking Lots

Along with our marriage to the automobile has come its unpleasant relative — the parking lot. Up to 40 percent of the surface in some urban areas is dedicated to this storage space for cars, and its impact on the character of a community is significant. But with creative landscaping and the use of trees, there is no reason why parking lots cannot offer multiple benefits instead of visual blight.



Columbia (Maryland) Archives and Sky High Studios, Laurel, MD

Sometime in the 1920's, the automobile worked its way firmly into the fabric of American life. It became the very focal point of urban family life, with one classic study finding that most people said they were more willing to mortgage their homes and deplete their life savings than to give up their car.

Today, the car has evolved from a mere means of enjoyment and personal freedom to an absolute necessity for both work and play. Approximately 141 million cars now prowl our streets and byways (up from 122 million only a decade ago), with some 7 million more produced each year by United States factories alone. Eighty-five percent of all U.S. households have a car, with 50 percent owning more than one.

With this magnitude of national obsession, it is not surprising that there are few things more challenging than

trying to separate Americans from their cars. This fact of life has confounded mass transit planners, frustrated national park managers, and definitely not escaped the notice of merchants and others who need to attract customers.

Parking lots are here to stay. The mention of closing one, converting it to another use, or even reducing the number of stalls is a clarion call to battle with merchants, faculty, workers or others who use the lot. Still, is it necessary for so much of our community to be a barren sea of asphalt?

In the pages that follow, a case is made for sharing parking lots with trees. When this is done, parking lots become a multiple-attribute to any business, institution or community. Parking lots with trees can attract business, enhance the work place and uplift the quality of life in your community.

Published by

 **The National
Arbor Day Foundation[®]**
100 Arbor Avenue • Nebraska City, NE 68410

A Different Point of View

There are two ways of looking at parking lots. One is that they are simply places to store cars. The other is that parking lots can be more than this, and they don't have to be eyesores. Clearly the first step toward aesthetic parking lots is attitude.

Below are statements from two publications used to provide guidance to downtown merchants on how to develop parking lots. The left column presents the traditional approach that leads to mediocrity, or worse. The right column reflects an entirely different attitude and the one that is necessary before parking lots can be improved. The statements on the right are from *Carscape: A Parking Handbook*, a report that resulted from a design contest in Columbus, Indiana, conducted to find a better way to use parking space.

The statements address the question, "What is the acme of parking design?"

A Traditional View

Doing the Job Better

- | | |
|---|---|
| <ul style="list-style-type: none"> • "A superblock bounded on all sides by primary and secondary roadways." • The model can be found at "the regional shopping mall with surface parking supplies." • "Minimum number of restraints in the path of the driver." • "Parking rows oriented toward the retail generator so there is direct visual contact [with] the destination." | <ul style="list-style-type: none"> • "Design surface parking that fits into the context [of the community] and further enhances it." • "Reduce the apparent size of parking lots . . . [to the human scale with] . . . landscaping elements and . . . screens or fences . . . to break the larger area into smaller sections." • "Existing trees should be retained unless a strong case can be made for removal or replacement." • "A parking lot [can] be more than asphalt and minimal landscaping. Provide an oasis in the downtown, not an eyesore." |
|---|---|

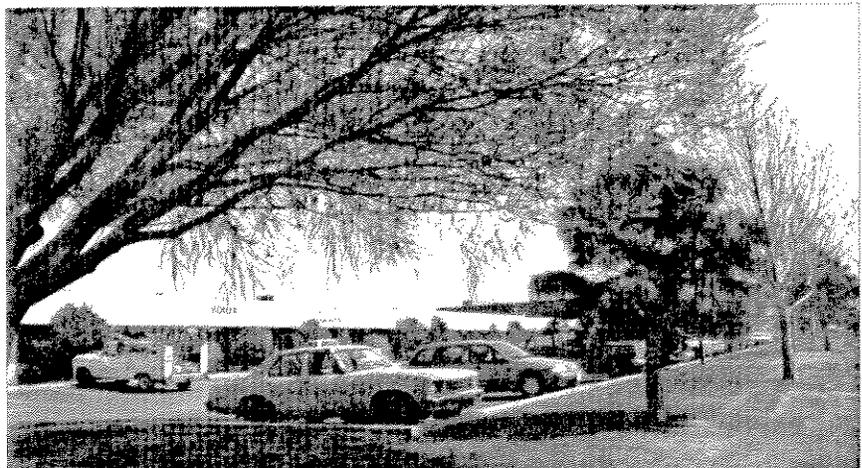
What Trees Can Do

- ✓ Provide shade for comfort when walking and after returning to the parked car.
- ✓ Cool the air to help counter the urban "heat island" effect that contributes to smog (See *Bulletin* No. 21).
- ✓ Help muffle noise, provide visual screens and contribute to surrounding property values.
- ✓ Help purify the air by absorbing exhaust gasses and giving off pure oxygen.
- ✓ Break up the massive expanses that usually dominate at parking sites, providing a sense of scale that makes people feel more comfortable.
- ✓ Provide beauty instead of ugliness and variety instead of monotony.
- ✓ Control speed and direct traffic flow.
- ✓ Provide reference points for entrances and exits, and to help visitors locate parked cars, bus stops, etc.
- ✓ Safely separate vehicular traffic and pedestrians.
- ✓ Attract and please customers and clients by providing a pleasant transition from the roadway into the store or business area.
- ✓ Reduce or slow surface run-off of water.

Designing With Trees

The ideal situation is when a new parking lot is being designed and trees can be incorporated right from the start. In this way, existing trees can be protected and new trees can be placed to be functional as well as aesthetic. Importantly, the soil in planting zones can be protected from the application of soil sterilants and mechanical compaction that are often part of the engineering techniques used before laying asphalt or sometimes even concrete.

Some other considerations are given on the pages that follow.



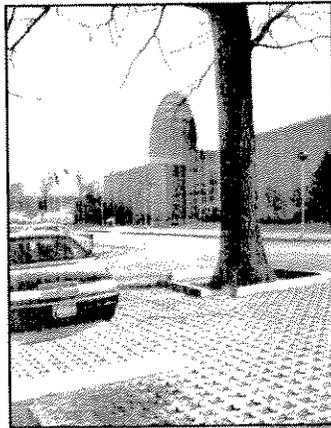
Adolph Lewis

What to Plant

Consult a local arborist, forester, nursery or horticulture professional to select species and cultivars best suited to local climatic conditions. Selection should also be made based on these traits:

- ❑ Able to thrive in the existing soil or soil that can be amended to reasonable specifications.
- ❑ Strong wood, not prone to breakage in wind or ice storms.
- ❑ Fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery.
- ❑ Tolerant to excessive heat, de-icing salt and air pollution.
- ❑ Free of unacceptable levels of disease or insect pests, including aphids that coat objects below with sticky "honeydew."
- ❑ In northern areas, drops leaves early so snow will not accumulate and migrating birds will not be attracted to roost.
- ❑ Fits the site aesthetically and serves an intended function (shade, screen, focal point, etc.)

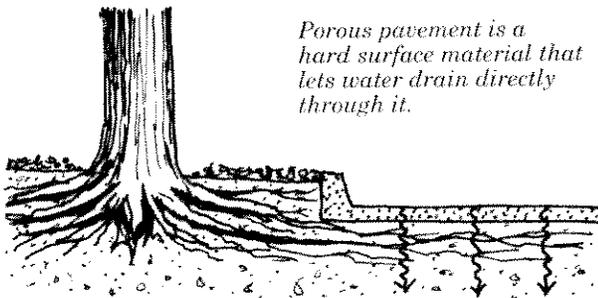
Remember the Roots



Roots are a tree's life-line. They must receive the right amount of water (not too much and not too little), adequate aeration, and growing space free of compaction.

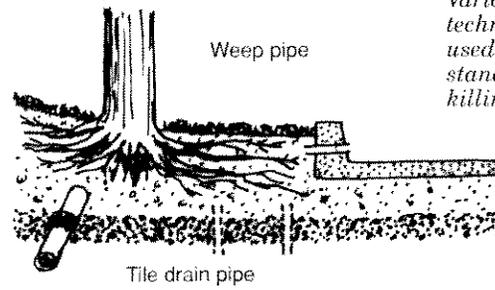
Decorative paving blocks around trees can provide for parking while letting air and water penetrate to the roots.

1. Prevent Drought Stress



In dry regions of the country, porous pavement may make it possible for tree roots to find at least some inhabitable space under massive areas of parking lot surface. This specially engineered material allows rainwater to penetrate. This not only benefits nearby trees and shrubs, but also prevents puddles and reduces the need for expensive runoff detention basins that are increasingly required as part of new developments. This system, using an underlying bed of stone, also helps filter out organic and metallic contaminants common in parking lots. For information, contact The National Stone Association (1415 Elliot Pl. NW, Washington, DC 20007; Phone 800/342-1415).

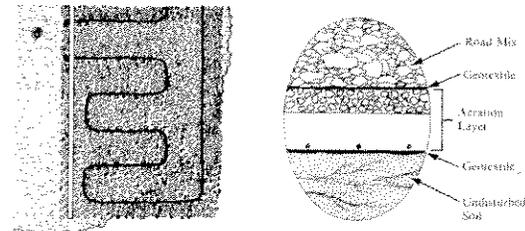
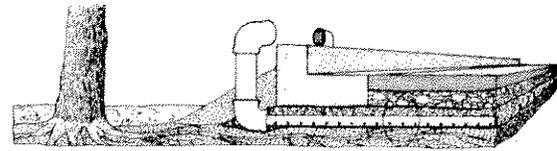
2. Prevent Drowning



Various drainage techniques can be used to prevent standing water from killing roots.

In moist areas of the country, roots can be subjected to excessive water from grade changes or installation of retaining walls. In fact, in some cities more trees are killed by too much water than too little. This can be prevented with weep pipes in walls, drilled perforations through shallow hardpans or compacted layers, and drain tile systems.

3. Provide Aeration



Steve Clark and Associates of Brentwood, Tennessee, has successfully installed this aeration system of perforated plastic pipes when parking lots have been developed around existing trees. The standpipes face prevailing winds and can be hidden in bollards or lamp posts. Source: *Arboriculture*, by Richard W. Harris. Used with permission.

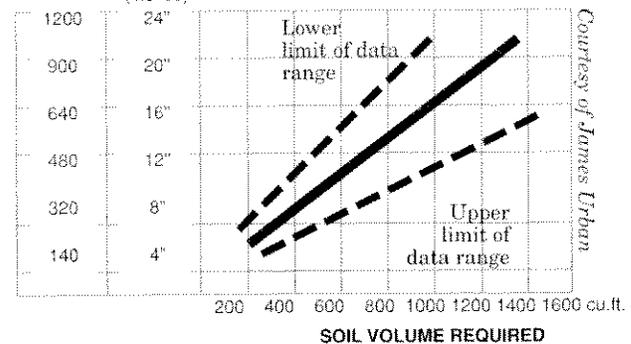
4. Assure Adequate Soil Space

Growing a tree without providing enough space for its roots is like asking someone to get into a shoe that is much too small. In creating this chart, landscape architect James Urban combined data from numerous studies of the relationship between soil volume and tree health. It is clear to see that most trees will need at least 400 cubic feet of soil.

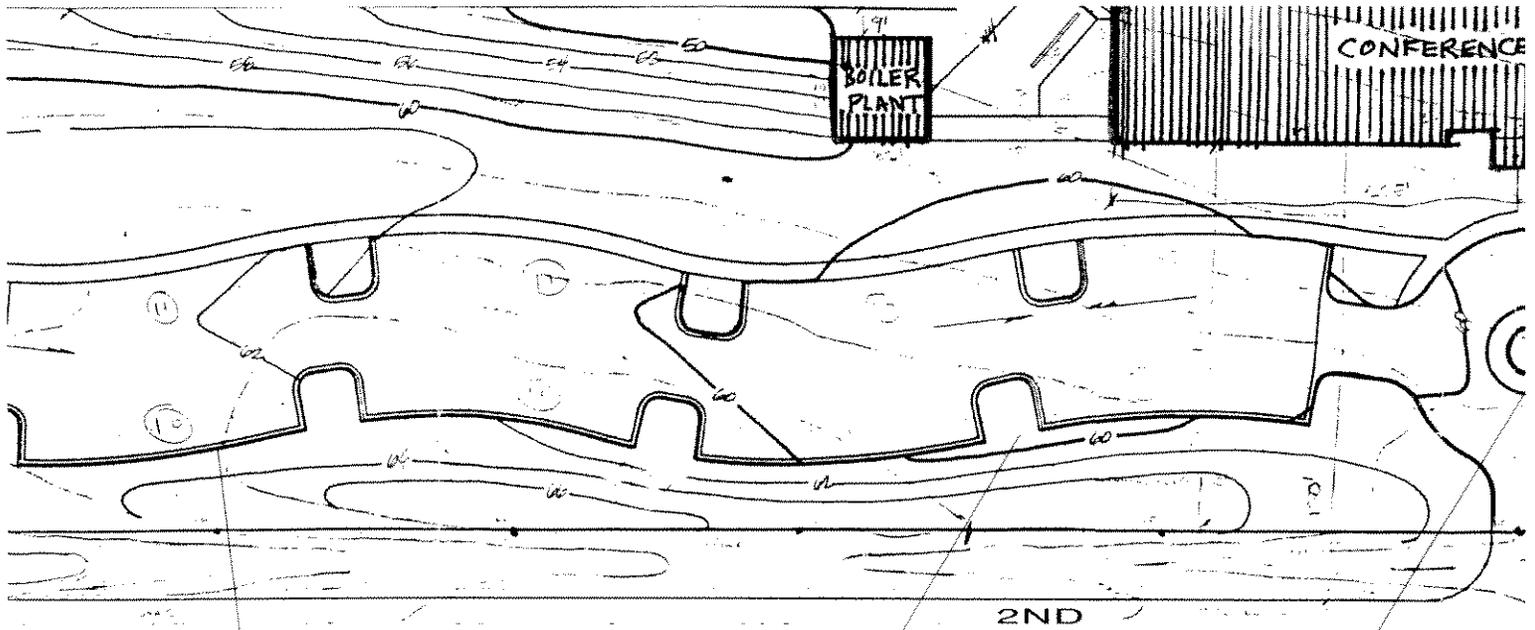
Ultimate Tree Size

Crown Projection (sq. ft.)	Diameter Breast Height (inches)
1200	24"
900	20"
640	16"
480	12"
320	8"
140	4"

Adequate soil volume needed for roots can be approximated from the size the tree will be at maturity.



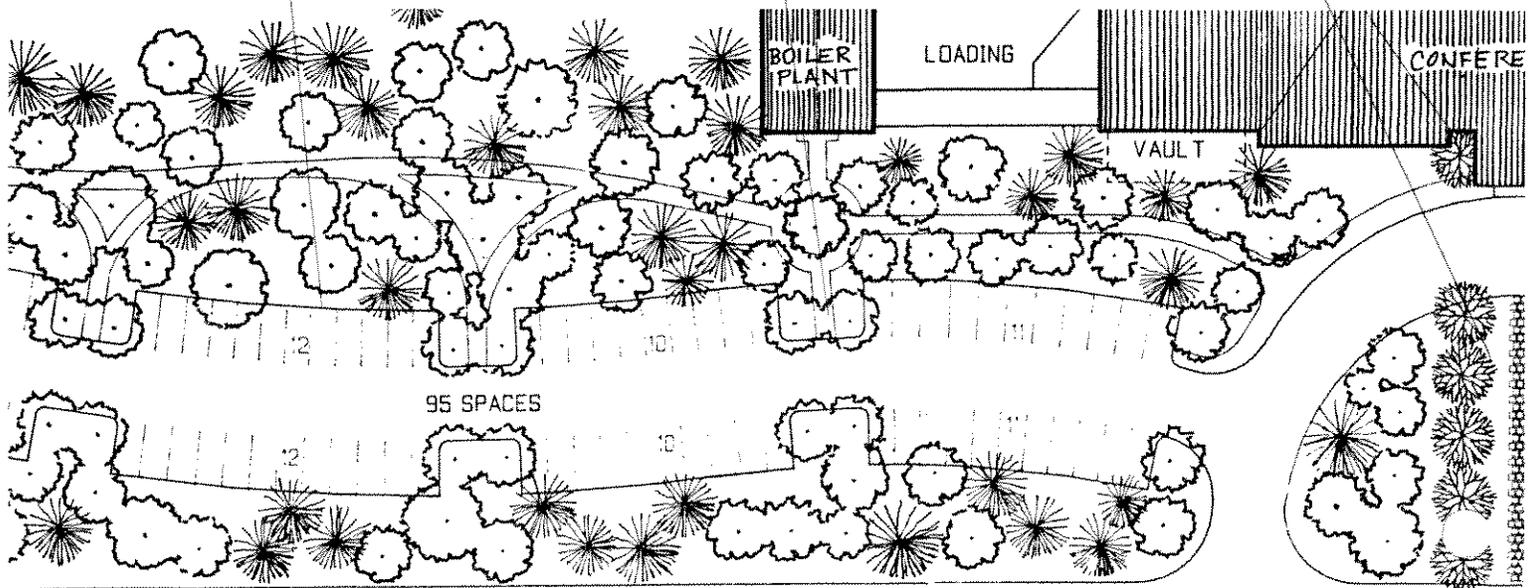
Making a Good Design Better



- Curvature of parking lot breaks up monotony and presents a more informal, relaxed appearance. This feature is retained in the new design.

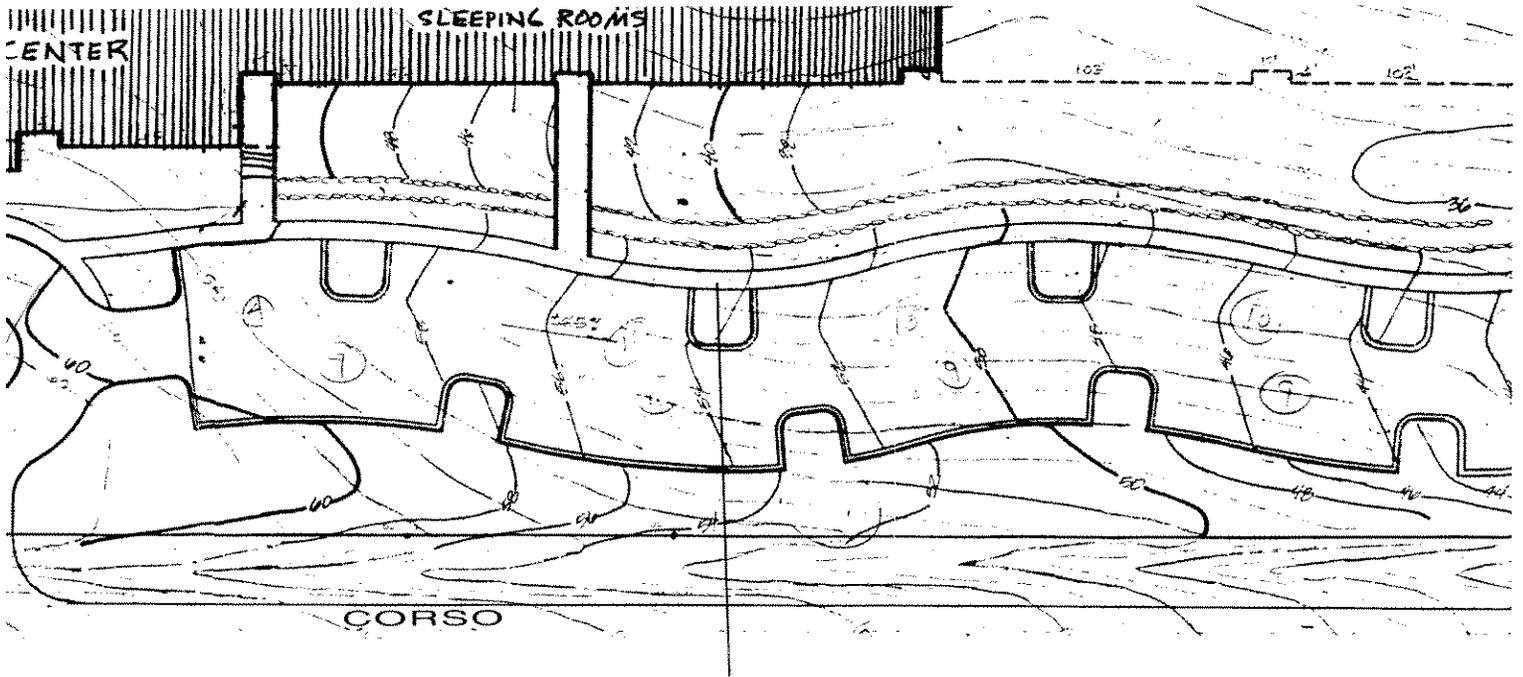
- Peninsulas visually reduce a large lot to smaller spaces that are more on a human scale. By widening the peninsulas slightly, two trees can be planted instead of one. By placing the peninsulas opposite each other, the canopy will form a bridge. The result is more shade and beauty, and a safe way for squirrels to travel.

- The entrance is redesigned to add more trees and a pleasant walkway to the street. There, a crosswalk takes pedestrians to a park across the street.

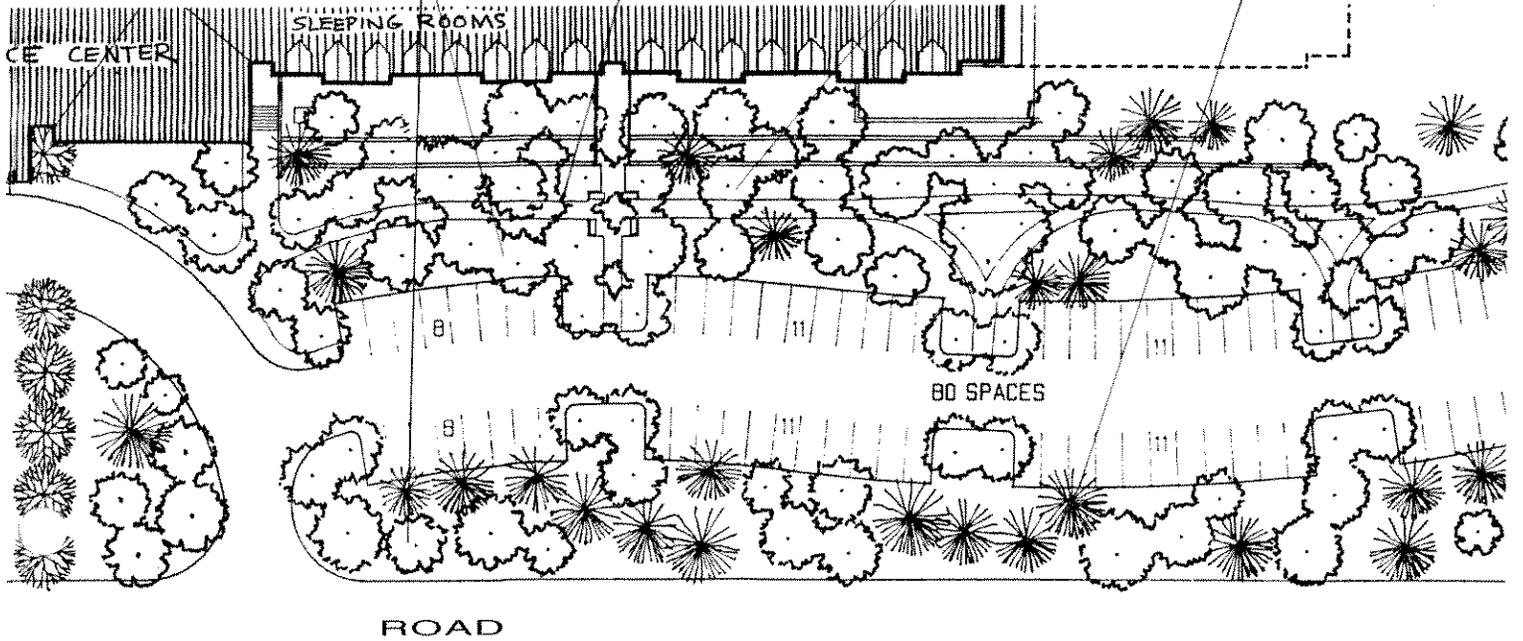


SYLVAN

Sometimes small design adjustments and the careful arrangement of trees can make a big difference. Below are the actual plans used in building The National Arbor Day Foundation's Lied Conference Center in Nebraska City, Nebraska. At the top is how the first-draft plan appeared for the parking area. Below is the same space as it was modified by landscape architect Ron Stupp and urban forestry consultant Steve Clark.

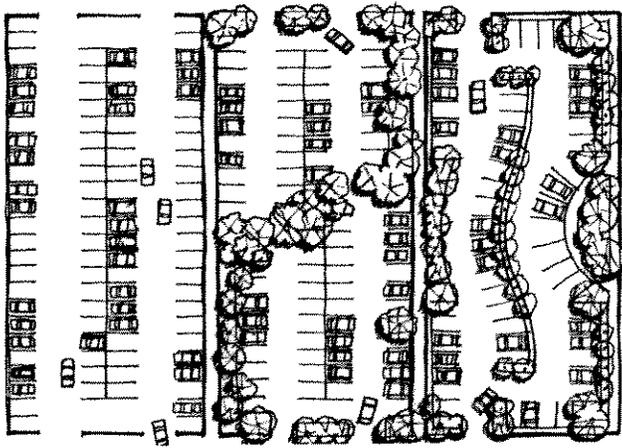


- Instead of an unshaded sidewalk where bumpers overhang, the walk is tucked away under the cool, shady trees.
- Undulating earth mounds (berms) are added to offer a sense of visual separation between the parking lot and the road, and the parking lot and sidewalks.
- Near sidewalks and sleeping rooms, deciduous trees on the south side of the building allow sunlight to penetrate during the winter.
- Evergreens are used to screen the lot from the street.



More Design Tips

1. Break up the mass and monotony.



A.
Uninspired, uninspiring, and hot!

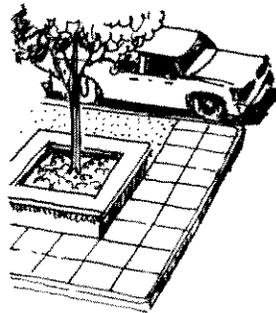
B.
The designer has broken the lot into smaller units, slowed the traffic and provided a shady pedestrian route through the lot.

C.
Here curves are used to slow traffic and convert boring, straight lines into a more pleasing, naturalistic pattern.

2. Make parking lots for people, too.

"Rather than hiding ugly, single-use spaces, transform them into 'positive spaces' that enhance the human scale of a community."

— Catherine G. Miller in *Carscape*



A. Use raised end islands for simple benches shaded by trees. A vandal-resistant water fountain helps, too.

B. Provide shaded walkways on parking lot islands and around the perimeters.



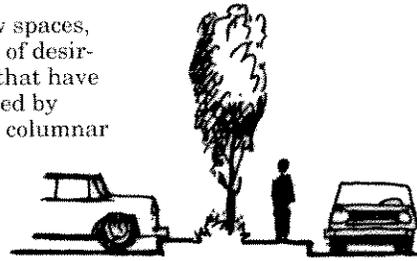
3. Use tree-covered mounds & depressions.

These will screen parking lots, reduce noise and add height to the vegetation (obtaining more shade).



4. Use narrow trees in narrow spaces.

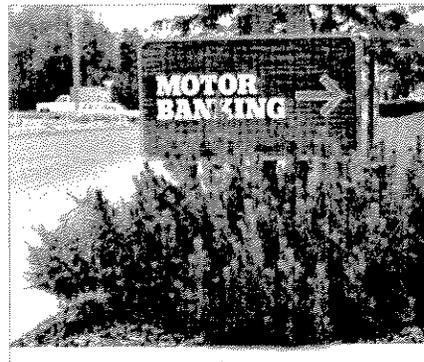
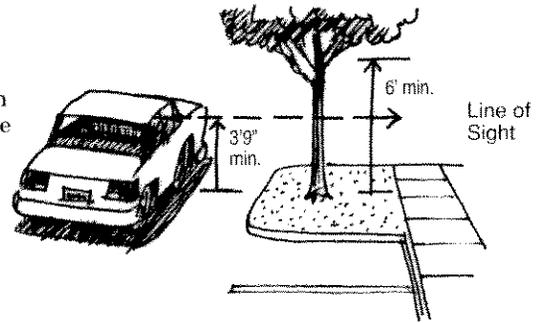
In narrow spaces, use cultivars of desirable species that have been developed by nurseries for columnar crown form.



5. Use species that allow for good visibility and security.

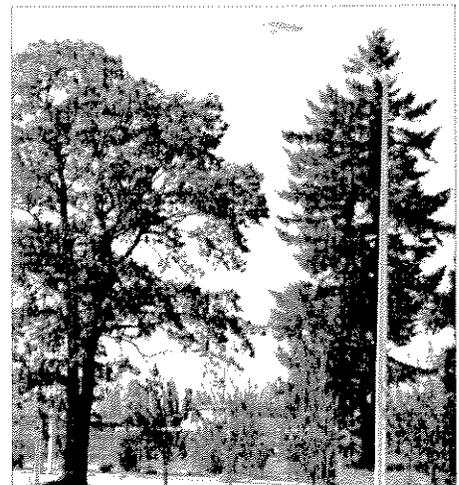
To overcome common objections to having trees in parking lots, select appropriate species and place them carefully so they do not interfere with essential visibility or security.

A.
Driver vision should not be obstructed at turns or pedestrian crossings.



B.
Select low-growing vegetation for around signs. In this case, mugo pine is acceptable only if there is a commitment to prune it regularly. Shrubs would have been a better choice.

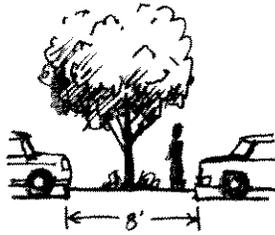
C.
Trees and lighting can be compatible. High light standards and low trees (pictured), or low, human-scale lights beneath tall trees, provide the benefits of trees and the security of lights.



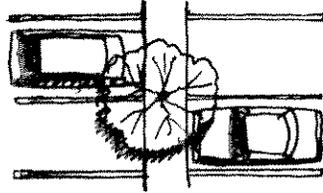
Photos by James R. Fazio

6. Protect trees from cars.

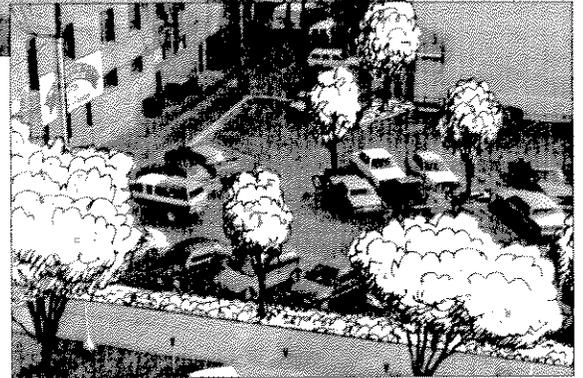
To prevent bumper damage, trees should be planted at least 3 1/2' behind a curb or traffic barrier. Signs should prohibit backing into stalls, because rear overhang is usually longer. On narrower islands, plant trees at stall junctions.



Ideal minimum island width



Place tree at stall junctions on narrower islands



Even where space is at a premium, small trees can be added in odd, unused parts of the lot where asphalt can be removed. A slight variance in the sidewalk width here would allow for an attractively-landscaped perimeter on the street side.

7. Protect cars from trees.

Visual inspections by an arborist several times a year will prevent hazardous conditions from going unnoticed. It will also provide a check for insect and disease problems that can be corrected if noticed early.

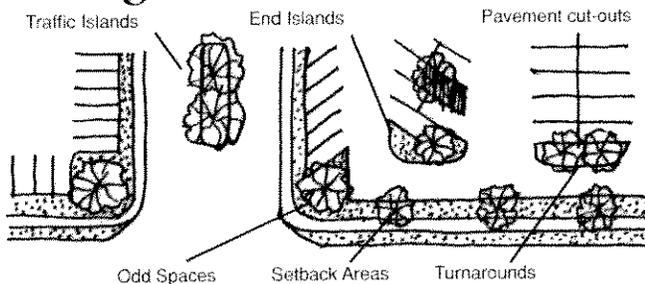
8. Plan for snow removal.

Using tree space for snow storage invites damage to valuable trees. It also deposits road salts and other chemicals over root zones. Better to haul snow away, pile it on open areas of turf or temporarily dedicate some parking stalls to this use.

Space can sometimes be created for trees by reducing the size of parking stalls. Space found in this way has been called "impansion" (as opposed to "expansion") and is usually used to park more cars. It could instead be used for beautification which, in turn, would make the existing spaces more attractive and probably more valuable.

Impansion takes advantage of the shrinking size of cars. That is, small cars need less space than big cars and can use 90 degree stalls instead of angled stalls. For example, stalls may be 9' by 18' for standard-size cars and placed at a 60 degree angle. Compacts, on the other hand, need only 7.5' by 15' at a 90 degree angle. As much as 10 - 25 percent of a lot can be freed for trees in this way, depending on the percent allocated between compacts and standard-size cars. If fuel costs create a trend toward smaller cars, this could be a significant way to find space for landscaping in older lots.

Finding Room for Trees



Although it is better to design new parking lots with vegetation in mind, existing lots can often benefit from the addition of trees. If the decision is to plant, there are usually spaces available.



There is plenty of room to enrich and cool this Midwest parking lot that becomes a steamy mass of asphalt under the summer sun.

A Word About Ordinances

In some communities the question of trees in parking lots is addressed in an ordinance, frequently within the section on zoning. Typically, these ordinances simply require a minimum setback from the street and some visual screening. Some go a step further and specify a percentage of any new lot that must be landscaped, usually from 5 to 15 percent. Sometimes there is not even reference to trees being part of the landscaping requirement.

At minimum, parking lot ordinances should include a requirement for appropriate trees to be part of parking lot development, including planting and long-term maintenance. In his model energy conservation landscape ordinance, John H. Parker of Florida International University, went even further. In this ordinance, the objective is the shading of cars and heat-absorbing pavement. Parker's model has a requirement of a 50 percent canopy cover of the parking lot area after a 10-year growth period. To meet this requirement, large trees would need to be included as well as small ones and shrubs, all working together to provide functional as well as aesthetic benefits for the community.

Other Sources of Information

Helpful Publications

- **Arboriculture — Integrated Management of Landscape Trees, Shrubs and Vines.** Richard W. Harris and his co-authors have included an excellent chapter on "Preserving Existing Trees" that would be helpful for many parking lot projects. Available through International Society of Arboriculture or:

Prentice Hall
Upper Saddle River, NJ 07458

- **Carscape — A Parking Handbook.** This richly-illustrated report of a parking lot design competition in Columbus, Indiana, is a treasury of ideas applicable elsewhere. Written by Catherine G. Miller for the Irwin-Sweeney-Miller Foundation, it is available from:

Columbus Visitor Center
506 Fifth St.
Columbus, IN 47202

- **Cool Islands: Guidelines for Parking Lot Design and Shading.** Authored by landscape architect Gary Austin of the University of Idaho, this 33-page booklet contains illustrations and a very large quantity of useful information. Single copies available free from:

City Forester, City of Lewiston
P.O. Box 617
Lewiston, ID 83501

- **U.S. Landscape Ordinances: An Annotated Reference Handbook.** Compiled by Buck Abbey in 1998, this is a comprehensive, 438-page guide to sections of ordinances nationwide that have been used to protect trees and enhance parking and other urban sites. It is published by John Wiley & Sons, Inc. New York, NY.

- **Where are all the Cool Parking Lots?** The USDA Forest Service's Center for Urban Forest Research has a publication by this title available along with many others that report research on parking lots and shading. Access these through <http://cufr.ucdavis.edu> and type "parking lots" in the search block.

Guide to Minimum Design Criteria for Trees

The survival and health of trees in and around parking lots depends on many soil factors such as the amount of compaction, percentage of impervious surface and grade changes. Because of this, there is no single planting pit size or soil treatment that can be recommended for all planting situations along streets or in parking lots. Instead, James Urban of Annapolis, Maryland, has developed a self-help matrix that guides the user through various soil conditions. By answering a series of questions about the site, the results suggest the kind of soil structure, drainage and aeration modifications that might be needed.

Urban's guidelines were published in the article, "Bringing Order to the Technical Dysfunction Within the Urban Forest," in the March 1992 issue of *Journal of Arboriculture*. Reprints are available from the International Society of Arboriculture, P.O. Box 3129, Champaign, IL 61826-3129.

Sample Ordinance

The City of Sacramento, California, has a long-standing ordinance that requires developers to plant and maintain trees throughout surface parking lots and in such a way as to "ensure that within fifteen years after establishment of the parking lot, at least 50 percent of the parking area will be shaded." Sacramento County also has a Parking Lot Tree Shading Zoning Code that is worth reviewing when considering legal measures.

Tree City USA Bulletin ORDER FORM

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Organization _____

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	1 Issue \$3.00 ea.
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10. Plant Trees for America!	10.
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15. How to Recognize/Prevent Hazard Trees	15.
16. How to Recycle Shade Tree Materials	16.
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18. Tree City USA Growth Award	18.
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20. A Systematic Approach to Building with Trees	20.
21. How Trees Can Save Energy	21.
22. Tree City USA: Foundation for Better Mgt.	22.
23. How to Conduct a Street Tree Inventory	23.
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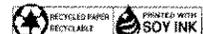
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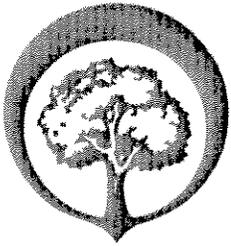


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TREE CITY USA® BULLETIN

No. 45

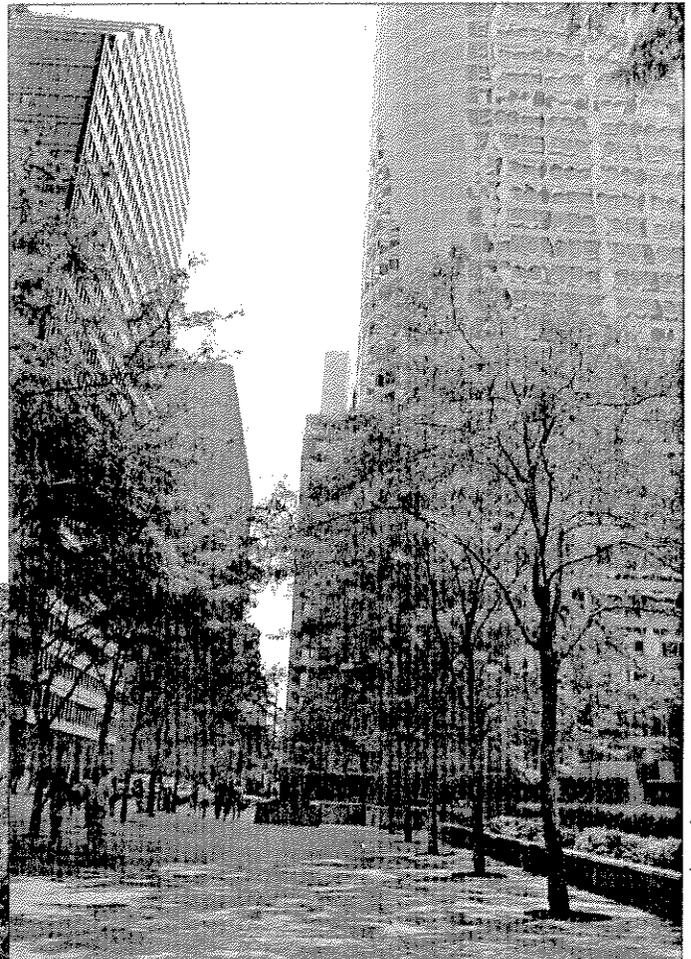
Dr. James R. Fazio, Editor • \$3.00

Trees for Better Streets

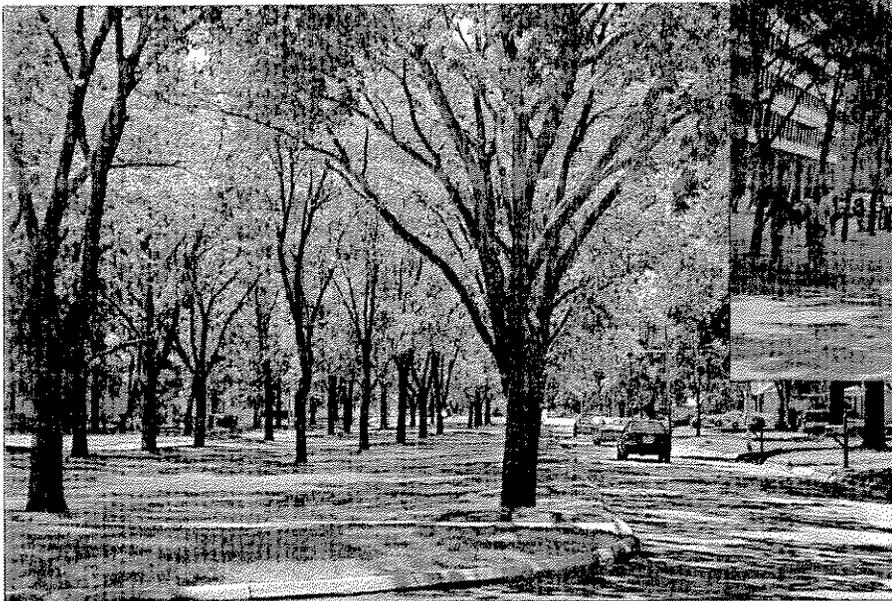
In his classic book, 'Great Streets,' Allan B. Jacobs wrote, "...for many people trees are the most important single characteristic of a good street." Whether a busy commercial strip, a downtown area with skyscrapers, or a quiet residential cul-de sac, trees can add both beauty and function. Trees make any street a better street and because of this they deserve the same status and care as other parts of the city infrastructure.

One day a group of business professionals met with the mayor of a small western city to discuss bringing in a new store. When they asked about landscaping requirements, he replied, "We don't have any. We don't want to burden you folks with something like that." But, instead of currying favor with the delegation, the mayor was shocked at their response. "When we invest," they informed the mayor, "we want to protect our investment and know that the guy next to us won't put in a dumpy-looking place." They located in a nearby town that has a landscape ordinance.

Trees—the dominant plant in any landscape—have a powerful effect on how any street looks, feels, and functions. Because of this, it is time to view trees not merely as decorations, but rather as a valuable service not unlike water mains and street lights. Some forward-thinking individuals call trees the city's "green infrastructure." It is a perspective deserving of wider adoption and one that can pay great dividends.



Photos by Cheryl R. Richter



Trees enhance streets of all kinds. They contribute to customer satisfaction in shopping areas, provide more pleasant and resalable living areas, and can even have a calming effect on traffic.

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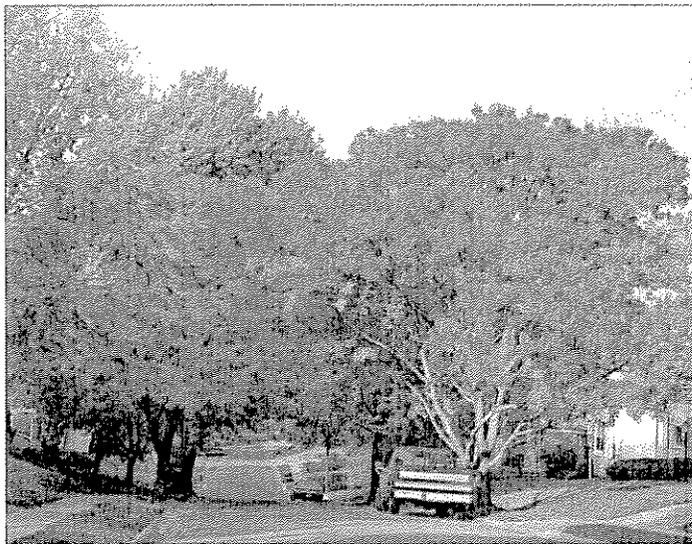
What Trees Do for Streets

Given a limited budget, the most effective expenditure of funds to improve a street would probably be on trees.

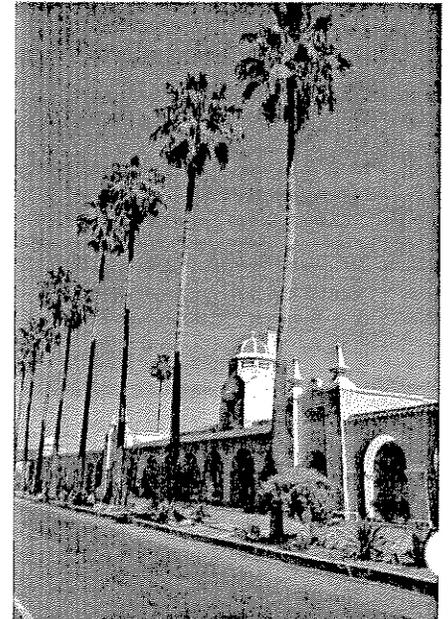
— Allan B. Jacobs, Chair, Department of City and Regional Planning, University of California, Berkeley, and author of the book *Great Streets*

Shade, beauty, a home for desirable urban wildlife, and a more pleasant place to work and do business are the usual reasons why street trees are considered important. But their contributions go far beyond.

Trees add value. According to the USDA Forest Service, healthy trees can add up to 15 percent to the value of residential property. Real estate agents have also reported that homes with trees tend to sell faster than those without. Street trees benefit both the nearest homeowner and the entire community.

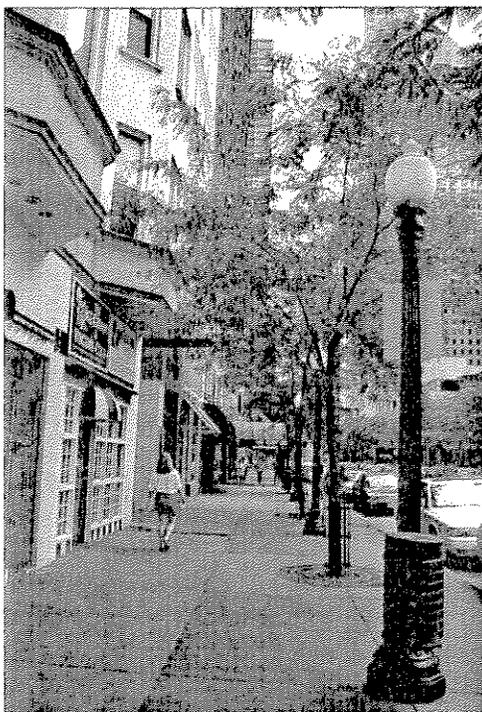


Cheryl R. Richter



Cheryl R. Richter

Trees provide a sense of place. They imprint on the mind, helping us sort out one place from another and attracting us back to favorite communities and neighborhoods.

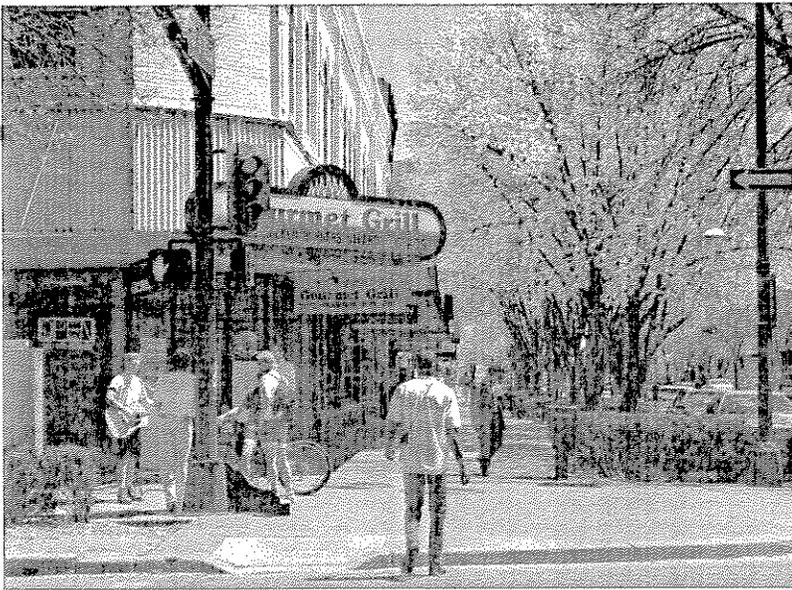


Cheryl R. Richter



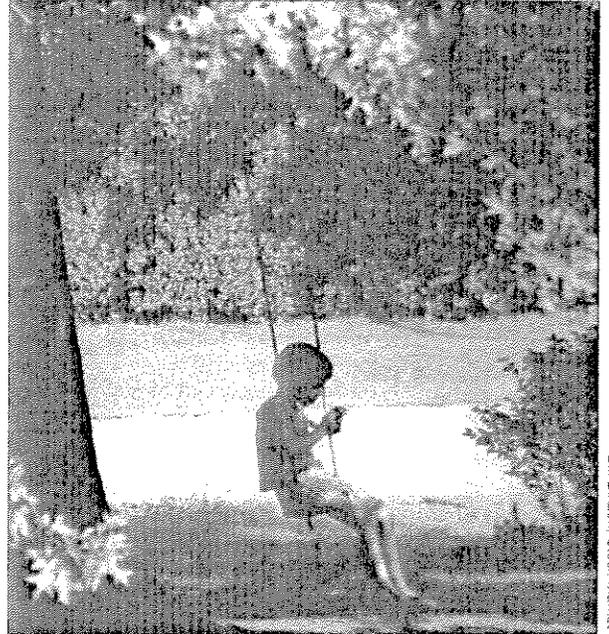
Cheryl R. Richter

Which street is likely to attract customers who linger and spend money while the other one makes people want to rush on by? Research is mounting that shows that trees are good for business. For example, studies by Dr. Kathleen Wolf of the University of Washington found that customers are willing to pay over 12 percent more in shopping areas with trees. In San Jose, California, a study by the organization, Our City Forest, found a positive correlation between trees and success of commercial areas.



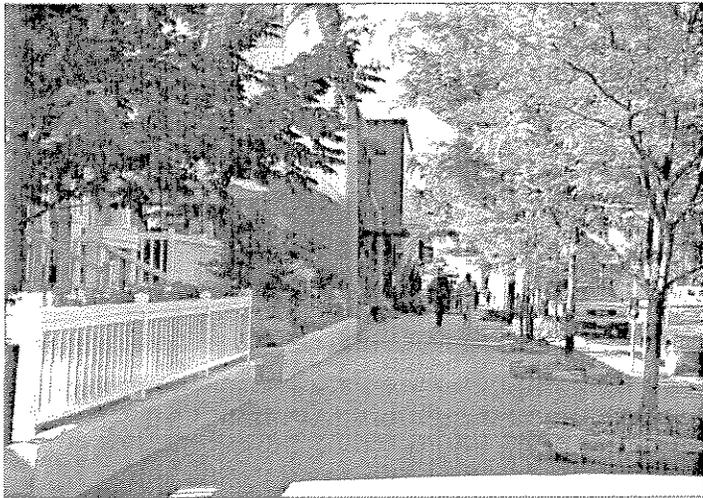
Cheryl R. Richter

California health officials warn that serious skin cancer has doubled since 1973. They blame the increase on thinning of the earth's ozone layer, nature's "sunscreen in the sky." They also report that 90 percent of all skin cancer is caused by sunlight and that 80 percent of a person's sun exposure occurs during childhood but takes its toll later in life. Trees that shade sidewalks in the summertime when children play can serve a preventative role in this recent national health problem.



Bill Stenzen, Stock Market

Trees have a calming effect on people and traffic. After years of research, psychologist Dr. Frances Kuo has concluded that urban landscaping is "as necessary as streets, sewers and electricity." The reason is because of the calming behavioral effects she has found that trees have on people, including the possibility of reduced crime rates. "Heart rates improve and blood pressure goes down," she adds. Other studies have shown that even the view of trees outside hospital windows can have a healing effect. They may also help reduce accidents and road rage by slowing traffic in residential areas, separating cars and walkways, and making streets more pedestrian friendly.



Cheryl R. Richter

Shaded streets lower the "heat island" effect of large paved areas in summer. Currently, street and other urban trees contribute annual savings of \$2 billion, or about .5 percent of all energy use in the U.S. More street trees would increase the savings! When University of Florida researchers compared two cities — one with more tree canopy than the other — they found that residents of the well-treed city spent an average of \$126 per year less on power bills.

Trees clean the air. Research by Dr. Greg McPherson of the USDA Forest Service has found that a single large street tree not only provides the gift of oxygen, but also can annually absorb ten pounds of air pollutants, including three pounds of dust and particles. It can eliminate 330 pounds of carbon dioxide through direct sequestration in its wood and the reduction of power plant emissions due to energy saving through cooling. One large tree can also help clean waterways by intercepting over 700 gallons of rainfall, thereby reducing or slowing storm runoff.



Cheryl R. Richter

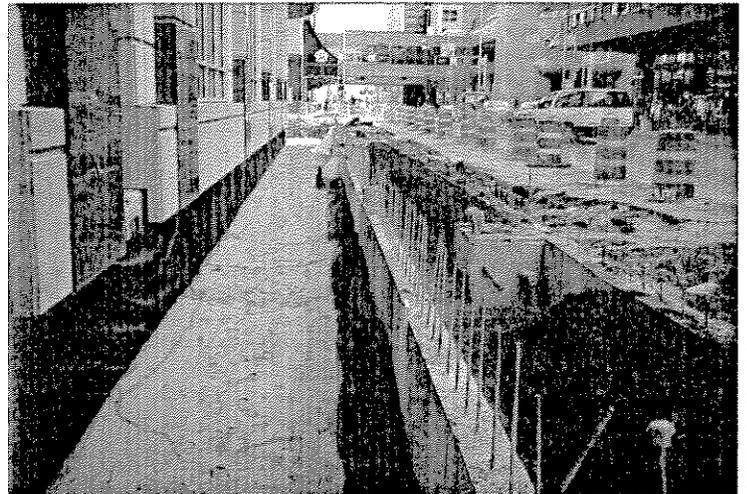
How to Help Street Trees Survive

Inner city trees often live no longer than 7 or 8 years before succumbing to the harsh conditions of their environment. Trees farther from city center live longer, but a study by American Forests shows that the average for all urban trees is only 32 years. Community officials can accept this short life cycle and replace trees like potted plants, or they can provide growing conditions that extend the serviceable life of street trees. When they choose the latter, tax dollars are saved and trees are allowed to mature and provide their full spectrum of benefits to the community.

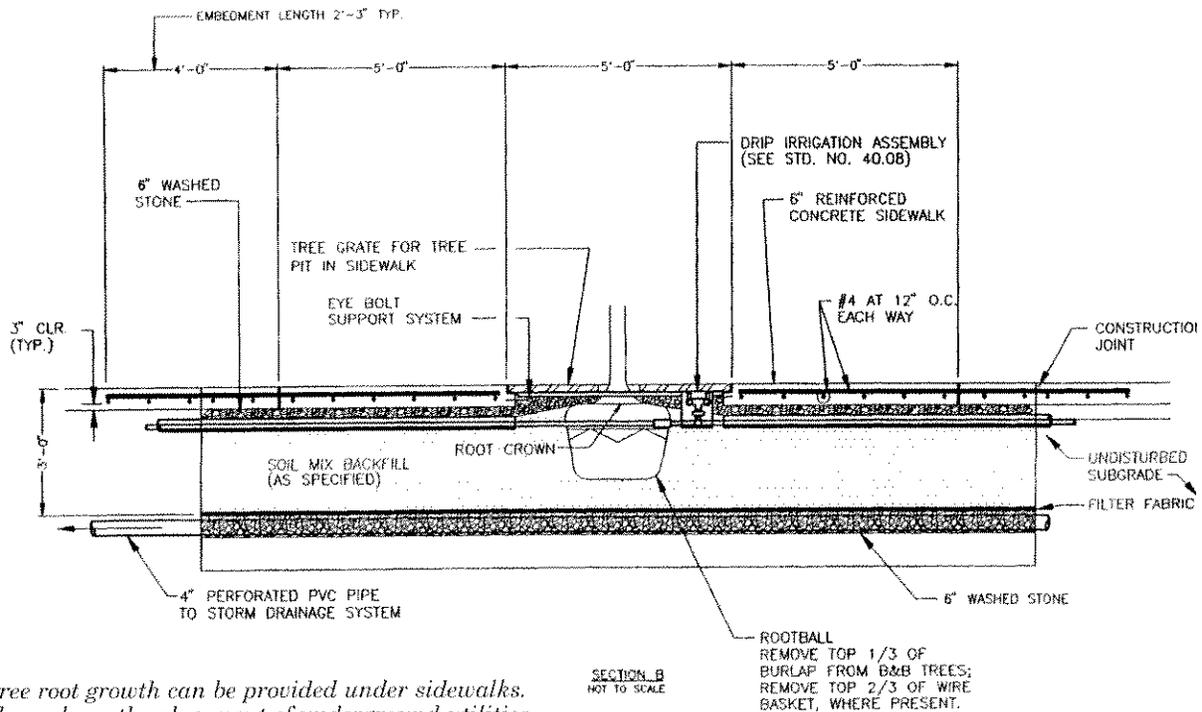
Make Room for Roots

Trees in urban areas or in the main street of small towns are often planted in tiny pits about 4' by 4' square. These are sarcastically and correctly called 'tree coffins' by arborists because there is simply not enough soil available to sustain a healthy street tree.

In residential areas, the answer to this problem is wide tree lawns, ideally 8' between curb and sidewalk. Where these do not exist, planting on the lawn side of the sidewalk can provide room for roots and still let the tree shade the street. In more crowded commercial areas, root vaults may be the answer.

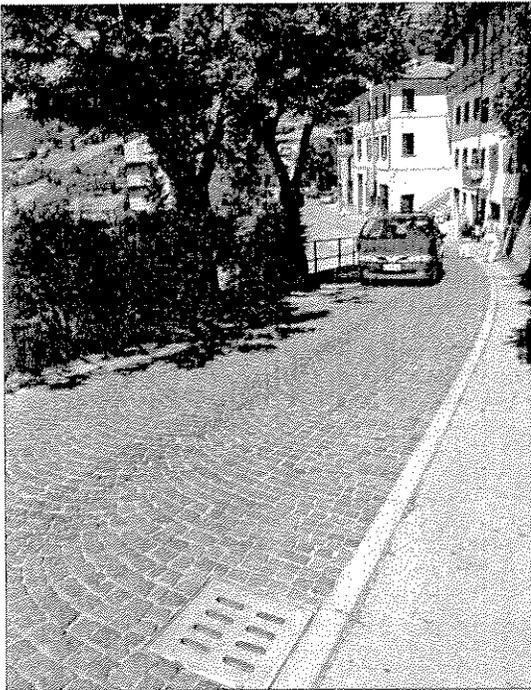


Cincinnati Park Board



Vaults for tree root growth can be provided under sidewalks. Vault size depends on the placement of underground utilities and other obstacles, but the linear dimension can range from 20 feet or less to as much as the entire block. Longer vaults are shared by more than one tree. Walls of the vault can accommodate fire hydrants, light poles, manholes and other hardscape features. Where soil conditions warrant, they can also be underlain with drainage pipes. Each vault is covered with reinforced sidewalk slabs built to hold emergency vehicles or meet other city codes. A good soil mix is placed inside the vaults with the end result being street trees that live longer, healthier lives.

Note: Copies of tree vault plans are available as a professional courtesy from: City of Charlotte (704/336-4262); Cincinnati Park Board (513/861-9070); and Boise Parks & Recreation Department (208/384-4083).



James R. Fazio

Concrete and asphalt do not always reign supreme. As seen in this Italian village, street pavement itself can lend an aesthetic touch while at the same time allowing air and water to infiltrate to tree roots.

Roots Need Air and Water, Too

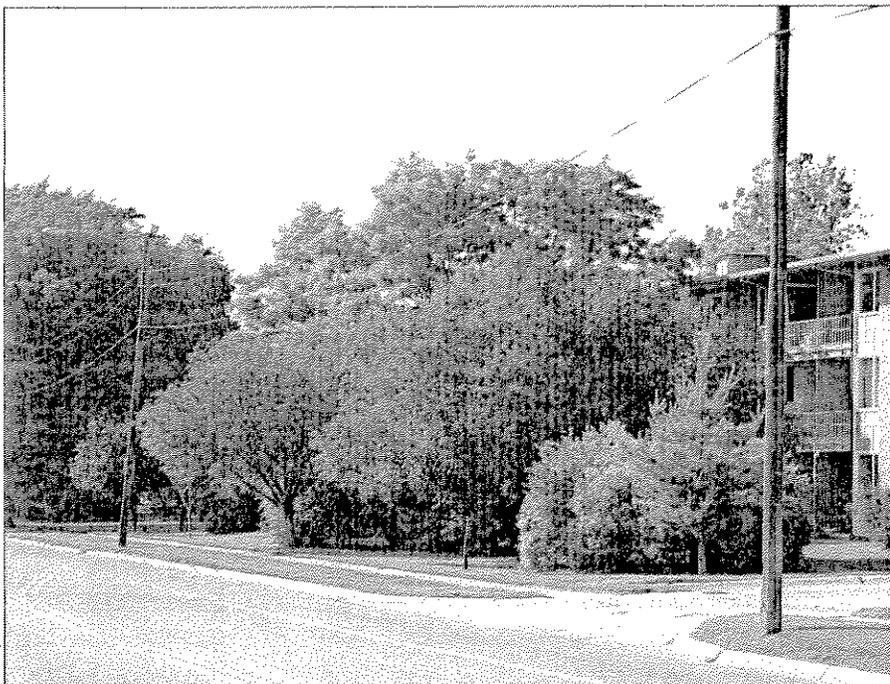
Where underground space is available but vaults are not possible, a less expensive method of providing a suitable growing environment for roots is the use of "structural soil."

Engineering standards require soil beneath streets and sidewalks to be compacted to a specified degree suitable to bear the weight of a paved surface and foot or vehicular traffic. Compacted soil removes the natural air spaces that in normal soil allow air and water to infiltrate. Without these passageways, or lifelines to water and oxygen, root growth is not possible. Structural soil is an invention that meets both engineering needs and provides a growing environment for roots. For example, many years of research and testing went into a patented soil mix developed at Cornell University and appropriately named CU-Structural Soil®. The mix consists of angular crushed stone or gravel (.75" - 1.5" diameter), a prescribed recipe of soil made up of sand, silt and clay, and an ounce of dry powder hydrogel per 210 lbs. of stone. When this mix is compacted, it is able to meet engineering standards for compaction but still provide a friendly growing medium for roots. It is a happy compromise!

For additional information about CU-Structural Soil® and a list of contractors who are licensed to assure quality in mixing and installing the soil, contact the Urban Horticulture Institute at Cornell University (607/255-4586) or Amereq, Inc. at 800/832-8788.

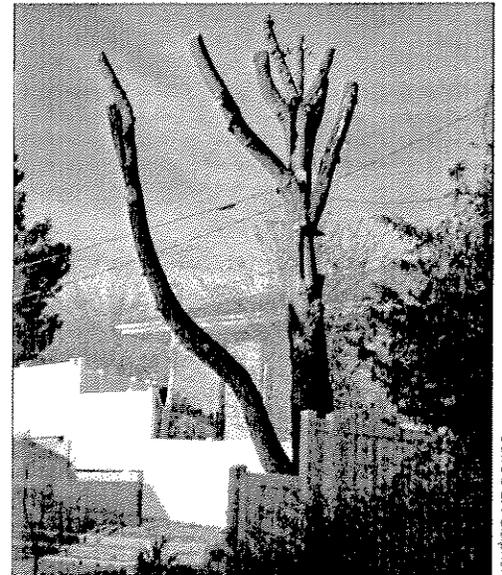
Let Trees Be Themselves, Naturally

Trees that grow into power lines are sometimes disfigured when utility workers prune to provide safe clearance. This problem can be easily prevented. Beneath wires, plant only low-maturing trees. Within 50 feet of wires or poles, plant trees that reach no higher than 40 feet at maturity.



Cheryl R. Richner

When trees must be pruned to prevent a conflict between utility lines and branches, not only is the beauty of the tree compromised, but so is its health. Even the most careful utility pruning creates wounds and opens the crown to sun scald and invasion by rot-causing fungi. The solution is simple. When planting near overhead utilities, select a species that matures beneath the energized wires.



Gerald L. Pulsipher

Topping is never a good option for the treatment of street trees — or any tree. Not only is the tree rendered unattractive, its truncated limbs will quickly sprout a flush of new limbs that are weakly attached and prone to becoming dangerous. Increasingly, topping is becoming an illegal practice in American communities.

More Design Considerations

Spacing and arrangement of trees can help make streets more beautiful and their trees more functional.

Interlocking Crowns

There is a danger that we are “dwarfing” our community forests. In new areas where underground or alley utilities allow, streets will have more character—and more shade—if large trees with strong wood are planted instead of over-planting with low-growing, flowering trees.



Cheryl R. Richter

Interlocking crowns lend memorable character to a neighborhood. They also provide cool shade, safe passageways for squirrels, and a delightful play of ever-changing light on streets and sidewalks.

Double Duty

Where space allows, a street can provide a more verdant feeling if trees are planted on both sides of a sidewalk and spacing is staggered.



Richards Road

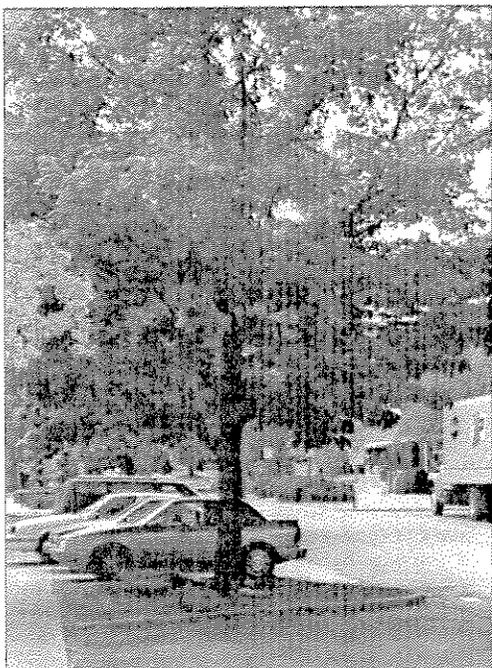
Artwork by Alan Jacobs, Great Streets and the MIT Press

Other Considerations

There is nothing sacred about exact spacing. While this may help unify a neighborhood or meet design needs in some cases, in others it is helpful to break the uniformity to accommodate street lights, store fronts or other features. Similarly, some streets may be enhanced with groups of plantings instead of rows, and with a variety of species that lends variation in size and colors. In all cases, the rule of thumb to provide for healthy diversity is that no species should make up more than about 15 percent of the trees in a community.

Trees in the Street!

Planting spaces that jut into the street are a means of creating a place for trees where it may not otherwise exist. The result is a more pleasant environment with the practical side benefits of shade and a calming effect on traffic.



A secondary street with no tree lawns or existing space for trees can sometimes be altered to make room for trees. The resulting benefits should more than compensate for the small number of lost parking spaces.

James R. Fazio

Some Street Tree Guidelines

Fully-stocked streets = approx. 200 trees/mile

Spacing (Distance apart should be equal to or slightly less than the expected diameter of the crowns at maturity). Generally:

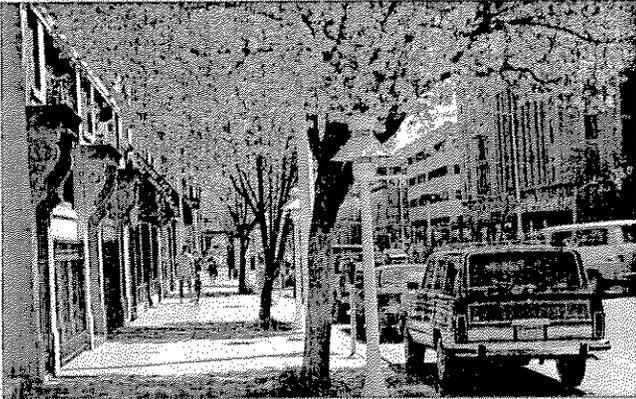
- **Small Trees** (maturing under 25'-30' tall), approx. 15'-25' apart
- **Medium Trees** (maturing 30'-50' tall), approx. 25'-35' apart
- **Large Trees** (maturing over 50' tall), approx. 40'-50' apart

(For large trees, consider closer initial spacing with later thinning to more appropriate spacing, or the use of cultivars with compact crowns that would allow closer spacing.)

Overall canopy cover recommended by American Forests = 40 % minimum

Central business district	15 %
Urban residential	25 %
Suburban	50 %

It All Begins With 'Will'



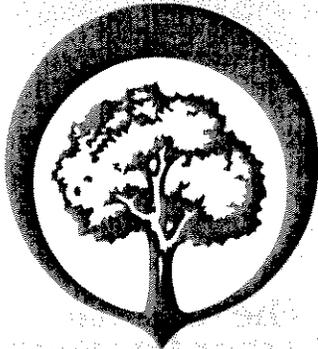
Cheryl R. Richter

Communities will have trees that make streets better only if it is 'the will of the people.' Tree boards, professionals in the green industry and any citizen interested in trees must speak up to place street trees on par with other parts of the city's infrastructure. There is often opposition to this concept and to street trees in general. Some perennial arguments are:

- Shade can create icy spots, large trunks can hide muggers, and flickering shadows can make jaywalkers difficult to see.
- Trees create "messes" that require work to clean up.
- Trees may hide signs and businesses, and merchants believe customers will not know their establishment is there.

Inflexible rules can also be the enemy of using trees to improve streets. Spacing standards that do not allow compromise are an example. Another is the common "line of sight" guideline prohibiting trees from within, say, 40 feet of a corner, or on medians. Proper species selection, placement and pruning can render trees safe near crosswalks, in medians and at corners in many situations. This then prevents large gaps in the canopy and can actually contribute to safety by 'calming' traffic.

Finally, when street trees are valued in a community, they should be made part of the budget for every capital improvement project. Financial support for regular maintenance is also essential. A Tree City USA award is the best evidence of a community that cares.



TREE CITY USA®

The Milwaukee Example

Milwaukee is a community that values its street trees and invests in them accordingly. The city has professional management staff, but just as importantly, it has the support of elected officials and city administrators to use landscaping to make Milwaukee's 122 miles of streets among the most attractive in the nation.

To meet its responsibilities, the Forestry Division maintains its own nursery that contains some 20,000 trees grown to a sturdy 2" caliper. It trains its tree workers carefully and regularly — and provides financial incentives to reduce turnover. Importantly, the city prunes its young street trees on a regular three-year cycle and its older ones every six years. It also works closely with the city engineering department and contractors so trees are considered during the planning phase of repair or reconstruction work. Inspectors then go on site during the active work phase to enforce tree protective measures and issue fines when necessary. Milwaukee has been a Tree City USA since 1979.



James R. Fazio

Milwaukee City Forester Preston Cole is responsible for some 200,000 public trees. His city's policies reflect a will of the people that places a high premium on using trees for better streets.

Other Sources of Information

Books:

There is magic to great streets. We are attracted to the best of them not because we have to go there but because we want to be there. The best are as joyful as they are utilitarian.

— Allan B. Jacobs
Great Streets

Great Streets is a well-written, 344-page book that examines a wide range of physical and social elements to discover why some streets appeal to people so strikingly. Trees are clearly part of that appeal, perhaps even the key to the “magic” Jacobs has noticed. A plethora of books provide details on the mechanics of selecting, installing and maintaining street trees. Many of these are listed in other issues of *Tree City USA Bulletin*. But *Great Streets* looks at how all the parts fit together to provide the kind of streets most communities would really like to have. Available for \$41.45 ppd.

Great Streets by Allan B. Jacobs
Massachusetts Institute of Technology Press
5 Cambridge Center
Cambridge, MA 02142-1493

Planning and designing spaces with trees and forests in mind can help create revitalized communities and natural areas.

— Georgia Forestry Commission
Georgia Model Urban Forest Book

Rapid growth and development of communities in Georgia was the stimulus behind this 78-page publication. Its purpose is to help citizens preserve or enlarge the tree canopy in their towns and cities. As a model, most of the concepts are applicable in cities nationwide, particularly the idea that trees need to be placed on the same level of importance as other critical infrastructure elements. Single copies are available at no cost.

Georgia Model Urban Forest Book
Susan M. Reisch, U & C Forestry Coordinator
Georgia Forestry Commission
6835 James B. Rivers/Memorial Dr.
Stone Mountain, GA 30083

An Online Book

Here is a downloadable publication designed to help citizens know what is possible for improving the streets and neighborhoods of their communities. The concept behind this project is that better information leads to better public decisions.

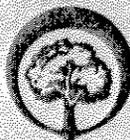
Green Neighborhoods
Center for Housing Innovations
University of Oregon
Eugene, OR 97403
(<http://aaa.uoregon.edu/~nec/guidelines.html>)



Cheryl R. Richter

Trees contribute to better streets, and better streets contribute to healthier, more prosperous communities.

This *Tree City USA Bulletin* was supported by the USDA Forest Service Urban and Community Forestry Program on the recommendation of the National Urban and Community Forestry Advisory Council.



TREE CITY USA®

The Tree City USA program is sponsored by The National Arbor Day Foundation in cooperation with the USDA Forest Service and National Association of State Foresters. To achieve national recognition of being named as a Tree City USA, a town or city must meet four standards:

- Standard 1: A Tree Board or Department
- Standard 2: A Tree Care Ordinance
- Standard 3: An Annual Community Forestry Program
- Standard 4: An Arbor Day Observance and Proclamation

Each winning community receives a Tree City USA flag, plaque, and community entrance signs. Towns and cities of every size can qualify. Tree City USA application forms are available from your state forester or The National Arbor Day Foundation.

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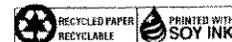
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Developing Urban Forestry Ordinances

Reference Materials – Publications, Books, Tools

Guidelines for Developing and Evaluating Tree Ordinances

Bernhardt, E.A. and Swiecki, T.J.
California Dept. of Forestry and Fire Protection
<http://www.isa-arbor.com/tree-ord/ordintro.htm>

Tree Ord Software

Unique software for cities is available to help them develop ordinances that will ensure the future of their community forests. TreeOrd, an interactive CD-ROM, was developed by the Tree Trust with a grant from the USDA Forest Service. The cost is \$60 plus shipping and handling.
http://www.mnstac.org/RFC/tree_order_form.PDF

Tree Ordinance Development Guidebook

Georgia Forestry Commission
<http://www.gfc.state.ga.us/CommunityForests/documents/2005TreeOrdinance-100.pdf>

Landscape Ordinances Research Project

A resource home page for urban design, city planning, urban forestry, site design, landscape architecture, architecture, site engineering, land use law and land development--highlighting legal standards and technical requirements for site development plan
<http://www.greenlaws.lsu.edu/sitemanager.htm>

U.S. Landscape Ordinances: An Annotated Reference Handbook

by Buck Abbey, D. Gail Abbey
This comprehensive reference brings together and explains the planning ordinances which govern the landscapes of 300 U.S. cities. In it, the author demystifies the complex planning laws that regulate such areas as the design of parking lots, vehicular use areas, landscape buffers, and tree plantings.

Guide to Developing a Community Tree Preservation Ordinance

Presented by the Community Tree Preservation Task Force of the Minnesota Shade Tree Advisory Committee, this guide describes the planning process, typical ordinance elements, and resources available for the task.
<http://www.mnstac.org/RFC/preservationordguide.htm>

Guide to Writing a City Tree Ordinance – Model Tree Ordinances for Louisiana Communities

<http://www.greenlaws.lsu.edu/modeltree.htm>

Research Article – Kathleen Wolf

http://www.cfr.washington.edu/research.envmind/Roadside/Trees_Parking.pdf

Developing a Successful Urban Tree Ordinance

Charles C. Weber, Alabama Forestry Commission

Tree City USA Bulletin #9 How to Write a Municipal Tree Ordinance

National Arbor Day Foundation
<http://www.arborday.org/programs/treecitybulletinsbrowse.cfm>

Tree City USA Bulletin # 31 Tree Protection Ordinances

National Arbor Day Foundation
<http://www.arborday.org/programs/treecitybulletinsbrowse.cfm>

Virginia Tree Ordinance Database.
<http://www.cnr.ut.edu/utod/home.cfm>

Guidelines for developing urban forest practice ordinances

Bell, P.C., Plamondon, S., and Rupp, M.

Oregon Department of Forestry, Forest Practices Program, Urban and Community Forestry Program. This guide is designed to assist cities and counties in the development of urban forest practice regulations.

http://www.oregon.gov/ODF/URBAN_FORESTS/docs/Other_Publications/UrbanFP.pdf

Urban and community forestry: A guide for the Northeast and Midwest United States

Ascerno, M. et al.,

U.S. Forest Service, Northeastern Area State and Private Forestry. 216 pp. + appendix. 1992.

This manual updates a 1990 edition which focused on the interior western region of the U.S. Includes chapters on history, benefits (aesthetic, social, recreational, wildlife, economic, and physical), programs, inventories, planning, ordinances and policy, site evaluation, tree selection and planting, soils, and maintenance. Undated; probable publication date, 1992.

Municipal tree manual

Hoefler, P.J., Himelick, E.B., and DeVoto, D.F.,

Urbana, IL, International Society of Arboriculture. 42 pp.

Prepared in cooperation with the Municipal Arborists and Urban Foresters Society. The purpose of this manual is to be a guide for preparing new, or revising old, municipal tree ordinances.

Community trees: Tree Ordinances for Iowa communities

Wray, P.

Iowa State University, Cooperative Extension Service

<http://www.extension.iastate.edu/Publications/PM1429b.pdf>

Sample Ordinances from Cities and Towns

There are several on-line ordinance clearinghouses. All of these publishing services make it easy to search for specific words or phrases within a given ordinance using a "search" feature.

General Code Publishers

www.generalcode.com/webcode2.html

LexisNexis Municipal Codes

<http://municipalcodes.lexisnexis.com>

American Legal Publishing Corporation

<http://www.amlegal.com/library>

Municipal Code Corporation

www.municode.com

http://www.municode.com/resources/code_list.asp?stateID=49

United States[®] Census 2010

The U.S. Census Bureau
is issuing a call to action for
every resident of our nation:
“BE COUNTED IN 2010.”

The Census: A Snapshot

- ▲ **What:** The census is a count of everyone residing in the United States.
- ▲ **Who:** All U.S. residents must be counted—people of all races and ethnic groups, both citizens and non-citizens.
- ▲ **When:** Census Day is April 1, 2010. Questionnaire responses should represent the household as it exists on this day. More detailed socioeconomic information will be collected annually from a small percentage of the population through the **American Community Survey**.
- ▲ **Why:** The U.S. Constitution requires a national census once every 10 years. The census will show state population counts and determine representation in the U.S. House of Representatives.
- ▲ **How:** Census questionnaires will be delivered or mailed to households via U.S. mail in March 2010; many households will receive a replacement questionnaire in early April. Census workers also will visit households that do not return questionnaires.

A Complete Count: The Importance of Census Data

- ▲ Every year, the federal government can allocate more than \$300 billion to states and communities based, in part, on census data.
- ▲ Census data guide local decision-makers on where to build new roads, hospitals, child-care and senior citizen centers, schools, and more.
- ▲ Businesses use census data to locate supermarkets, new housing and other facilities.
- ▲ Census data determine how many seats each state will have in the U.S. House of Representatives.

2010 Census Questionnaire: Quick, Easy and Confidential

- ▲ With only 10 questions, the 2010 Census questionnaire is one of the shortest questionnaires in history and takes just 10 minutes to complete.
- ▲ By law, the Census Bureau cannot share an individual's census questionnaire responses with anyone, including other federal agencies and law enforcement entities.

THE 2010 CENSUS IS IMPORTANT.

It determines the distribution of more than \$300 billion annually of government funding for critical community services. It generates thousands of jobs across the country. And it impacts your voice in Congress.

YOU CAN MAKE A DIFFERENCE.

As an influential community, business or organization leader, you can raise awareness of and encourage participation in this historic event. With your help, the Census Bureau will continue to produce accurate data, which will directly affect the quality of life in your community.



Become a 2010 Census Partner

Your partnership sends a strong message to your community about the importance of the census and the benefits of being counted. By partnering with the Census Bureau, you can help:

- ▶ Ensure accurate census data, which guide funding decisions for your community and affect your representation in Congress.
- ▶ Spread the word about temporary census jobs in your community.
- ▶ Assure people that it is important – and safe – to answer the census.

Take Action for Your Community and Country

As a partner, you will play an important role in making the 2010 Census successful by encouraging people in your community to take part in the count. You can:

- ▶ Encourage your peers to get involved by joining a Complete Count Committee (CCC), an organized group of other influential leaders in your area who are committed to increasing participation in the census.
- ▶ Issue a proclamation or other public endorsement of the 2010 Census.
- ▶ Include census information in newsletters, mailings and online.
- ▶ Conduct meetings or other events to encourage participation in the census.
- ▶ Help recruit census workers.
- ▶ Provide space for Be Counted sites and Questionnaire Assistance Centers or for testing and training census employees.

2010 Census Timeline: Key Dates

Fall 2008	Recruitment begins for local census jobs for early census operations.
Spring 2009	Census employees go door-to-door to update address lists nationwide.
Fall 2009	Recruitment begins for census takers to support peak workload.
February – March 2010	Census questionnaires are mailed or delivered to households.
April 1, 2010	Census Day
May – July 2010	Census takers visit households that did not return a questionnaire by mail.
December 2010	By law, Census Bureau delivers population counts to the president for apportionment.
March 2011	By law, Census Bureau completes delivery of redistricting data to states.



**A COMPLETE AND ACCURATE COUNT
IS IN OUR HANDS.**

For more information about the 2010 Census, go to 2010census.gov.

2010 CENSUS
ITS IN OUR HANDS

2010 Census Partner Proclamation



WHEREAS an accurate census count is vital to our community and residents' well-being by helping planners determine where to locate schools, day care centers, roads and public transportation, hospitals and other facilities, and achieving an accurate and complete count of the nation's growing and changing population;

WHEREAS more than \$400 billion per year in federal and state funding is allocated to states and communities based, in part, on census data;

WHEREAS census data help determine how many seats each state will have in the U.S. House of Representatives and often is used for the redistricting of state legislatures, county and city councils and voting districts;

WHEREAS the 2010 Census creates jobs that stimulate economic growth and increase employment;

WHEREAS the information collected by the census is confidential and protected by law;

Now, therefore, we PROCLAIM that the Town of Chincoteague, Incorporated is committed to partnering with the U.S. Census Bureau to help ensure a full and accurate count in 2010.

As a 2010 Census partner, we will:

1. Support the goals and ideals for the 2010 Census and disseminate 2010 Census information to encourage those in our community to participate.
2. Encourage people in our community to place an emphasis on the 2010 Census and participate in events and initiatives that will raise overall awareness and ensure a full and accurate census.
3. Support census takers as they help our community complete an accurate count.
4. Create or seek opportunities to collaborate with other like-minded groups in our community by participating in Complete Count Committees and/or utilizing high-profile, trusted voices to advocate on behalf of the 2010 Census.

Signed this 5th day of April, in the year 2010.

Signature _____

Title Mayor _____

Town of Chincoteague _____

MEMORANDUM

To: Robert Ritter, Town Manager
From: Kenny L. Lewis, Zoning Administrator 
Date: February 11, 2010
Subject: Request to Vacate Subdivision Lot Lines
Gene W. & Stephanie Taylor

Mr. Gene Taylor has submitted a request to vacate a several property lines on Mussell Lane off of Ridge Road.

The lot lines to be vacated are located between Parcels 030A2-1-B- 25, 26 and 27.

I have reviewed the attachments and have found no violations of current zoning.

Please advise of the date for this public hearing so I can notify Mr. Jerry West when to advertise in the local newspaper.

NOTICE OF PUBLIC HEARING

The Chincoteague Town Council will hold a Public Hearing commencing at 6:00PM on _____, in the Council Chambers of the Town of Chincoteague, 6150 Community Drive, Chincoteague, Virginia, to afford interested parties the opportunity to be heard or present written comments concerning the following proposed Ordinance to vacate property lines of a recorded plat of subdivision in the Town of Chincoteague, Accomack County, Virginia.

AN ORDINANCE TO VACATE A PART OF A RECORDED PLAT OF SUBDIVISION
IN THE TOWN OF CHINCOTEAGUE, ACCOMACK COUNTY, VIRGINIA.

WHEREAS, the governing body of a municipality may vacate part of a recorded plat after the sale of a lot shown on said plat pursuant to Section 15.2-2272 (2) of the Code of Virginia of 1950, as amended; and,

WHEREAS, an Application has been filed by Gene Wayne Taylor and Stephanie Taylor to vacate a part of a recorded plat of a subdivision in the Town of Chincoteague entitled "Sub-division of O.H. Jester (heirs) Property, Chincoteague, Virginia", dated November 19, 1948, and recorded in the aforesaid Clerk's Office in Plat Book 7, page 77.

WHEREAS, the basis of said vacation is that:

1. The property lines between combined Lots 23 and 24 (the boundary line between them having been previously vacated), Lots 25, 26 and 27 are property lines between lots all owned by the Applicant, Gene Wayne Taylor and Stephanie Taylor.
2. That the said Gene Wayne Taylor and Stephanie Taylor desire to remove the boundary

lines between each of the lots to result in one parcel of land.

THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CHINCOTEAGUE:

1. That the division or property lines between said combined Lots 23 and 24, Lots 25, 26 and 27 as shown on a certain plat of survey entitled "Sub-division of O.H. Jester (heirs) Property, Chincoteague, Virginia", dated November 19, 1948, and recorded in the aforesaid Clerk's Office in Plat Book 7, page 77 all be and are all hereby vacated.
2. That as the result of said vacation of property lines former combined Lots 23 and 24 and Lots 25, 26 and 27 shall result in one (1) parcel of land.
3. That the Town Manager after the time for an appeal of the adoption of this Ordinance has expired, or if appealed the action of counsel is upheld, shall cause a copy of this Ordinance to be recorded in the Clerk's Office of the Circuit Court of Accomack County.
4. That the effective date of the Ordinance shall be upon adoption by the Town Council for the Town of Chincoteague.

Handicapped assistance available by calling 336-6519.

Robert G. Ritter
Town Manager
Town of Chincoteague

**AN ORDINANCE VACATING A PROPERTY LINE OF A SUBDIVISION PLAT PURSUANT TO
SECTION 15.2-2272.2**

WHEREAS, Gene Wayne Taylor and Stephanie Taylor, own four parcels of land shown on a certain plat entitled “Sub-division of O.H. Jester (heirs) Property, Chincoteague, Virginia”, dated November 19, 1948, and recorded in the aforesaid Clerk’s Office in Plat Book 7, page 77, being combined Lots 23 and 24 (the boundary line between them having been previously vacated), and Lots 25, 26, and 27 within the Town of Chincoteague, Tax Map Number 030-A2-01-B0-0023-00, 030-A2-01-B0-0024-00, 030-A2-01-B0-0025-00, 030-A2-01-B0-0026-00, and 030-A2-01-B0-0027-00; and,

WHEREAS, one or more lots within the Subdivision have been sold; and,

WHEREAS, the said Gene Wayne Taylor and Stephanie Taylor have requested that the division or property line between said combined Lots 23 and 24 and Lot 25, between said Lot 25 and 26, and between said Lot 26 and 27 be vacated so that all said lots become one parcel; and,

WHEREAS, the notice requirement of Section 15.2-2272.2 has been complied with; and,

WHEREAS, the governing body affirmatively finds that no owner of any lot shown on said Plat will be irreparably damaged by the said vacations of said lines.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

1. That the division or property line between said combined Lots 23 and 24 and Lot 25, between said Lot 25 and 26, and between said Lot 26 and 27 , as shown on a certain plat of survey entitled “Sub-division of O.H. Jester (heirs) Property, Chincoteague, Virginia”, dated November 19, 1948, and recorded in the aforesaid Clerk’s Office in Plat Book 7, page 77 all be and they are all hereby vacated.

2. That as the result of said vacation of property lines former combined Lots 23 and 24 and Lot 25, 26 and 27 shall result in one (1) parcel.
3. That the Town Manager after the time for an appeal of the adoption of this Ordinance has expired, or if appealed the action of counsel is upheld, shall cause a copy of this Ordinance to be recorded in the Clerk's Office of the Circuit Court of Accomack County.
4. That the effective date of the Ordinance shall be upon adoption by the Town Council for the Town of Chincoteague.

Ayes: _____

Nays: _____

Approved as of _____, 2010

 Mayor

State of Virginia
 County of Accomack

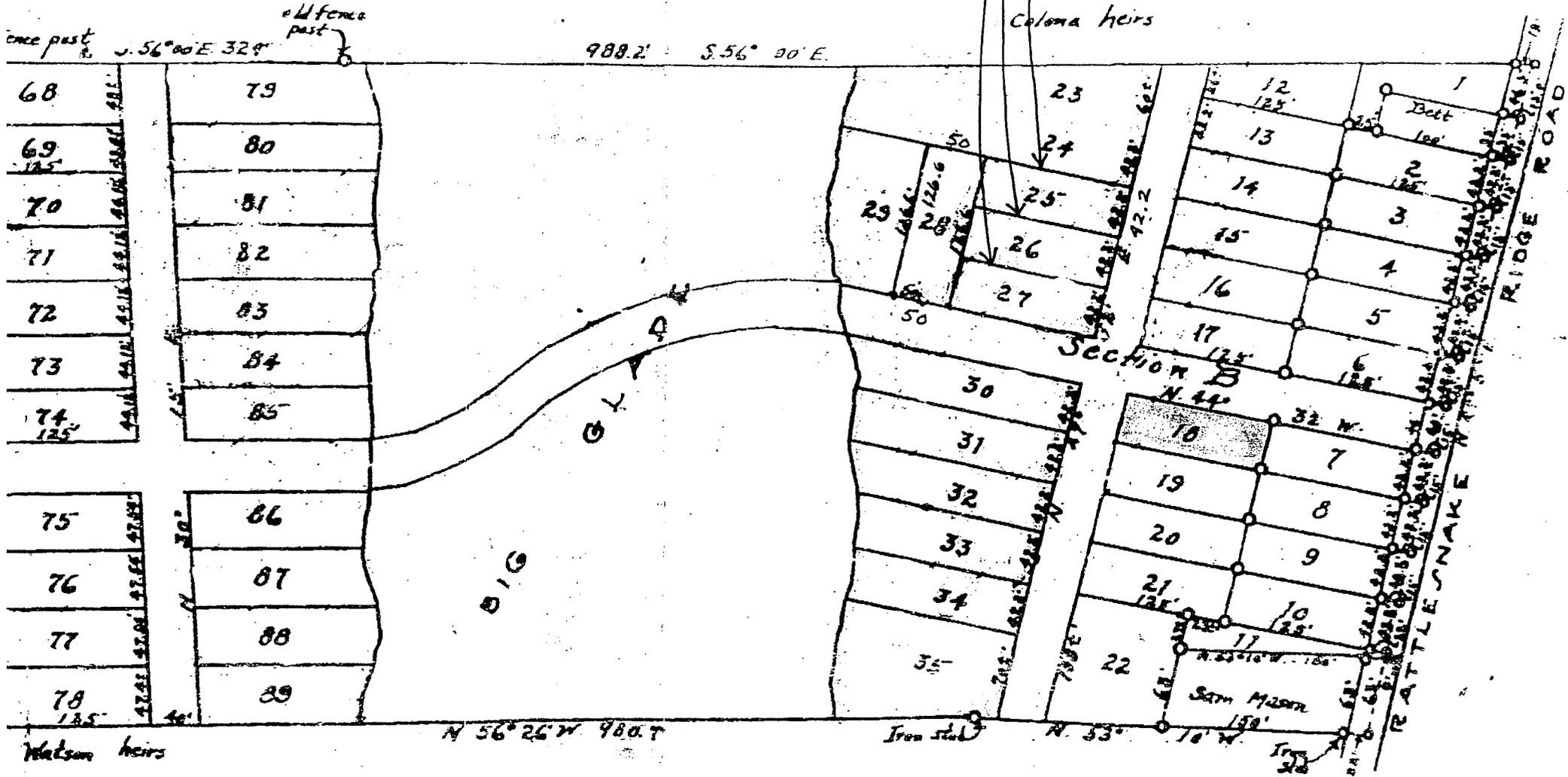
The foregoing Ordinance was acknowledged before me this _____ day of _____, 2010,
 by _____, Mayor, in my jurisdiction aforesaid.

 Notary Public
 Commission Expires: _____

Gerald M. West, Attorney at Law
 Chincoteague, Virginia



Property Lines to be Vacated



by Clarence (Whitey) Jester

The Clerk's Office of the Circuit Court of Accomack County,
 May 2, AD 1953.
 is annexed to and made a part of Deed from Clarence Jester and
 Selby Jester, recorded this day in said Clerk's Office in Deed
 Page 276

MEMORANDUM

To: Robert Ritter, Town Manager
From: Kenny L. Lewis, Zoning Administrator 
Date: February 26, 2010
Subject: Request to Vacate a Subdivision Lot Line
Shirley Lewis & Marvin and Florence Westpal

Mrs. Anita Merritt has submitted a request to vacate a property line across from 3190 Main Street.

The lot line to be vacated is located between Parcels 030A2-17-D and 030A2-17-D1.

The Board of Zoning Appeals gave a variance to make two non-conforming lots more non-conforming.

Mrs. Merritt has requested that this matter be placed on the April 5, 2010 agenda.

Please advise if this date is available. If so I will notify Mrs. Merritt.

25 February 2010

Town Council of Chincoteague
6150 Community Drive
Chincoteague
VA 23336

Dear Mayor Tarr and town council members;

We respectfully submit this notice for a public hearing and ordinance for vacation of property line.

We request to be put on the agenda for the April 5, 2010 town council meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anita Merritt".

Anita Merritt/Agent for Shirley Lewis and Marvin and Florence Westphal

NOTICE OF PUBLIC HEARING

The Chincoteague Mayor and Town Council will hold a public hearing at 6 p.m. on April 5, 2010, in the Council Chambers located at 6150 Community Drive, Chincoteague Island Virginia, to afford interested parties the opportunity to be heard or present written comments concerning a proposed Ordinance to vacate the following property line:

The applicant request to vacate the property line between parcel 30A2-17-D and 30A2-17-D1 Main Street and relocate said lot line. The lot line adjustment will result in parcel D being 1,280 square feet in area (Currently 4,178 square feet in area) and parcel D-1 being 3,967 square feet in area. (Currently 1,069 square feet in area).

Anyone who would like to review the proposed plat may contact Mr. Kenny L. Lewis, Zoning Administrator at the Town office at 757-336-6519.

Shirley Lewis
Marvin & Florence Westphal

AN ORDINANCE VACATING A PROPERTY LINE OF A SUBDIVISION PLAT PURSUANT TO SECTION 15.2-2272.2

WHEREAS, SHRILEY LEWIS AND MARVIN AND FLORENCE WESTPHAL,

OWN THE TWO PARCELS OF LAND ON A CERTAIN PLAT OR SURVEY ENTITLED

“Physical Survey and Proposed Subdivision of Property owned by Charles W. Lewis and Shirley W. Lewis, Chincoteague, Virginia” dated May 13, 1989 and recorded in Plat Book 90 Page 82 Those being the same lots or parcels of land conveyed to Marvin A. Westphal and Florence L. Westphal from Shirley W. Lewis and Charles W. Lewis, by deed dated January 29, 2003 and recorded January 31, 2003, in the Clerks Office for the Circuit Court of Accomack County, Virginia, Instrument Number 200300755.

WHEREAS, the said Shirley Lewis and Marvin and Florence Westphal have requested and have been granted permission from the BZA of the town of Chincoteague the conditional re-subdivision of parcel D to reflect the new boundary lines of a certain Survey dated January 5, 2010 Entitled “Boundary Line Adjustment of Parcel ‘D’ and ‘D1’ Tax Parcels #030A21700D00000 & 030A21700D00001.

WHEREAS, the notice requirement of Section 15.2-2272.2 has been complied with and

WHEREAS, the governing body affirmatively finds that no owner of any lot shown on said plat will be irreparably damaged by the said vacation and re-adjustment of said line.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS;

1. That the line between lot D and D1 be vacated.
2. That as a result of said vacation of property line will result in the re-subdivision of lot D to allow 2 non-conforming lots of record conditional that no residential structures be placed on either lot.
3. That the Town Manager after the time for an appeal of the adoption of the Ordinance has expired, or if appealed the action of counsel is upheld, shall cause a copy of this Ordinance to be recorded in the Clerk’s Office of the Circuit Court of Accomack county.
4. That the effective date of the Ordinance shall be upon adoption by the Town Council for the Town of Chincoteague.

Ayes: _____

Nays: _____

Approved as of _____, 2010

Mayor

State of Virginia
County of Accomack

The foregoing Ordinance was acknowledged before me this _____ day of _____, 2010,
by _____, Mayor, in my jurisdiction aforesaid.

Notary Public

Commission Expires



TOWN OF CHINCOTEAGUE, INC.

February 12, 2010

Mrs. Shirley Lewis
3190 Main Street
Chincoteague Island VA 23336

RE: Board of Zoning Appeals Case #02-10-1

Dear Mrs. Lewis:

The Board of Zoning appeals met on February 11, 2010 to review your request to re-subdivide your non-conforming lot located across the street from your residence located at the above address.

Please be advised that the Board conditionally approved your request.

The following condition is placed on your approval: "No residential structures to be placed on either waterfront lot".

Additionally, prior to recording the proposed plat, you will need to get your attorney draft a public hearing notice and deed of vacation ordinance to remove the existing lot line between Lot D and D-1.

You or any aggrieved citizen can appeal this decision within 30 days of this notice. Such appeal shall be made to the Circuit Court of Accomack County.

If you have any questions regarding this approval please give me a call.

Sincerely,

Kenny L. Lewis
BZA Secretary

2003 00755

THIS DEED made this 29th day of January, 2003, by and between **SHIRLEY W. LEWIS** and **CHARLES W. LEWIS, GRANTORS**, party of the first part, and, **MARVIN A. WESTPHAL** and **FLORENCE L. WESTPHAL, GRANTEES**, of 1211 Potomac Lane, Alexandria, Virginia 22308, party of the second part.

W I T N E S S E T H :

FOR AND IN CONSIDERATION of the sum of THREE HUNDRED TWENTY-FIVE THOUSAND and 00/100 DOLLARS (\$325,000.00) and other good and valuable consideration, the receipt of which is hereby acknowledged by the party of the first part, the said party of the first part does hereby grant, bargain, sell and convey with GENERAL WARRANTY and ENGLISH COVENANTS of title unto the said Marvin A. Westphal and Florence L. Westphal, husband and wife, as tenants by the entireties with the right of survivorship as at common law, the following described real property, to wit:

PARCEL ONE: All that certain lot or parcel of land located on Chincoteague Island, Accomack County, Virginia, and formerly known as 839 S. Main Street and bounded as follows: On the Northeast for a distance of 200.02 feet by the land now or formerly owned by Kenneth McCormick and Mary Louise McCormick; on the Southeast by for a distance of 58.81 feet by the lands of Charles F. Lewis and Melody Cockrell - Lewis; on the Southwest for a distance of 205.05 feet by other lands of Charles W. Lewis and Shirley W. Lewis; and, on the Northwest for a distance of 47.87 feet by Main Street, all as shown as "Parcel A" on a certain plat of survey entitled "Physical Survey and Proposed Subdivision of Property Owned by Charles W. Lewis and Shirley W. Lewis, Chincoteague, Virginia", made by Earl Horton, dated May 13, 1989 and recorded in Plat Book 90 at page 82 in the Clerk's Office of the Circuit Court of Accomack County, Virginia, reference to said plat being hereby made for a more particular description of the herein conveyed property.

It Being the same lot or parcel of land conveyed to Shirley W. Lewis from Shirley W. Lewis and Charles W.

Lewis by deed dated March 28, 1991, recorded in Deed Book 592 page 301.

PARCEL TWO: All that certain lot or parcel of land situate, lying and being in the Town of Chincoteague, Accomack County, Virginia, being 18 ft. by 38 ft., more or less, of the northeast portion of a lot designated "D" on a certain plat of survey entitled "Physical Survey and Proposed Subdivision of Property Owned by Charles W. Lewis and Shirley W. Lewis, Chincoteague, Virginia" dated May 13, 1989 and recorded in Plat Book 90 page 82 and bounded as follows: On the Northeast for a distance of 38 feet, more or less, by the lands now or formerly of Kenneth McCormick and Mary Louise McCormick; on the Southeast for a distance of 18 feet by Main Street; on the Southwest for a distance of 38 feet, more or less, by the remaining land of Shirley W. Lewis and Charles W. Lewis; and, on the Northwest for a distance of 18 feet, more or less, by Chincoteague Channel.

It being the same lot or parcel of land conveyed to Shirley W. Lewis by Shirley W. Lewis and Charles W. Lewis by deed dated May 19, 1994 recorded in Deed Book 668 page 365.

This conveyance is made together with all the rights, privileges, easements and appurtenances thereunto belonging or in anywise appertaining, and, subject to any rights-of-way, easements and restrictions of record and to matters visible upon inspection.

WITNESS the following signatures and seals.

Charles W. Lewis (SEAL)
CHARLES W. LEWIS

Shirley W. Lewis (SEAL)
SHIRLEY W. LEWIS

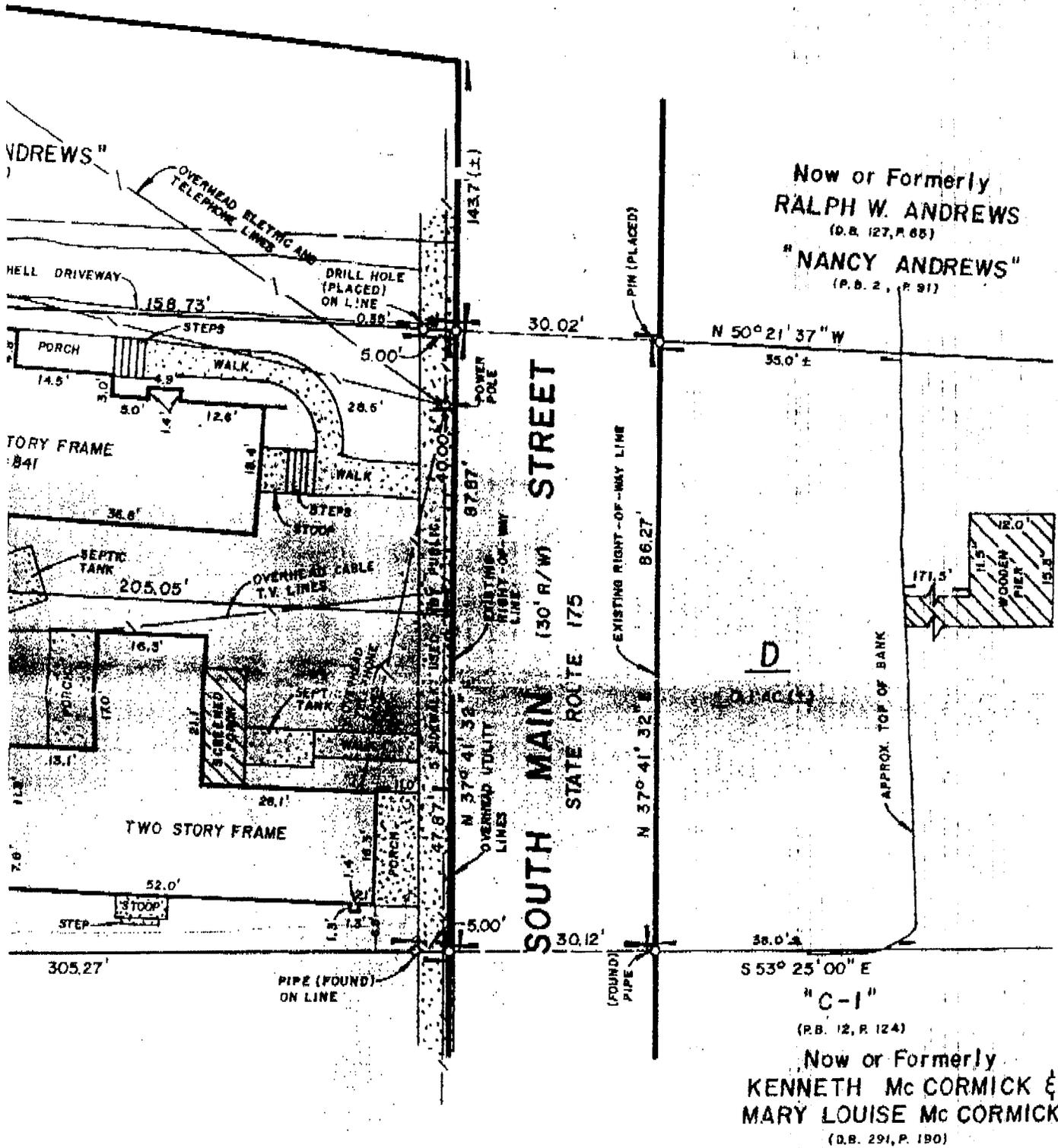
COMMONWEALTH OF VIRGINIA

COUNTY OF ACCOMACK, to wit:

The foregoing instrument was acknowledged before me this 29th day of January 2003, by Charles W. Lewis and Shirley W. Lewis in the State and County aforesaid.

Tom C. [Signature]
NOTARY PUBLIC

My Commission Expires: 02/28/05



**PHYSICAL SURVEY
 AND PROPOSED SUBDIVISION OF
 PROPERTY OWNED BY
 CHARLES W. LEWIS AND SHIRLEY W. LEWIS**
(D.B. 520, P. 171-
ACCOMACK COUN

Scale: 1" = 20' January 31, 1990

EARL HORTON
 LAND SURVEYOR



Lawyers Title Insurance Corporation

SCHEDULE C

PROPERTY DESCRIPTION

The land referred to in this Policy is described as follows:

PARCEL ONE: All that certain lot or parcel of land located on Chincoteague Island, Accomack County, Virginia, and formerly known as 839 S. Main Street and bounded as follows: On the Northeast for a distance of 200.02 feet by the land now or formerly owned by Kenneth McCormick and Mary Louise McCormick; on the Southeast for a distance of 58.81 feet by the lands of Charles F. Lewis and Melody Cockrell - Lewis; on the Southwest for a distance of 205.05 feet by other lands of Charles W. Lewis and Shirley W. Lewis; and, on the Northwest for a distance of 47.87 feet by Main Street, all as shown as "Parcel A" on a certain plat of survey entitled "Physical Survey and Proposed Subdivision of Property Owned by Charles W. Lewis and Shirley W. Lewis, Chincoteague, Virginia", made by Earl Horton, dated May 13, 1989 and recorded in Plat Book 90 at page 82 in the Clerk's Office of the Circuit Court of Accomack County, Virginia, reference to said plat being hereby made for a more particular description of the herein conveyed property.

PARCEL TWO: All that certain lot or parcel of land situate, lying and being in the Town of Chincoteague, Accomack County, Virginia, being 18 ft. by 38 ft., more or less, of the northeast portion of a lot designated "D" on a certain plat of survey entitled "Physical Survey and Proposed Subdivision of Property Owned by Charles W. Lewis and Shirley W. Lewis, Chincoteague, Virginia" dated May 13, 1989 and recorded in Plat Book 90 page 82 and bounded as follows: On the Northeast for a distance of 38 feet, more or less, by the lands now or formerly of Kenneth McCormick and Mary Louise McCormick; on the Southeast for a distance of 18 feet by Main Street; on the Southwest for a distance of 38 feet, more or less, by the remaining land of Shirley W. Lewis and Charles W. Lewis; and, on the Northwest for a distance of 18 feet, more or less, by Chincoteague Channel.

THOSE BEING the same lots or parcels of land conveyed to Marvin A. Westphal and Florence L. Westphal from Shirley W. Lewis and Charles W. Lewis, by deed dated January 29, 2003, and recorded January 31, 2003, in the Clerks Office for the Circuit Court of Accomack County, Virginia, Instrument Number 200300755.

(INSTRUMENT #
(PB 90, PG
AREA - 1,069 SF

PROPERTY EXTENDS TO MEAN LOW
WATER TIE LINES SHOWN FOR
COMPUTATIONAL PURPOSES ONLY.

CONVEYED FROM PARCEL 'D' TO
PARCEL 'D-1' - 2,898 SF OR 0.066 AC

JANICE N. CLARK
& LINDA S. DAUPHIN
TAX PARCEL #30A2-A-43
(DB 729, PG 316)

N 35 37'46" E

20.32'

-N 45° 05' 19" E

63.32'

27.24'

62.55'

35.31'

N 50° 19' 57" W

35.31'

PIN(F)

REVISED 'D'
AREA = 1,280 SF OR 0.029 AC

63.26'

28.49'

N 50° 19' 57" W

34.79'

PIN(S)

PIN(S)

PROPERTY LINE
HEREBY VACATED

TOP OF BANK

REVISED 'D-1'
AREA = 3,967 SF OR 0.091 AC

PROPERTY LINE HEREBY
ESTABLISHED

PIN(S)

66.00'

S 37° 41' 32" W

86.28'

PIN(S)

DONALD

TAX
(INSTR

S 63° 22' 27" E

65.10'

PIPE(F)

S 50° 19' 57" E

35.05'

South Main Street
(30' Right-of-Way)
(Plat Book 90, Page 82)

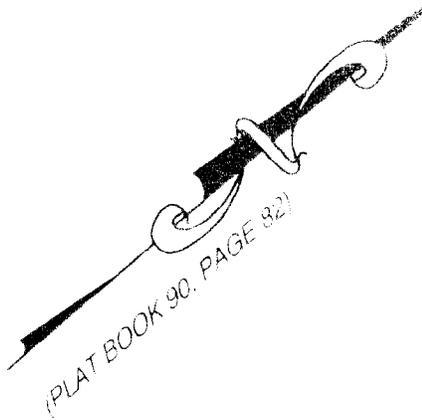
S 63° 22' 27" E

35.16'

± 144' TO BEEBE ROAD

DRILL HOLE (F)

NAIL (F)



(PLAT BOOK 90, PAGE 82)

WOOD PILE (TYP.)

WOOD DOCK

Chincoteague Channel

SHIRLEY W. LEWIS
PART OF LOT D
TAX PARCEL #30A2-17-D
(DB 520, PG 344)
(PB 90, PG 82)
AREA = 4,178 SF OR 0.096 AC

APPROXIMATE LOW WATER MARK AS
LOCATED ON DECEMBER 18, 2009

MARVIN A. & FLORENCE L.
PART OF LOT
TAX PARCEL #30A2
(INSTRUMENT #200
(PB 90, PG 82)
AREA = 1,069 SF OR

PROPERTY EXTENDS TO MEAN LOW
WATER. TIE LINES SHOWN FOR
IMPUTATIONAL PURPOSES ONLY.

JANICE N. CLARK

PIN(S)

ED 'D'
FOR 0.029 AC

Page 92 of 150

PROPERTY LINE
HEREBY VACATED

TOP OF BANK

PIN(S)

DONALD L.

TAX P.

N 35° 37' 46" E

20.32'

27.24'

62.55'

63.28'

28.49'

N 45° 05' 19" E

63.32'

S 53° 22' 27" E

Rezoning Application

The Town of Chincoteague Application for Rezoning requests three criteria for consideration in addition to the guidance provided by the adopted Comprehensive Plan. The information provided by the applicant is summarized below.

1. Reason for Request

A Zoning Map 'correction' for Parcel 'E' to the R-2 zoning district would be consistent with R zoning prior to its incorporation into the Town of Chincoteague and would allow one-family residential lots of a similar size and character to the existing Oyster Bay subdivision.

Potential development of two-family residential lots and other permitted uses under the R-2 zoning district is consistent with similar adjacent properties along North Main Street that are zoned R-2.

The proposed R-2 zoning would act as a transition between Oyster Bay II and the adjacent large R-3 zoned property.

Owner desires greater flexibility of land use to assist in sale of the property.

2. Proposed Use

Supporting information that describes the proposed use was added to the application on March 3, 2010. The applicant states his belief and intent that duplex units on this property would be constructed to look like large attractive single family houses with wrap around porches and front entrances from the porch, that this would provide more affordable housing for permanent residents, and that there is not a demand for more single family lots given the surplus available in the Oyster Bay II subdivision. A commitment to work with the Oyster Bay II community regarding the use and maintenance of Hibiscus Drive was also offered.

A concept plan illustrating the potential site development has not been provided to assist in the evaluation of the rezoning request.

3. Voluntary Proffers

The applicant has proposed a proffered contribution to Oyster Bay II Property Owners Association for road maintenance. Since this would be a private agreement that does not involve the Town of Chincoteague, the Planning Commission determined that such a proffer could not be accepted or enforced by the Town.

The Chincoteague Town Code also provides a reference (CD1:5, CDA:26 Sec. 2.142, State Code 15.2-2286(7)) to assist in reviewing a rezoning application for this property. The proposed change may occur whenever the public necessity, convenience, general welfare, or good zoning practice requires such a change.

Planning Commission Review

The Planning Commission worked to resolve all outstanding issues prior to making a recommendation to the Town Council. Planning staff has coordinated with the Applicant and the Town Attorney to provide information about the 4 main issues as follows:

- 1. Removal of the property from Oyster Bay subdivision through the vacation of plat process , if necessary, to clear up the question of common ownership.** Mr. Poulson’s letter dated February 23, 2010 concludes that the vacation of plat is totally unnecessary because Parcel E is not a common ownership parcel and is not subject to the Oyster Bay II covenants and restrictions.

In order to maintain any rights the property may have to access Hibiscus Drive, planning staff does not recommend the vacation of Parcel E from the original subdivision plat.

- 2. No covenants attached or implied from Oyster Bay II.** Mr. Poulson’s letter dated February 23, 2010, and as clarified in his letter dated February 25, 2010, states that Parcel E is not subject to the Declaration of Covenants and Restrictions for Oyster Bay II because it is not one of the numbered ‘lots’ specifically designated. He states that the 1975 Marriott deed of sale contains a standardized reference to conditions, restrictions and easements that does not otherwise bind the property to the Oyster Bay II covenants.

This position is clearly stated through both letters.

- 3. Access to Hibiscus Drive is established.** The statements and legal opinions of both Mr. Wessells and Mr. Poulson have been expressed that Parcel E would have the right of access to Hibiscus Drive based on the following premise:

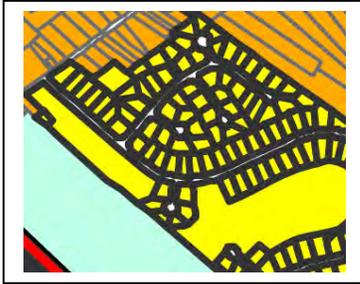
“When there is a division of property by an owner and there is an easement or right of way shown on the plat touching both parcels, both parcels would normally have access over any such easement or right of way unless specifically restricted.”

This position is supported by the research and conclusions of planning staff. The Planning Commission has indicated its concern for allowing additional points of safe access to North Main Street with the proposed increase in permitted density, and has recommended that the property use its frontage along Hibiscus Drive.

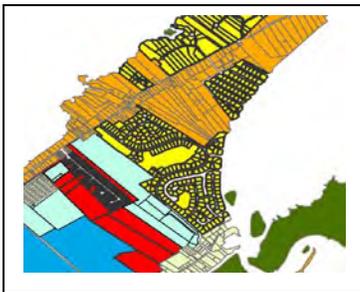
In addition to resolving the basic question of access, it is noted that the Applicant has amended his application through correspondence dated March 3, 2010 to voluntarily ‘proffer’

- Contribution toward road maintenance of Hibiscus Drive in a financial amount commensurate with OB II lot owners
 - Deed Restriction for Parcel E and subsequent owners to be responsible for road damage directly attributable to construction activity
 - Offer to work with OB II POA to incorporate selected restrictions to help maintain the overall integrity of the Oyster Bay Community
- 4. Comparison of the application to the Comprehensive Plan.** The Planning Commission Staff Report dated March 5, 2010 has included a range of policies that should be considered along with the Proposed Land Use Map. These policies recommend both the protection of existing

neighborhood character, and the encouragement of a variety of housing types/affordability/density to maintain the overall character of the Town. The Comprehensive Plan may be viewed at several levels before an overall recommendation is made.



The Plan may be viewed at the site or individual development project level with the idea that protection of the R-1 district is important



The Plan may be viewed at the neighborhood level with the idea that a mix of zoning districts and transition between different zoning districts is important



The Plan may be viewed at the Town wide level with the idea that there is a limited supply of R-1 zoning that should be protected, or the R-2 district has been applied in other areas of Town to infill properties and larger single parcels adjacent to the R-1 district

Planning Commission Recommendation

Following consideration of these items, and agreement that the outstanding issues had been adequately resolved, the Planning Commission voted to forward the rezoning request for Phillip P. Ettinger – Parcel ‘E’ to the Town Council with a recommendation for denial for the following reason:

1. Rezoning to the R-2 district is not consistent with the adopted Comprehensive Plan that maps this property as Single Family (R-1) land use.

The motion was approved by the majority vote of those present. (For: Muth, Rosenberger, Jester, Cherrix, Against: Taylor, Abstain: Potts, Absent: Katsetos)

Staff Recommendation

Public comment should be received and considered by the Town Council. A public hearing has been advertised along with certified notices sent to all adjoining property owners as required by State Code Section 15.2-2204.

Amendments to the zoning map should generally follow the guidance of the Comprehensive Plan, and/or should be accompanied by statements and findings regarding the unique nature of the request. Rezoning and new development should be well planned to include concept plans, architectural designs, and studies of potential impacts to the community.

Sample motions to recommend approval, denial or continuation are provided for reference.

Sample Motions

1. I move to approve the rezoning request for Phillip P. Ettinger – Parcel ‘E’ for the following reasons:
 - a. The property is similarly situated to adjacent lots along North Main Street that include a mix of residential zoning districts including the R-2 district,
 - b. With the application of unique design and development standards, the property could serve as a transition between the adjacent R-1 and R-3 zoning districts,
 - c. Rezoning to the R-2 district would ‘correct’ a mapping error that occurred at the time of annexation into the Town
 - d. other _____

2. I move to deny the rezoning request for Phillip P. Ettinger – Parcel ‘E’ for the following reasons:
 - a. Rezoning to the R-2 district is not consistent with the adopted Comprehensive Plan that maps this property as a part of the Oyster Bay subdivision,
 - b. The proposed increase of permitted uses and density is requested without a concept plan for development or other information to demonstrate adequate protection of the public welfare and the implementation of good zoning practice
 - c. other _____

3. I move to postpone action on the rezoning request for Phillip P. Ettinger – Parcel ‘E’ to allow for the consideration of public testimony and to resolve outstanding issues including the following:
 - a. _____

Application Information

Information provided by the applicant is attached for reference purposes.

The applicant has stated that Parcel 'E' is located at the edge of the existing Oyster Bay Section II subdivision zoned R-1 and next to an adjoining undeveloped property zoned R-3. If rezoned to the R-2 district, it would serve as a transition and buffer between the two properties.

A brief history of the Oyster Bay subdivision was presented by the applicant who noted the minimum lot size of 12,000 square feet in the subdivision was unchanged when the property was incorporated into the Town of Chincoteague. At that time, the subdivision was mapped as R-1 (minimum lot size of 15,000 square feet) to reflect the deed restriction for building only single family detached homes.

The applicant's request to include the subject property in the R-2 zoning district (minimum lot size of 12,500 square feet) was described as consistent with the original subdivision lot size and similarly located with properties along North Main Street that are also zoned R-2. An early proposal for Parcel 'E' to be used for recreation and commercial use was also described.

The applicant has not submitted a proposed development plan, or any details of site improvements such as proposed building types, buffers to adjoining properties, safe means of access to the property in order to support the requested increase in permitted uses, or other studies that demonstrate the potential use of the property.

The applicant has provided a copy of the deed of sale dated December 4, 1975 in support of the application stating that the property was 'removed' from the Oyster Bay 2 subdivision and is no longer community property.

The property is located adjacent to parcels within the R-1, R-2 and R-3 zoning districts as illustrated on the [Existing Zoning Map](#). Permitted uses in the Residential districts are summarized below for quick reference.

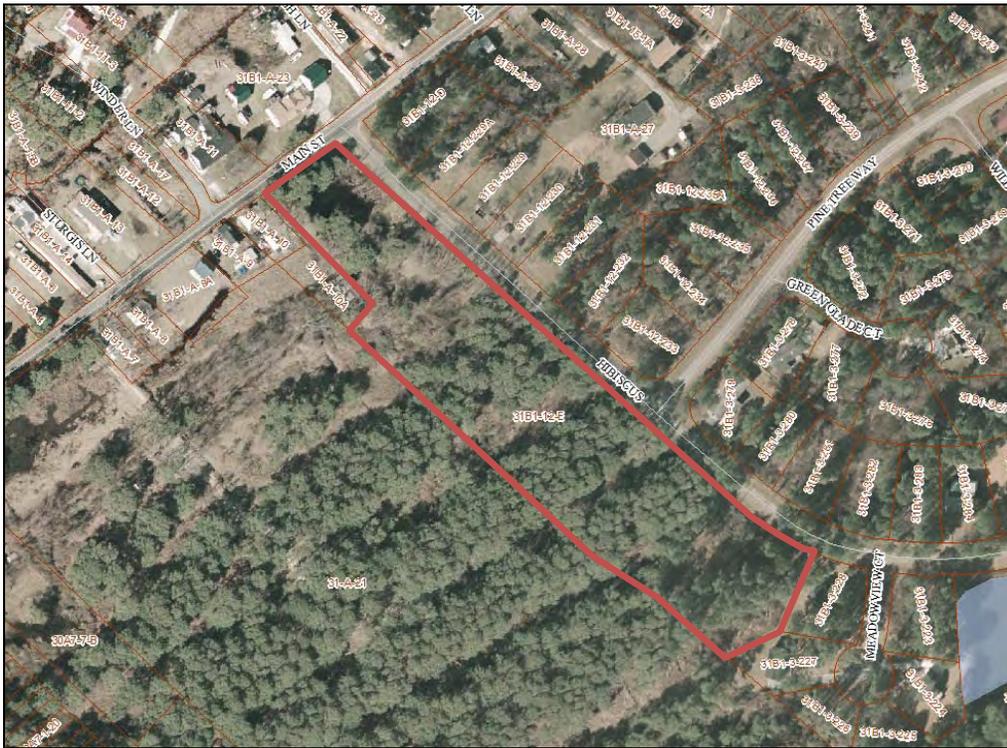
R-1 Residential	R-2 Residential	R-3 Residential
Single Family Dwelling Limited Home Occupation Tourist Rental Homes Accessory Building/Structure	Single Family Dwelling Two Family Dwelling Home Occupation Tourist Rental Homes Tourist Homes Accessory Building/Structure	Single Family Dwelling Two Family Dwelling Mobile Home Home Occupation Tourist Rental Homes Tourist Homes

	<ul style="list-style-type: none"> Fences Public Utilities Signs Parks Schools Churches Pony Penning Sales/Yard Sales 	<ul style="list-style-type: none"> Vacation Rental Cottages Boardinghouse Bed and Breakfast Rest Home Beauty/barber shop Professional Office Day Care Facilities Nursing Homes Municipal Facilities Accessory Building/Structure Fences Public Utilities Signs Recreational Parks/Playgrounds Schools Churches Public Piers/Boatramps Pony Penning Sales/Yard Sales Mobile Home Parks
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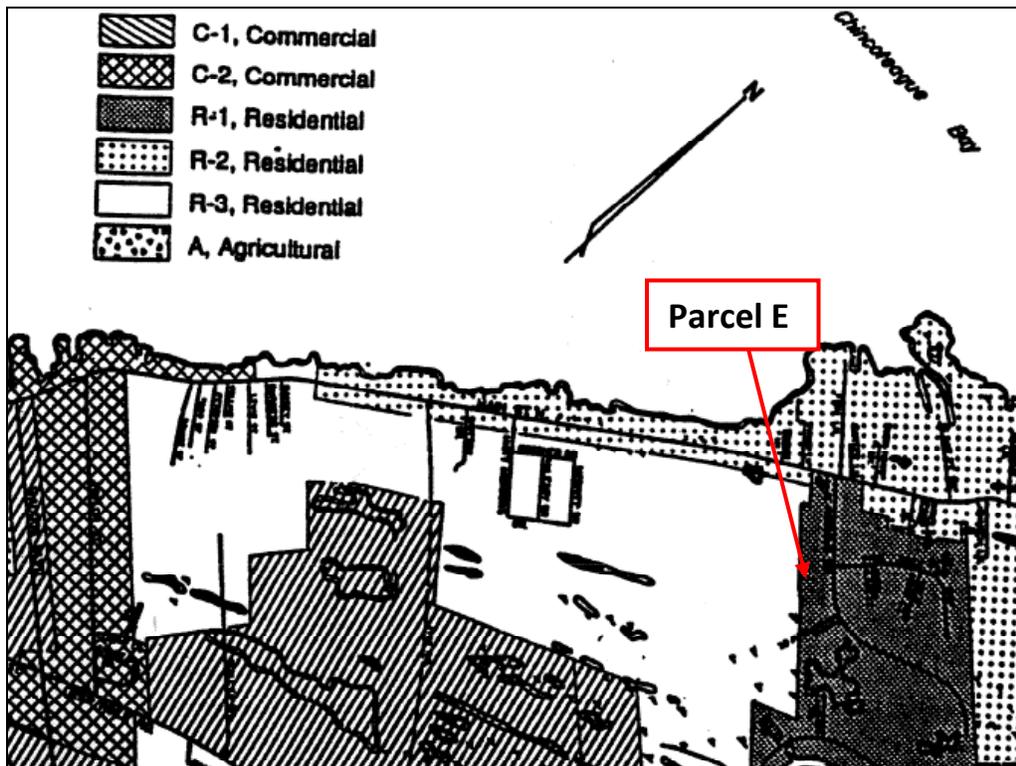
Parcel Map



Aerial Photo



Existing Zoning Map



Comprehensive Plan 2010

The Comprehensive Plan, with the accompanying maps, plats, charts, and descriptive text, shows long-range recommendations for the general development of the Town of Chincoteague. An evaluation of the Goals, Objectives and Policies of the Plan is recommended to guide the consideration of rezoning requests and future land development proposals. Oyster Bay Subdivision and Parcel 'E' are located within the **Single Family Residential planning area** and are generally described in the **Land Use and Housing sections** of the Plan.

The Comprehensive Plan that was adopted by the Town Council on January 4, 2010 after many years of public input and careful deliberation provides guidance regarding this idea. The Plan identifies this parcel as Single Family Residential with a policy to apply the R-1 zoning district and allow detached single family use only. Planning areas illustrated on the Comprehensive Plan 2010 Map were generally mapped to identify areas of common land use characteristics, subdivisions controlled by covenants and restrictions, and to reflect public participation in the planning process.

Land Use Objectives and Recommendations contained in Appendix A of the Comprehensive Plan support the continuation of the R-1 district along with improvements to the quality of local streets and pedestrian systems serving residential neighborhoods.

Primary Goal – The Town of Chincoteague seeks to change over time in an economically and environmentally sustainable manner so that it retains the most endearing and unique physical and cultural features of the Town and provides the setting for a harmonious community life.

Housing Goal: Preserve and protect the neighborhood character and quality of life in residential neighborhoods; encourage a balanced range of housing type and opportunities; promote opportunities for clean, safe, and affordable housing; and maintain safety, appearance, and harmony within neighborhoods.

Land Use Objectives:

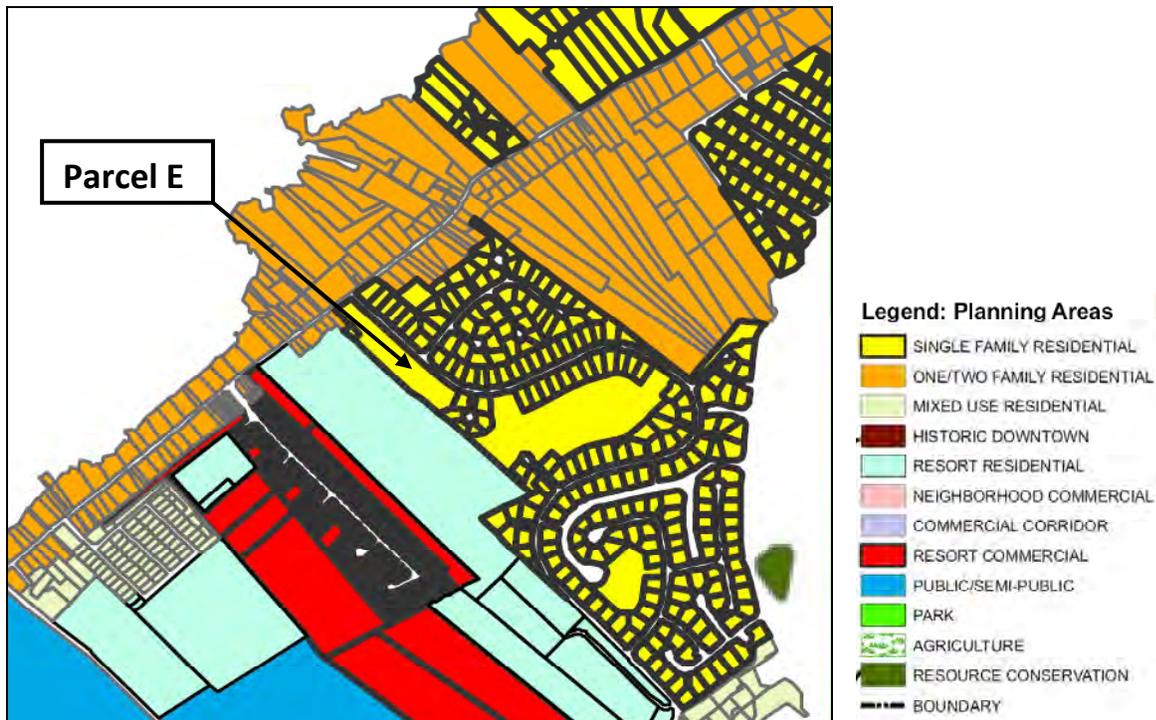
- 1. Protect the quality of life in existing residential neighborhoods, while permitting appropriate infill and redevelopment.**
2. Promote redevelopment and infill of existing underutilized commercial areas.
3. Ensure that all development is compatible with the scale and character of adjacent uses in the area.
4. Ensure that buildings and related site improvements for private development are well designed and compatible with surrounding properties and districts.
- 5. Provide a range of housing options to serve the long term needs of the Town.**
6. Encourage preservation of open space and environmentally responsible development.
7. Ensure that new and existing commercial developments are attractive in appearance.
8. Promote small to medium scale commercial and office developments.
9. Maintain and enhance the character of existing commercial areas.

10. Facilitate the revitalization of the central business district and its waterfront as a center for commerce.
11. Create an attractive street environment, which will compliment private and public properties and be comfortable for residents and visitors.
12. Encourage site design, which preserves scenic vistas.

Housing Objectives:

1. **Encourage a variety of home prices in new development or re-development projects in order to provide housing for people of all socioeconomic backgrounds.**
2. Encourage programs to pro-actively provide accessible and affordable housing for the regional work force, including working with Accomack County and other regional housing entities.
3. Develop policies that support flexible housing arrangements for extended family living, where appropriate.
4. Create policies that facilitate continued occupancy of personal homes by elderly residents, who may need “in-home” care.
5. Encourage housing rehabilitation, redevelopment, infill, and improvement programs for selected areas or neighborhoods.
6. Continue to improve housing conditions by using all available means to ensure decent, safe, and sanitary housing.

Comprehensive Plan 2010 Map



Land Use Plan:

The Land Use Plan provides a policy framework for guiding future growth, development, and redevelopment in the Town of Chincoteague. The Plan identifies several distinct “Land Use Planning Areas.” The location and delineation of each Planning Area considers existing use, established settlement patterns, and opportunities for growth and redevelopment.

The Town of Chincoteague is divided into twelve (12) Land Use Planning Areas. The Land Use Plan identifies a broad goal and purpose for each specific Planning Area as well as objectives and implementation strategies to advance the community’s goals and objectives.

SINGLE FAMILY RESIDENTIAL PLANNING AREA (Yellow)

GOAL: Preserve existing low density residential neighborhoods and ensure that infill and redevelopment are consistent with the existing character of the Planning Area.

The “Single-Family Residential Planning Area” encapsulates existing residential areas which are characterized as primarily detached single-family neighborhoods.

The purpose of the Planning Area is to provide for single-family detached residences and supporting uses. The Planning Area is located in portions of Chincoteague where single-family residential development patterns are generally established and where services and facilities will be adequate for anticipated population.

The Planning Area is intended to provide for the minor infill of existing neighborhoods, consistent with the existing low density residential character of the area. The Planning Area includes some vacant or larger properties that could be candidate sites for infill and/or redevelopment projects. When infill development occurs it should be consistent with prevalent lot development patterns.

Zoning for this area should maintain single-family residential and strictly limit non residential uses. Density should be maintained in accordance with historic lotting patterns. Mobile homes and double-wide manufactured housing are not considered appropriate for the Planning Area.

Implementation Strategies

- Continue to apply the existing R-1 Residential zoning to this Planning Area.
- Zoning provisions for this Planning Area should limit each lot to one principal use.
- Improve the quality of local streets and pedestrian systems serving residential neighborhoods, where necessary.
- Limit permitted residential uses to detached single family units.
- Limit new non-residential uses to low intensity home occupations.

ONE & TWO FAMILY RESIDENTIAL PLANNING AREA (Orange)

GOAL: Protect existing low to medium density residential character and ensure infill and redevelopment are consistent with the existing character of the Planning Area.

This area is a mixture of existing single and multi-family residential uses. Much of this Planning Area is located near Oyster Bay and Little Oyster Bay. A small portion of the area is located adjacent to Maddox Boulevard and the Chincoteague Town Center.

The purpose of the Planning Area is to protect existing neighborhoods primarily consisting of one and two family dwellings. It is the Town's intent to allow infill and redevelopment of a similar scale and intensity consistent with the existing character of the neighborhoods.

The security of these property assets is crucial to homeowners in terms of quality of life and stable property values. The unique features of the Planning Area are essential characteristics of Chincoteague, being attractive to residents and visitors alike.

Implementation strategies should include measures to protect the existing low to medium residential character and ensure that new construction, re-development, infill development, and structural additions reflect development patterns already present.

Implementation Strategies

- Apply the existing R-2 Residential zoning to properties in the Planning Area.
- Amend zoning provisions for this Planning Area to limit each lot to one principal use. Improve the quality of local streets and pedestrian systems serving residential neighborhoods, where necessary.
- Permit existing non-residential uses to continue but not expand.
- Strictly limit new non-residential uses to low intensity home occupations.

Housing Policy:

The price of homes in Chincoteague has risen dramatically over the past several years and is generally higher than in most other Eastern Shore towns in Virginia. One frequently expressed concern among current residents is that many young people cannot afford to live in the Town. In recent years, a growing concern by community business interests is the provision of housing at costs that satisfy the needs of residents that earn their living as part of the community work force.

Implementation Strategies

The primary need, with respect to housing on Chincoteague, is the provision of affordable housing. The increase in real estate and housing values in recent years will challenge the community in its efforts to address affordable housing, more so than in the past.

Meeting those challenges will require use of more than one approach to providing affordable housing and will require greater private sector involvement.

As a general note, most of the housing strategies discussed below are hypothetical, being dependent on development of public sewer service that, in turn, will enable higher densities and more intense use of existing developed properties through infill and redevelopment.

Increased Density

Allowing a reduction in minimum lot sizes for single-family detached or attached housing is a basic technique for reducing residential development costs. Small lot developments, whether in a cluster or traditional "grid pattern" subdivision, increase density and the opportunity to create affordable housing. It also provides more opportunity for development to avoid sensitive environmental areas.

Small lot developments require greater attention to site design -- the layout of streets, lots, mixing of lot and house sizes, variation in building setbacks and elevations, variation in exterior designs, and landscaping -- to enhance aesthetic appeal and to blend well with surrounding developments.

Special consideration should be given to parking in small lot developments to avoid the problem of cars dominating the streetscape (the visual quality of the development as seen from the street). The maintenance of privacy will also require some attention in small lot developments. Use of landscaping, fences, walls, staggered setbacks, and windowless side walls, are common techniques used to enhance privacy in small lot and other higher-density single-family developments.

Some small lot development ordinances require the use of buffers at the perimeter of small lot projects to lessen the visual impact from near-by larger-lot developments and to help in achieving neighborhood acceptance.

Public Participation (Comprehensive Plan)

A record of the concerns and contributions expressed by residents during the planning process is included in Appendix B of the Comprehensive Plan. Questionnaire response #15 and #20 regarding residential neighborhoods and uses generally addresses architectural character and creating limits on multi-family and townhouse units that block water views and impact the downtown area. There were no specific comments about the Oyster Bay neighborhood.

Public Participation (Zoning Application)

A public hearing was held by the Planning Commission on February 9, 2010 however there were no members of the public in attendance who wished to address the Planning Commission. Three emails were received at the Town Office regarding this case:

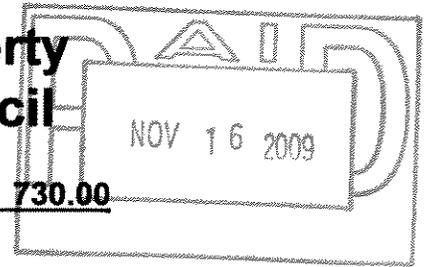
- Tim and Mary Landolt (adjacent lot owner)
- David Hudgins (Oyster Bay II board of directors)
- Buford Rowland (President Oyster Bay II board of directors) through Phillip Ettinger

Comments included questions regarding notification of the hearing, differences between R-1 and R-2 permitted uses, type of housing proposed and whether access to Hibiscus is proposed. Access to Hibiscus Drive was identified as the main unresolved concern.

Attachments

- Rezoning Application Form
- Copy of Deed of Sale
- Letter from Applicant's attorney
- Letters from Town Attorney
- Correspondence with Applicant
- Email from Oyster Bay Property Owner's Association

CHINCOTEAGUE, VIRGINIA
Application to Rezone Property
To The Mayor & Town Council



CASE NUMBER: _____

FEE: \$ 730.00

I, JEFF POTTS / REALTOR ASSOCIATE COLDWELL BANKER EASTERN SHORE,

AGENT FOR PHILLIP P. ETTINGER WOULD LIKE TO FILE THE FOLLOWING APPLICATION TO THE MAYOR & TOWN COUNCIL TO REZONE PROPERTY UPON THE NOTED STATE CODE AND ZONING ORDINANCE(S):

TITLE 15.2, CODE OF VIRGINIA, 1959 (AS AMENDED)

ARTICLE XI, SECTION 11.1

1. () REQUEST TO REZONE PROPERTY FROM RESIDENTIAL DISTRICT R-1 TO :
R-2 R-3 ___ AG ___ C-1 ___ C-2 ___
2. () REQUEST TO REZONE PROPERTY FROM RESIDENTIAL DISTRICT R-2 TO :
R-1 ___ R-3 ___ AG ___ C-1 ___ C-2 ___
3. () REQUEST TO REZONE PROPERTY FROM RESIDENTIAL DISTRICT R-3 TO :
R-1 ___ R-2 ___ AG ___ C-1 ___ C-2 ___
4. () REQUEST TO REZONE PROPERTY FROM AGRICULTURAL DISTRICT AG TO :
R-1 ___ R-2 ___ R-3 ___ C-1 ___ C-2 ___
5. () REQUEST TO REZONE PROPERTY FROM COMMERCIAL DISTRICT C-1 TO :
R-1 ___ R-2 ___ R-3 ___ AG ___ C-2 ___
6. () REQUEST TO REZONE PROPERTY FROM COMMERCIAL DISTRICT C-2 TO :
R-1 ___ R-2 ___ R-3 ___ AG ___ C-1 ___

TOWN COUNCIL USE ONLY:

MEETING DATE: _____

ACTION ON APPLICATION:

() APPROVED

() DENIED

() CONDITIONAL: _____

_____ TOWN MANAGER

DATE: _____

PLEASE PRINT

THE PROPERTY IN WHICH THIS APPLICATION IS SUBMITTED IS LOCATED AT (911 ADDRESS)

UNIMPROVED ACREAGE, PARCEL "E" NORTH MAIN STREET, TAX MAP # 31B1-12-E

THIS PROPERTY IS CURRENTLY OWNED BY:

NAME: PHILLIP P. ETTINGER

ADDRESS: 2904 MAPLEWOOD PLACE

CITY, STATE, ZIP: ALEXANDRIA, VA 22302

PHONE: (703) 549-5762 WORK PHONE: N/A

FAX (703) 549-1444

(1.) EXPLAIN REASON FOR REQUEST

THIS REQUEST IS FOR THE MOST PART A "CORRECTION"; WHERE AS THE RESIDENTIAL-1 DESIGNATION IS FOR UPSCALE SINGLE-FAMILY SUBDIVISION LOTS; ALONG WITH ASSOCIATION OWNED TAX EXEMPT PROPERTIES USED FOR PARKS, LAKES, COMMUNITY BUILDINGS ETC.

THE PROPERTY IN QUESTION WAS ONCE A PART OF THE OYSTER BAY II SUBDIVISION; BUT WAS REMOVED AND SOLD IN DECEMBER, 1975; AND HAS STOOD ON ITS OWN AS A 4 1/2 ACRE PARCEL WITH ACCESS ONLY FROM NORTH MAIN STREET; AND NOT FROM THE 60 FT. PRIVATE ROAD (HIBISCUS DRIVE) THAT RUNS PARALEL TO ITS NORTHERN BORDER.

(2.) PROPOSED USE OF LAND TO BE REZONED:

OWNER'S INTENT IS TO SELL THIS PROPERTY.

AN R-2 CLASSIFICATION WILL ALLOW ANY PROSPECTIVE BUYER MORE OPTIONS AND LESS RESTRICTIONS AS TO WHAT THEY CAN DO WITH IT.

I.E. - SINGLE FAMILY DWELLING

- TWO FAMILY DWELLING

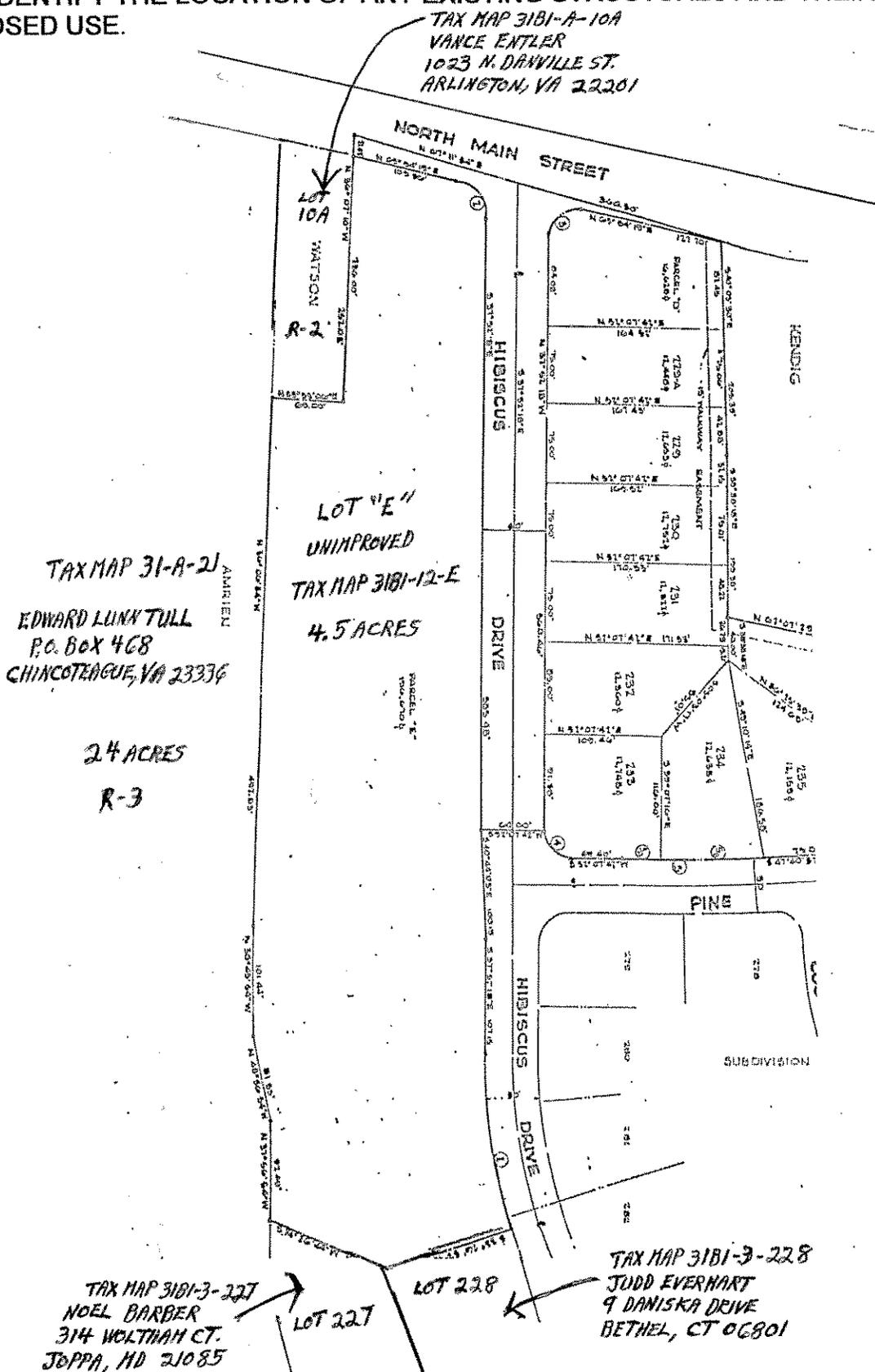
- HOME OCCUPATION; TOURIST RENTALS

(3.) VOLUNTARY PROFFERS:

NO PROFFER STATEMENTS NECESSARY; WHERE AS THIS IS NOT A SUBDIVISION.

SITE PLAN

SHOW FULL DETAIL THE LOT TO BE REZONED. IDENTIFY ADJOINING PROPERTIES AND OWNERS. IDENTIFY THE LOCATION OF ANY EXISTING STRUCTURES AND THEIR EXISTING AND/PROPOSED USE.



TAX MAP 3101-A-10A
 VANCE ENTLER
 1023 N. DANVILLE ST.
 ARLINGTON, VA 22201

TAX MAP 31-A-21
 EDWARD LUNK TULL
 P.O. BOX 468
 CHINCOTEAGUE, VA 23336

TAX MAP 3101-3-227
 NOEL BARBER
 314 WOLFHAM CT.
 JOPPA, MD 21085

TAX MAP 3101-3-228
 JUDD EVERHART
 9 DANISKA DRIVE
 BETHEL, CT 06801

Site Plan



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[Search](#) [Results](#) [Details](#) [Map](#)

[Map](#) [Print](#)

Map ID: 31B1-12-E
Parcel ID: 031B11200E00000
GPIN: 3888-93-9761
Account: 126440

[Summary](#) [Land](#) [Building](#)

Property Class:	100-Incorporated Town	Utility Information
Legal Description:	PARCEL E 196.670 SQ FT 4 1/2AC	Electricity: Subscription Only
Land Description:	No Data	Gas: Subscription Only
Street Type:	Subscription Only	Sewer: Subscription Only
		Water: Subscription Only

ACCOMACK COUNTY

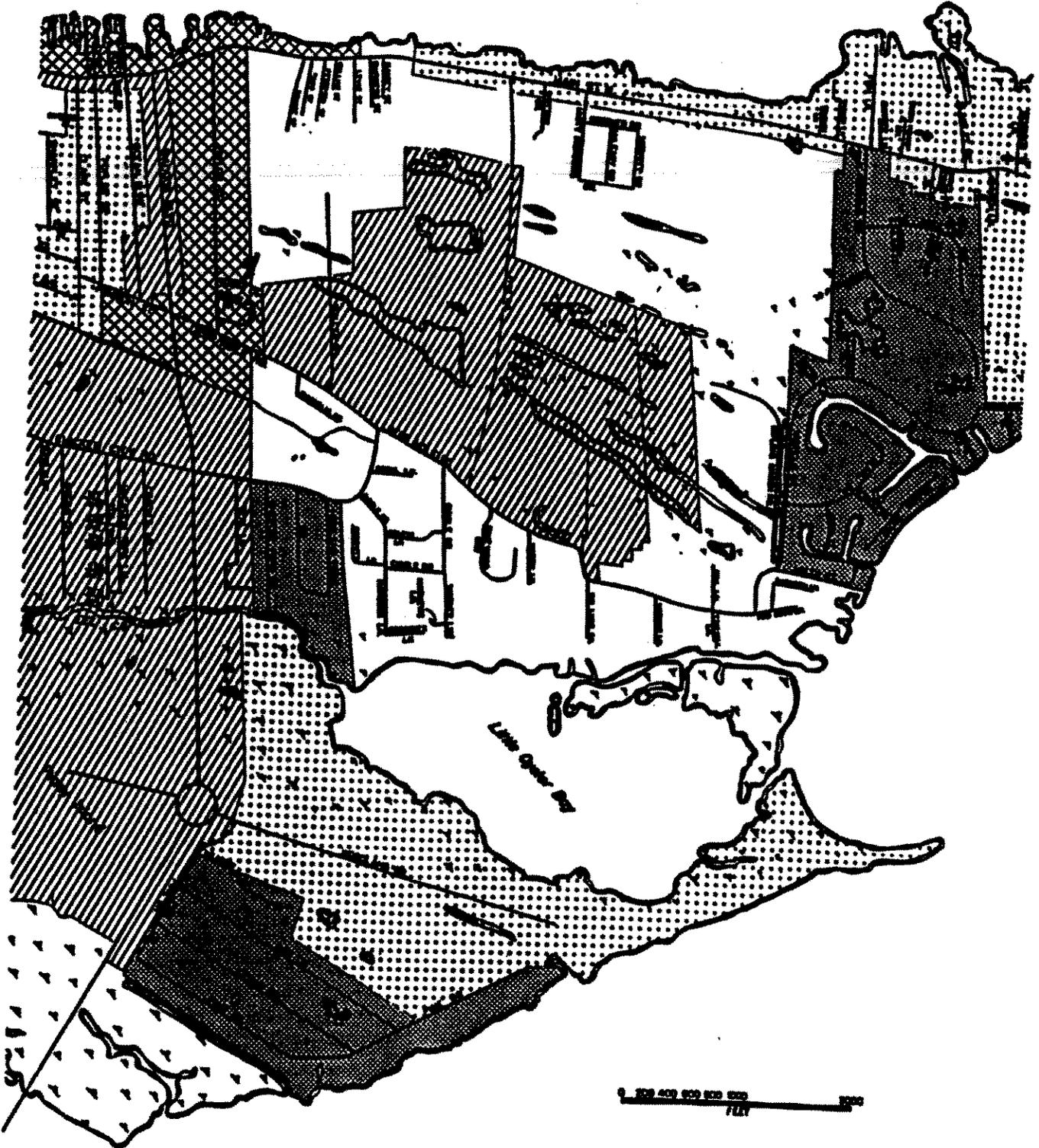
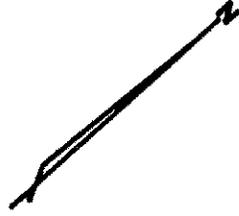
TAXMAP 3181



- (14)
- (15)
- (16)
- (17) R.I
- (18) J.E.

-  C-1, Commercial
-  C-2, Commercial
-  R-1, Residential
-  R-2, Residential
-  R-3, Residential
-  A, Agricultural

Chickadee Bay





EASTERN SHORE

4243 CAPTAIN'S CORRIDOR
P.O. BOX 219
GREENBACKVILLE, VA 23356-0219
TOLL FREE (800) 258-5843
OFFICE (757) 854-4141
FAX (757) 854-4247
www.ColdwellBankerEasternShore.net

NOVEMBER 10, 2009

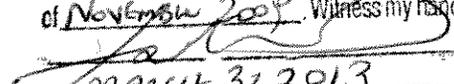
TOWN OF CHINCOTEAGUE
DEPTS. OF PLANNING &/ OR ZONING
CHINCOTEAGUE ISLAND, VA

TO WHOM IT MAY CONCERN:

THIS LETTER IS TO INFORM YOU THAT I HAVE DESIGNATED JEFF POTTS OF COLDWELL BANKER EASTERN SHORE TO ACT AS AGENT ON MY BEHALF IN REGARDS TO THE REZONING APPLICATION OF MY PROPERTY KNOWN AS PARCEL "E" NORTH MAIN STREET, CHINCOTEAGUE, VA. (TAX MAP 31B1- 12- E)

SINCERELY,


PHILLIP P. EVINGER

City/County of ALEXANDRIA
Commonwealth/State of VIRGINIA
Sworn to and subscribed before me this 3rd day
of NOVEMBER 2009. Witness my hand and official seal.

Notary Public.
MARCH 31, 2013
(Print your expiration date above)

NOTARY



10186

Town of Chincoteague, Inc.
6150 Community Drive
Chincoteague, VA 23336
(757) 336-6519

DATE 11/14/09

NAME Phillip ETTinger

ADDRESS _____

- MEALS TAX
- TRANSIENT OCCUPANCY TAX
- SERVICE CONNECTION
- BUILDING PERMIT
- BUSINESS LICENSE

OTHER REZONING REQUEST

AMOUNT DUE 730.00

PENALTY/INTEREST _____ DATE _____

TOTAL DUE _____

AMOUNT RECEIVED 730^{xx} DATE 11/14/09

BALANCE CR# 107

Parcel Deed

BOOK 371 PAGE 19

No. 14786A

THIS DEED, made this 4 day of DECEMBER, 1975, between FIRST CHINCOTEAGUE CORPORATION, hereinafter referred to as "FCC", as General Partner of Oyster Bay Village Partnership, a Virginia Limited partnership, and WOODROW D. MARRIOTT, 4840 Dexter Street, N.W., Washington, D. C., hereinafter referred to as "MARRIOTT".

WHEREAS, FCC assigned its Thirty-five Percent (35%) ownership interest as General Partner in Oyster Bay Village Partnership to MARRIOTT by a document dated October 28, 1975, and entitled Assignment of Interest as General Partner in Limited Partnership, a duplicate original of which is attached hereto and incorporated herein by reference; and

WHEREAS, Said assignment gave MARRIOTT a One Hundred Percent (100%) ownership interest in Oyster Bay Village Partnership; and

WHEREAS, Oyster Bay Village Partnership is the owner in fee simple of the real estate described below in this Deed;

WITNESSETH, That in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, FCC does hereby grant unto MARRIOTT, his heirs, administrators and assigns, in fee simple with Special Warranty and English covenants of title, the following described real estate:

All that certain tract or parcel of land designated as Parcel "E" containing One Hundred Ninety-six Thousand Six Hundred Seventy square feet (196,670 sq. ft.) as shown on a certain plat prepared by Richard H. Bartlett and Associates entitled "Oyster Bay Community, Section II, Subdivision 'D'" which plat has been duly recorded in the Clerk's Office for the Circuit Court of Accomack County, Virginia, in Deed Book 318 at page 494, along with a deed from the party of the first part to Joseph A. Giardino et als duly recorded in said Clerk's Office in Deed Book 318 at page 483 et seq to which reference is made for a more accurate description of the herein conveyed tract or parcel of land. Said tract is bounded on the Northeast, by Hibiscus Drive; on the Southeast, by Lots 227 and 228 as shown on a plat entitled "Oyster Bay Community, Section II, Subdivision 'B'" which is duly recorded in Deed Book 318 at page 490; on the Southwest, by lands of Donald Acrien and Watson and on the Northwest, by North Main Street.

This conveyance is made subject to recorded conditions, restrictions and easements affecting the property hereby conveyed.

WITNESS the following signatures and seals.

FIRST CHINCOTEAGUE CORPORATION

(CORPORATE SEAL)

Attest:

By:

President

HOWARD C. WESSELLS II
ATTORNEY AND COUNSELOR AT LAW
23318 COURTHOUSE AVENUE - P.O. BOX 30
ACCOMAC, VIRGINIA 23301

TELECOPIER
(757) 787-9294

TELEPHONE
(757) 787-1077

January 28, 2010

Mr. Phillip P. Ettinger
2904 Maplewood Place
Alexandria, VA 22302

Re: Parcel E, Oyster Bay Community

Dear Mr. Ettinger:

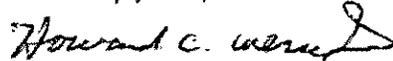
You asked me to do some limited research on whether Parcel E was designated as a common area for the Oyster Bay II Community. As a result of this request I have examined the following documents which you sent to me and which I have attached to this letter:

1. A plat designated OYSTER BAY COMMUNITY SECTION II SUBDIVISION "D", dated May 4, 1972, recorded in the Clerk's Office for the Circuit Court of Accomack County, in Deed Book 318, at page 494.
2. A plat designated BOUNDARY SURVEY OF Parcel 'E' Oyster Bay Community, dated 12/27/09, Tax Map No. 031B11200E00000.
3. Owner's title insurance policy issued by Southern Title Insurance Corporation dated 11/13/2009.
4. Oyster Bay II Community Covenants and Restrictions.

The result of my research is that I could find no references that Parcel E was to be designated a common area. Therefore, it is my opinion that Parcel E could be developed.

Should you have any questions, please feel free to give me a call.

Sincerely yours,



Howard C. Wessells, II

HCW,II/dpm
Enclosures
Cc: Mr. Jeff Potts (Via Fascimile)

copy



TOWN OF CHINCOTEAGUE, INC.

February 12, 2010

Law Offices of Jon C. Poulson, Esquire
23349 Cross Street, P.O. Box 478
Accomac, Virginia 23301-0478

RE: Town of Chincoteague
Planning Commission Request

Dear Mr. Poulson:

The Planning Commission held a public hearing on February 9, 2010 for the rezoning application of Phillip P. Ettinger (Tax ID #31B1 -12-E). The motion to postpone sending a recommendation to the Town Council included a request for your written response to the legal opinion prepared by Mr. Howard C. Wessells, II dated January 28, 2010.

The issue of whether Parcel 'E' is a part of the Oyster Bay II subdivision is still outstanding. Mr. Wessells' letter only addressed the question of whether Parcel 'E' was common area and was not detailed enough to satisfy the Planning Commission's concerns. It did not resolve whether the future use is limited or controlled by Covenants and Restrictions of the Oyster Bay II Subdivision.

Attached, please find copies of the following documents to assist in your review:

1. Letter from Howard C. Wessells II dated January 28, 2010
2. Declaration of original Oyster Bay Subdivision establishing covenants and restrictions dated January 26, 1969 (reference to original subdivision plats at DB 281 Pg 427)
3. Plat for Subdivision 'D' that includes Parcel 'E' as a part of Oyster Bay Community Section II dated May 4, 1972
4. Deed conveying Parcel E in fee simple with special warranty and English covenants of title to Marriott subject to recorded conditions, restrictions and easements dated December 4, 1975
5. Oyster Bay II Covenants and Restrictions (DB 318 Pg 479) that apply to all owners of lots shown on ...Subdivision "D" plat
6. Current owner's title policy dated November 13, 2009 with exceptions for
 - Covenants and restrictions recorded in Deed Book 318 at page 479, or
 - Any sums which may be due the Owners Association pursuant to the Declaration of Protective Covenants and Easements for the above referenced Subdivision

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Thank you for your review and comment on the outstanding questions of a) whether Parcel 'E' is still a part of the Oyster Bay Subdivision, and if so, b) do the covenants and restrictions still apply?

Right of access to Hibiscus Drive from Parcel 'E' is also an outstanding question from the Commission. It would seem Mr. Wessells has determined that since the sale of Parcel 'E' in 1975, and payment of real estate taxes since 1981, the property is now a buildable lot rather than a common area for the subdivision. As such the property would have access rights to Hibiscus Drive even though the Community Association has never assessed the parcel for annual dues because it was not a 'numbered lot'.

It has been proposed that Parcel 'E' should be removed from the Oyster Bay subdivision as a part thereof through the vacation of plat process (State Code sec. 15.2-2272). While this may release the property from any covenants and restrictions, it also may have the effect of limiting access to Hibiscus Drive as a private street. Your thoughts on this topic would also be appreciated.

Vice Mayor John N. Jester Jr., as Council representative on the Commission, has requested that these issues should be resolved before the application reaches the Town Council.

Sincerely,

A handwritten signature in cursive script, appearing to read 'William W. Neville', written in black ink.

William W. Neville, AICP
Director of Planning

cc: Robert Ritter, Town Manager
Ray Rosenberger, Chairman of the Planning Commission

POULSON, NORTHAM & LEWIS, PLC

Attorneys and Counselors at Law

23349 Cross Street

P.O. Box 478

Accomac, Virginia 23301

Jon C. Poulson
Thomas L. Northam
Lynwood W. Lewis, Jr.

Telephone: (757) 787-2620

Facsimile: (757) 787-2749

February 23, 2010

William W. Neville, AICP
Director of Planning
Town of Chincoteague
6150 Community Drive
Chincoteague, VA 23336

RE: Town of Chincoteague Planning Commission Request/Ettinger

Dear Bill:

When I first raised this issue at Council and later in front of the Planning Commission representatives, my one concern was whether Parcel E was a designated common area for Oyster Bay II. If so, then obviously any development would have been subject to the Covenants and Restrictions applicable to Oyster Bay II. This may have required open land, or a club house, or whatever. Depending on the dedicated common use this may have made a rezoning immaterial, or alternately made it essential.

As you may recall at the end of the last Council meeting I stopped you in the foyer and advised that I thought Mr. Wessells' letter was sufficient to address the inquiry that I had made.

Since that time, and your letter of February 12, 2010, I have spoken with Mr. Wessells and he has confirmed the contents of his January 28, 2010 letter as well as advised that it was his opinion that Parcel E was not part of Oyster Bay Section II and subject to the Declaration.

Since that contact and your letter I have done some further research and based on that limited research I would advise as follows:

1. The Declaration of Covenants and Restrictions applicable to Oyster Bay II made by First Chincoteague Corporation, the Owner, was dated June 30, 1972 and is recorded in Deed Book 318 at Page 479 in the local Clerk's Office. That

Declaration only applied to Parcels A, B, C, and D. The plats on those four (4) parcels were recorded with a certain Deed dated June 26, 1972 from First Chincoteague Corporation to Joseph A. Giardino and wife, which is recorded immediately behind the Declaration. Note, initially, that the Declaration only subjects Parcels A, B, C, and D to the Covenants and Restrictions applicable to Oyster Bay II. Parcel E was not subdivided and was not covered by the Declaration which is controlling on that point.

2. There is nothing in the Declaration that indicates Parcel E is dedicated or set aside as a common area for the above enumerated parcels.

Thus, from my limited review, Parcel E is not part of the Oyster Bay Subdivision, only Parcels A, B, C, and D, and it is not subject to the Covenants and Restrictions applicable to Oyster Bay II. Moreover, there is nothing in the Declaration to indicate that it is to be set aside or dedicated as a common area for Oyster Bay II.

The December 4, 1975 Deed from First Chincoteague Corporation to Woodrow D. Marriott does indicate in the next to the last paragraph that the conveyance is “ subject to recorded conditions, restrictions and easements affecting the property hereby conveyed”. This does not mean that it is necessarily subject to the Declaration. This is a standard phrase that goes into ninety five percent (95%) of all deeds to simply indicate that if there are in fact any recorded conditions, restrictions, easements, etc., the property is subject to them.

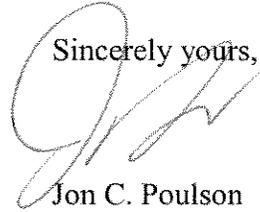
There is a title insurance policy when Mr. Ettinger purchased the property from Southern Title Insurance Corporation that indicates an exception to the effect that the property is subject to the Covenants and Restriction recorded in Deed Book 318 at Page 479. It would appear that Mr. Ettinger’s title search was done by a layman, and again I think the exception is erroneous based on my research.

As to the issue of access to and from Hibiscus Drive, it is suggested in your letter that the property would now have access rights by Hibiscus Drive because of the payment of real estate taxes, etc. No such suggestion was made by Mr. Wessells. When there is a division of property by an owner and there is an easement or right of way shown on the plat touching both parcels, both parcels would normally have access over any such easement or right of way unless specifically restricted. I see no such restriction in the old 1975 Deed. In any event, I really don’t see where that is an issue with which the Planning Commission should be concerned. It is purely a private property legal issue.

As to vacation of the plat, that is totally unnecessary as Parcel E is not a part of Oyster Bay II. On any rezoning Oyster Bay II owners should be treated no differently than other commenting property owners. The Community Association would appear to not have any standing to either approve or object assuming it owns no real estate.

I trust that I have adequately responded to the concerns of the Planning Commission as expressed in your letter. If any further clarification is necessary please advise.

Again I would point out that my research is limited and I have not undertaken a full title search at the expense of the Town as I would be doing if I was representing Mr. Ettinger. Obviously Mr. Ettinger should not rely on my opinion as my opinion is solely for the benefit of the Planning Commission and Council.

Sincerely yours,

Jon C. Poulson

JCP/rt

Cc: Robert Ritter, Town Manager
Ray Rosenberger, Chairman of the Planning Commission
John H. Tarr, Mayor
John N. Jester, Jr., Vice Mayor
Howard C. Wessells, II
File



TOWN OF CHINCOTEAGUE, INC.

February 24, 2010

Mr. Jon C. Poulson, Esq.
Poulson, Northam & Lewis, PLC
Attorneys and Counselors at Law
23349 Cross Street, P.O. Box 478
Accomac, Virginia 23301-0478

RE: Town of Chincoteague
Planning Commission Request

Dear Jon:

Thank you for providing the requested response letter dated February 23, 2010 to my questions regarding the rezoning application of Phillip P. Ettinger (Tax ID #31B1 -12-E). It is clearly helpful for the Planning Commission to receive your opinion and clarification of the information contained in Mr. Wessells' previous correspondence.

There is still an issue that I would like to clarify before presenting this information to the Planning Commission at their March 9, 2010 meeting.

1. The Declaration of Covenants and Restrictions recorded for Oyster Bay II in 1972 seems to apply to the lots shown on four plats entitled '**Subdivisions A, B, C, and D**'. Statement #1 on pages one and two of your letter refer to '**Parcels A, B, C and D**' as open space parcels in the subdivision. This is reversed. Reduced copies of the plats are attached which identify Parcel 'E' as a part of Subdivision 'D' which still leads me to believe that it is subject to any applicable covenants and restrictions.
2. Following the creation of the subdivision in 1972, the deed in 1974 conveying Parcel 'E' to Marriott convinces me that the parcel is no longer a common area with joint ownership, however the transfer of ownership alone does not remove the covenants and restrictions. The Marriott deed specifically refers to the plat of 'Subdivision D' and conditions, restrictions and easements recorded (in this case) 2 years earlier.

Based on these observations, I would conclude that Parcel 'E' changed from an open space parcel to a single buildable lot in 1974 that is still a part of the Oyster Bay II subdivision. At that point the property owner should have started paying property taxes and assessments. Southern Title Insurance Corporation would appear to agree since it would not insure against the effect of covenants and back dues to the Owners Association.

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I appreciate your willingness to make this perfectly clear for all involved.

Sincerely,

A handwritten signature in black ink, appearing to read 'William W. Neville', written in a cursive style.

William W. Neville, AICP
Director of Planning

cc: Robert Ritter, Town Manager
Ray Rosenberger, Chairman of the Planning Commission

CURVE		DATA			
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2	50.00	07° 41' 10"	8.978	48.996	5.4172.1
3	50.00	07° 41' 10"	8.978	48.996	5.4172.1
4	50.00	07° 41' 10"	8.978	48.996	5.4172.1
5	50.00	07° 41' 10"	8.978	48.996	5.4172.1
6	50.00	07° 41' 10"	8.978	48.996	5.4172.1
7	50.00	07° 41' 10"	8.978	48.996	5.4172.1
8	50.00	07° 41' 10"	8.978	48.996	5.4172.1
9	50.00	07° 41' 10"	8.978	48.996	5.4172.1
10	50.00	07° 41' 10"	8.978	48.996	5.4172.1
11	50.00	07° 41' 10"	8.978	48.996	5.4172.1
12	50.00	07° 41' 10"	8.978	48.996	5.4172.1
13	50.00	07° 41' 10"	8.978	48.996	5.4172.1
14	50.00	07° 41' 10"	8.978	48.996	5.4172.1
15	50.00	07° 41' 10"	8.978	48.996	5.4172.1
16	50.00	07° 41' 10"	8.978	48.996	5.4172.1
17	50.00	07° 41' 10"	8.978	48.996	5.4172.1
18	50.00	07° 41' 10"	8.978	48.996	5.4172.1
19	50.00	07° 41' 10"	8.978	48.996	5.4172.1
20	50.00	07° 41' 10"	8.978	48.996	5.4172.1

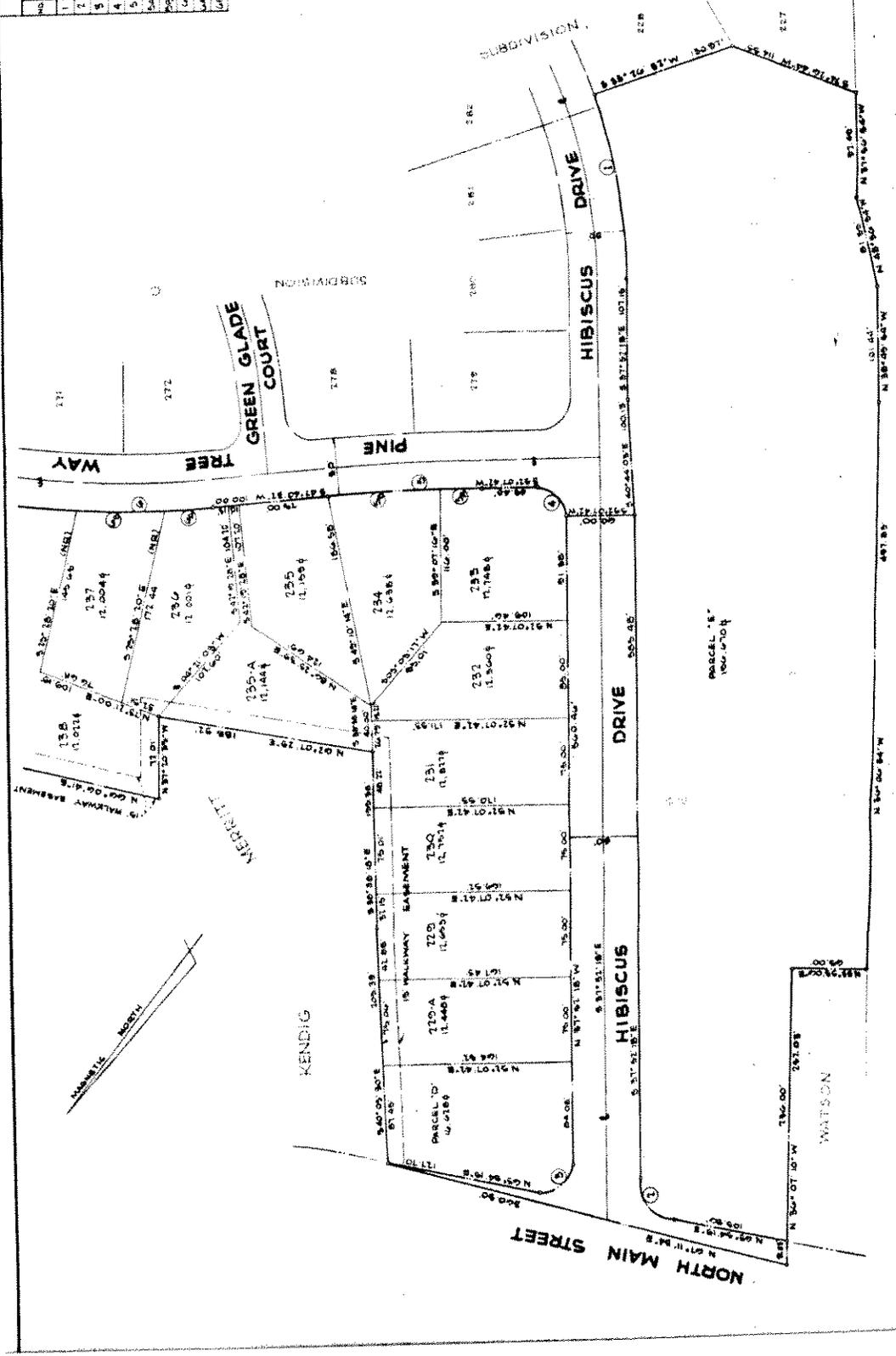


OYSTER BAY COMMUNITY

SECTION II SUBDIVISION "D"

CHINCOTEAGUE ISLAND
ACCOMACK COUNTY, VIRGINIA
SCALE: 1" = 100'
MAY 4, 1971

OWNED BY
FIRST CHINCOTEAGUE CORPORATION
PREPARED BY
RICHARD H. BARILLEAUX, P.E.
ENGINEERING, WAREHOUSES, AND PLANNING
1000 W. MAIN STREET, WAREHOUSES, VA 23092



POULSON, NORTHAM & LEWIS, PLC

Attorneys and Counselors at Law

23349 Cross Street

P.O. Box 478

Accomac, Virginia 23301

Jon C. Poulson
Thomas L. Northam
Lynwood W. Lewis, Jr.

Telephone: (757) 787-2620

Facsimile: (757) 787-2749

February 25, 2010

William W. Neville, AICP
Director of Planning
Town of Chincoteague
6150 Community Drive
Chincoteague, VA 23336

RE: Town of Chincoteague Planning Commission Request/Ettinger

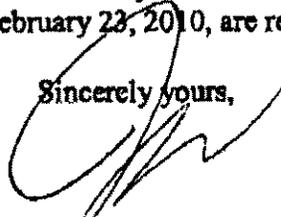
Dear Bill:

Further to your letter of February 24, 2010, I note that I said nothing in my letter, specifically statement 1 or otherwise, that refers to Parcels A, B, C, and D as "open space parcels". The mere fact that the Plat for "Subdivision D" shows Parcel E does not mean Parcel E is part of the Subdivision and subject to the Declaration of Covenants and Restrictions. The Declaration, applicable to Oyster Bay II, imposes the Covenants and Restrictions on lots. The notes on the "Subdivision D Plat" indicate twenty four (24) lots. From lot number 229 - A to lot 250 shown on the Plat is 24 lots. There is a Parcel "D" and Parcel "E". The Declaration by its language does not subject to the Covenants and Restrictions any "parcels", only "lots". Neither Parcel D nor Parcel E was referenced in any way in the Declaration. Obviously the developer did not intend to create 24 ¼ acre lots and 1 4 ½ acre lot on which to build single family residences. The obvious deduction is that at a later point in time the developer intended to subdivide Parcel E into numerous lots and add them to the Subdivision.

The 1975 Deed refers to the Section II Subdivision D Plat because the Plat also shows Parcel E and it constitutes a description for conveyance purposes. There is nothing in the Deed that indicates that Parcel E is subject to the Declaration applicable to

Oyster Bay II and apparently no one at the time of the conveyance was of any such opinion. Conclusions expressed in my letter of February 23, 2010, are reiterated.

Sincerely yours,



Jon C. Poulson

JCP/rt

Cc: Robert Ritter, Town Manager
Ray Rosenberger, Chairman of the Planning Commission
John H. Tarr, Mayor
John N. Jester, Jr., Vice Mayor
Howard C. Wessells, II
File



TOWN OF CHINCOTEAGUE, INC.

February 12, 2010

Mr. Phillip P. Ettinger
2904 Maplewood Place
Alexandria, VA 22302

RE: Parcel 'E' Rezoning Application
Town of Chincoteague, VA

Dear Mr. Ettinger:

A public hearing before the Town of Chincoteague Planning Commission was held on February 9, 2010 for your application that requests to rezone parcel #31B1-12-E from the R-1 Residential District to the R-2 District. A decision regarding the application was postponed so that the applicant could provide additional information requested by the Commission. Outlined below are the main issues that were raised and should be resolved if possible before the next Planning Commission meeting on March 9, 2010.

1. Property subject to Oyster Bay II Covenants and Restrictions

- a. The letter prepared by Mr. Howard C. Wessells, II on January 28, 2010 does not answer all of the questions and concerns that have been raised. Parcel 'E' is included on the recorded subdivision plat for Oyster Bay Community, Section II Subdivision 'D' and subject to conditions, restrictions and easements affecting the property according to the Deed you provided. The current Oyster Bay II Community Covenants and Restrictions also reference all lots on Subdivision 'D'. A title report to indicate otherwise has not been provided to the Town to confirm the removal of Parcel 'E' from the subdivision. **(The Planning Commission has requested that Mr. Jon Poulson, the Town Attorney, prepare an advisory letter regarding Mr. Wessells' legal opinion)**
- b. The Oyster Bay II Covenants and Restrictions would not permit all of the uses allowed in the R-2 District and therefore the need for the rezoning is in question. Approval of the rezoning request by the Board of Directors for the HOA may also be required. **(The Planning Commission received public comment via email at the public hearing indicating that Oyster Bay II property owners and the Community Association have unresolved concerns regarding the proposed rezoning.)**
- c. The Town of Chincoteague follows the procedure for Vacation of Plats (or portion thereof) that is described in State Code section 15.2-2272 to remove the 'force and effect' of the original subdivision and to revise the land records. This process has been suggested for removal of Parcel 'E' from the original Oyster Bay Subdivision. **(The Planning Commission has requested that an application for Vacation of a portion of Oyster Bay II Subdivision should be filed and approved prior to further action on the rezoning application)**

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2. Access to Hibiscus Drive

- a. For any development of the property, and particularly if additional density is approved under the R-2 district, access to Hibiscus Drive is in the best interest of the public welfare and good zoning practice. An agreement regarding Hibiscus Drive access, maintenance, and improvements (if required by Town Code during subdivision review) would address this issue.

(The Planning Commission has requested that the applicant provide further information or agreement on the use of Hibiscus Drive)

3. Concept Plan for Development

- a. A general plan for site development, or more detailed project description, would answer many of the questions raised by the Planning Commission and the public. Without a specific proposal for development of the site, the need for and merits of the R-2 district is unclear.

(The Planning Commission has requested that the applicant provide a concept plan for review)

4. Comprehensive Plan Conformance

- a. The Town's Comprehensive Plan was adopted on January 4, 2010 after many years of public input and careful consideration.

(The Planning Commission has requested that planning staff provide a more detailed analysis of the recommendations for land use found in the Comprehensive Plan, and research the public participation to see if specific comments were made regarding the Oyster Bay II subdivision)

As you are aware, your designated representative, Mr. Jeff Potts, was appointed to serve on the Planning Commission and has disclosed his business interest in this case. According to State Code section 15.2-852 he will be ineligible to vote or participate in any way in the case or public hearing. Please contact me with any questions that you may have.

Sincerely,



William W. Neville, AICP
Director of Planning

William Neville

From: Phillip Ettinger [phillipettinger@comcast.net]
Sent: Wednesday, March 03, 2010 2:15 PM
To: wneville@chincoteague-va.gov
Subject: Marriott Property Re-Zoning Request.

Mr. William Neville
Director of Planning
Town of Chincoteague

March 3, 2010

Re: Summation of the Request to Re-Zone the former Marriot Property from its present R-1 to R-2

Mr. Neville,

Originally, neither the Oyster Bay II Property Owners Association (POA) nor Accomack County designated the Oyster Bay II Subdivision to be R-1 as it was simply designated R by the County. However in or about 1994 the Town of Chincoteague annexed the entirety of the island and so designated OB II Subdivision as R-1. As the governing body of Chincoteague, the Town has the legal right and authority to change and/or modify the zoning.

I have, along with documentation, previously submitted a request to have the zoning changed to R-2 from R-1. It is my hope that this letter along with previously submitted documents, information and facts will provide a basis for the Planning Commission to approve my request.

While I do not profess to be either a builder or a developer I would like to believe that I am a conscientious property investor. Therefore as it relates to my re-zoning request I will state for the record that I will focus my attention to make as sure as possible that when I sell this parcel(s) it will be to a person(s) that share my vision to develop this property commensurate with the provisions of R-2 zoning as they relate to the building of duplex housing units. I envision these duplexes to look like large attractive single family houses with wrap around porches and front entrances from those same porches. Due to the economies of land cost associated with duplex housing the goal will be to have them priced affordably so that hopefully current citizens and retirees of Chincoteague could actually afford them as full time permanent residences rather than only being affordable by buyers seeking a

vacation or second home. There are certainly enough single family vacant lots in OB II POA to satisfy that demand!

While not obligated to contribute to the road maintenance of the Hibiscus Dr. I feel that it is the right and fair thing to “proffer” to Oyster Bay II POA that any and all parcels/lots (or houses subsequently built) will contribute to the road maintenance in a financial amount commensurate with OB II lot owners. Additionally, via deed restriction I will make certain that any of the subsequent owners of parcels/lots derived from Parcel E will be responsible for road damage directly attributable to construction done on their parcels/lots. Also I will work with members of the OB II POA to determine which of OB II restrictions could also be incorporated to help maintain the overall integrity of the Oyster Bay Community.

I honestly believe that if I or anyone else were to submit an application today for a 99 lot subdivision(OB II’s size) on Chincoteague Island that we would, at a minimum, be strongly encouraged if not required to diversify the housing types to achieve a balanced mix of single family, two family, perhaps small multifamily and possible even a bit of light service oriented commercial. As a result each area in the propose subdivision would get different zoning designations and restrictions. This is reflective of current comprehensive planning standards so as not to create just another “cookie cutter” subdivision. This is a bit of what I am trying to achieve with this request.

Whereas I believe that while we all now agree that this 4.5 acre former Marriott parcel/tract is located within the OB II Subdivision it is **not subject** to the OB II POA “**covenants**” as they do not appear at any place on the two deeds reflecting the sale of Parcel E. Parcel E has never been assessed any OB II POA annual dues as far back as the records show (approx. 1980). There is also no documentation showing or confirming that Parcel E is considered Community Property because how could it have been sold if it were? Additionally it cannot be community property since it has paid real estate taxes going back to when Parcel E was originally sold to Mr. Marriott in Dec. 1975 and community property in subdivisions has been historically tax-exempt.

In closing it is my hope that all of information and documentation that has been requested and submitted to both the Planning Commission and the Town Council along with these few final statements will allow both to look favorably upon the

requested re-zoning such that a decision can be reached at your next scheduled respective meetings.

Respectfully,
Phillip P. Ettinger

Phillip P. Ettinger
phillipettinger@comcast.net

William Neville

From: Phillip Ettinger [phillipettinger@comcast.net]
Sent: Wednesday, March 03, 2010 12:52 PM
To: wneville@chincoteague-va.gov
Subject: Re-Zoning of the Marriott Property from R-1 to R-2

Mr. Neville,

Per Your Request a copy of my recent Communications to the Oyster Bay II POA

Buford Rowland, President
Oyster Bay II Property Owners Association.
March 1, 2010

Re: Clarification & Explanation of Request for Re-Zoning of Parcel E of the former Marriott Property from R-1 to R-2 to the Chincoteague Planning Commission and the City Council of Chincoteague.

Re: Request that the Oyster Bay II POA concur/agree to this request or at a minimum assert no objection or challenge to the request.

Mr. Rowland,

As I explained at the Board of Directors meeting on February 27th on Chincoteague at the Waterside Motel the request for re-zoning made to zone the former Marriott Property from its present R-1 designation to R-2 is motivated to both improve and add some appropriate residential diversity to the overall Oyster Bay community which currently has only single family lots.

I am not a builder or developer but nevertheless I want to enhance the appearance and variety of housing types offered in OB II. Specifically, the purpose of the R-2 zoning request is to create the possibility/opportunity of having duplex housing units built. The “**look**” of duplex units that I want to see built is that of a somewhat larger single family home that has two distinct separate entrances – perhaps with a wrap-a-round porch. A visual sample of what I want would be similar to the yellow duplex that now exists on Chincoteague on Deep Hole Rd not very far north of Maddux Blvd.

The goal would be to have these housing units available at a favorable prices that would be more affordable to retirees and to Chincoteague residents. A hope is that these units would primarily be occupied by full time residents and not just second home/vacation owners.

If zoning stays at R-1, I will still be able to have single family lots. They will be very large compared to the 70 vacant lots of OB II and they will be competing with those same lots at a price detrimental to the owners. While I own an appreciable number of these vacant lots I don't believe that this would be in the best interests of the OB II POA or its members.

Issues at Large:

Parcel E is part of the Oyster Bay II Subdivision and the overall Oyster Bay Community as evidenced by its inclusion in the original 1968 Plat; in the 1972 Plat and the most recent Plat of Shoreline Surveyors dated January 14, 2010. However, **Parcel E is not part of OB II's POA** by the fact it was/is described as a **"parcel and/or a tract of land and not as a lot"** that was sold to Mr. Marriott in Dec. 1975; that **it is/was never designated "Community Property"** and has **always paid Real Estate Taxes which would not have been assessed had it been Community Property**; and that since **Parcel E is shown on all the plats as part of the OB II Subdivision and never removed from the subdivision. As it is directly adjacent to Hibiscus Dr. (also part of the subdivision) it would legally have access to Hibiscus**; and finally the **deed to Mr. Marriott and also the recent deed to me does not contain any language referring to Parcel E being subject to "certain covenants" as do all the "lots" belonging to the Oyster Bay II POA.**

For the above listed reasons we believe and state that Parcel E **is part of OB II Subdivision but not part of the OB II POA; it is also not a lot; It is not Community Property**; and it is **not subject** to any of OB II's POA covenants and but it **does possess** the right to use Hibiscus Dr. without having to secure permission or agreement with OB II POA.

The Town of Chincoteague has stated that it prefers that we use the available Hibiscus rather than consider creating a new road into the Marriott property from North Main St. that would run parallel with an already existing road (Hibiscus) because they don't want two entrances to N. Main so very close together for safety reasons.

However in the effort to “do the right and fair thing’ and to maintain a good neighborly working relationship with OB II and all its Lot owners I intend to “proffer” that I will include appropriate deed restrictions and language in any sale of parcels/lots of the Marriott property such that any owners of lots or homes that are built will be required to pay into the OB II an annual fee commensurate with what the current lot and homeowners pay to be use for road maintenance and improvements. I will also promise to work with OB II’s POA Board of Directors to incorporate other restrictions that will maintain and promote the physical well being of the overall Community.

It should be noted that I am not obligated to offer these inclusions and restrictions. The nine OB II lot owners that are on the OB I side of the pond are in a similar situation as is Parcel E but are not legally obligated to contribute to the maintenance of OB I’s Hibiscus Rd. However I think doing so is the right thing to do.

Based upon the above recitations I respectfully request that OB II POA thru its President support my re-zoning request in the manner suggested in the opening RE.

Thank You,
Phillip P. Ettinger

Phillip P. Ettinger
phillipettinger@comcast.net

Phillip P. Ettinger
phillipettinger@comcast.net

William Neville

From: rowlandbt@comcast.net
Sent: Friday, March 26, 2010 12:17 PM
To: William Neville
Cc: Wilen, Barry
Subject: Re: Ettinger Rezoning Application

Mr. Neville-

The address for the Oyster Bay II Community Property Owners Association, Inc. is the address of our treasurer, Barry Wilen, in Annapolis, MD. Unfortunately, I am not home until late Sunday and do not have the specific address information with me. I am, however, prepared to offer a response relative to Mr. Ettinger's rezoning request on behalf of the Oyster Bay II Community POA Board of Directors:

Relative to Mr. Ettinger's request for rezoning of "Parcel E" adjoining the Oyster Bay II Community, the Oyster Bay II Community POA can neither endorse nor object to the request. Since the POA is made up of the owners of some 95 properties, we feel that the POA would need to have 100% agreement of all the property owners in order to endorse or object to the request. As a POA, we feel that specific comments and opinions should be left to individual property owners.

So that you will have the OBII POA's address, by copy of this e:mail:

Barry - Pls forward your/OBII POA's address to Mr. Neville. I will also check when I get home and will provide you the address to make sure it is available.

Thank you,
Buford Rowland, President
Oyster Bay II Community POA, Inc.

----- Original Message -----

From: "William Neville" <wneville@chincoteague-va.gov>
To: rowlandbt@comcast.net
Sent: Thursday, March 25, 2010 10:34:37 AM GMT -06:00 US/Canada Central
Subject: Ettinger Rezoning Application

Mr. Rowland,

The rezoning application for Mr. Ettinger's Parcel 'E' is scheduled for a public hearing before the Chincoteague Town Council on April 5th at 6pm.

In addition to the required newspaper advertisement, The Town is required to mail certified letters to all adjoining property owners.

I am sending this email in the hope that you will provide me with a current mailing address for the Oyster Bay II Property Owners Association.

Thank you for your assistance.

William W. Neville, AICP
Director of Planning
Town of Chincoteague
6150 Community Drive
Chincoteague Island, VA 23336

Public Works Committee Meeting

March 2, 2010

MINUTES

Chairman Tarr called the meeting to order at 5:00 pm.

Members Present:

Hon John Tarr, Chairman
Hon. Ellen Richardson
Hon. John Howard

Also Present:

Hon, John Jester
Hon, Nancy Conklin
Mr. Robert Ritter
Mr. Harvey Spurlock
Mr. and Ms. Ray Rosenberger
Mr. Esley Collins
Mr. Scott Allen

Public Participation

Mr. Ray Rosenberger requested the issue of directional street signs be revisited. Mayor Tarr inquired as to the status of the directional sign to be installed at the foot of the new bridge. Mr. Ritter stated Massey Design was currently developing a design.

Mr. Esley Collins inquired as how to request a water usage adjustment. Mr. Spurlock informed him to contact Ms. Kelly Fox for details.

Mr. Scott Allen, concerned with the road conditions in Piney Island, stated an opinion the town should utilize the nuisance ordinance to force the owner to make repairs. Mayor Tarr explained the roads were the property of the Piney Island Owner's Association. Mayor Tarr further explained the Town is not permitted to expend tax dollars on private roads. Mr. Ritter will confirm the road ownership.

Ms. Richardson motioned to adopt the agenda, which was seconded by Mr. Howard. The motion was approved unanimously.

1. January/February 2010 Report

Mr. Spurlock provided an update to the report presented at the regular council meeting of March 1.

- Public Works had procured an eleven foot snow plow from VDOT for a cost of \$500. The mounting frame, which is currently located in Suffolk, VA, will be delivered by Southeastern Equipment at the time they deliver the recently purchased skid steer loader.
- The Town flag has been redesigned.
- The Public Works yard has been thoroughly cleaned and organized.
- The eight inch water main beneath Cockle Creek Bridge has one ruptured section of pipe. Preparations for repairs are in progress.

Mr. Howard asked that the verbal commendation of VDOT employees at the prior night's council meeting be formalized in the form of a letter.

Mr. Howard requested research be conducted to determine if an easement exists that would permit a bike trail to connect to Maddox Blvd. in the vicinity of Coach's Lane.

Ms. Richardson asked if copies of the Ocean Blvd. Extended survey are available. Mr. Spurlock stated copies are available in the Public Works office. Mr. Ritter explained extensive fill may be required to complete the bike path. Mr. Howard suggested harbor dredge spoils be considered for fill material. Mr. Howard also suggest Mr. Gene Wayne Taylor be consulted on permit requirements

2. HD Supply/Neptune Meters – Automatic meter reading presentation

Chris Pickford and Charles Dye of HD Water Supply presented a program on remote reading meters. The primary justification for this type system is increased accuracy which leads to increased revenues from water rent. A follow on session with HD financial personnel is being arranged to explore feasibility.

3. Private Roads Discussion

The committee discussed various options for improving the maintenance of privately owned roads. Mayor Tarr stated the optimum solution would most likely be bringing the roads up to VDOT standards which would allow these roads to be incorporated into the VDOT Urban Maintenance Assistance Program.

4. Drainage Study Progress

Mr. Spurlock presented a progress report from Clark Nexsen, the Town's storm water management consultant. Mr. Spurlock also explained he had been working with Horseshoe Dr. residents and identified Tarr Lane as a potential outfall for this area. Clark Nexsen has been asked to evaluate this scenario.

5. Marsh Island Easement Request

Mr. Spurlock presented a request from the owner of the area of Marsh Island that to create a utility easement that would coincide with the current location of the water main. Mayor Tarr reiterated the fact that the easement needed to be wide enough to accommodate any future repairs. The request was approved.

6. Water Usage Adjustment Request

Mr. Spurlock presented a water usage adjustment request from Mr. Gary Breland. The request was unanimously approved.

Mr. Spurlock also presented a request from the North Accomack Little League. Mr. Howard emphasized the Little League is a volunteer organization and consideration should be given to their request. The committee was hesitant to approve the request as the League had been granted a request within the past five

years; the code specifies only one adjustment can be granted within a five year period. Ultimately the decision was made for Mayor Tarr to recommend to council the water bill be forgiven in lieu of an annual cash donation. Mr. Spurlock is to work with League representatives in an attempt to minimize water consumption.

7. **Committee member comments**

Ms. Richardson asked if an estimate was available for the cost of extending the sidewalk at the foot of the new drawbridge north on Main St. to connect to the existing sidewalk. Mr. Spurlock provided a cost estimate of \$12,000. Ms. Richardson expressed a desire to have this work done dependent on funding.

Mr. Howard stated the addition of sidewalks on Chicken City Rd. would greatly enhance the safety of pedestrians in this area.

Mayor Tarr requested maintenance be performed on the Memorial Park baseball infield. The committee also discussed removing a section of the outfield fence to facilitate the installation of volleyball courts.

Mr. Howard asked that the dried dredge spoils at Curtis Merritt harbor be stock piled prior to the introduction of additional spoils.

Ms. Richardson motioned to adjourn the meeting at 7:45 pm, which was seconded by Mayor Tarr and approved unanimously.

The next meeting is scheduled for Tuesday, May 4, 2010 at 5:00 pm.

**MINUTES OF THE MARCH 9, 2010
BUDGET AND PERSONNEL COMMITTEE MEETING**

Members Present:

Nancy B. Conklin, Chairwoman
John Nelson Jester
James T. Frese

In Attendance: Town Manager Robert Ritter
Mr. Ray Rosenberger

Call to Order.

Chairwoman Conklin called the meeting to order at 5:00 p.m.

Public Participation

No one was present for the public participation portion of the meeting.

Agenda Adoption

Vice Mayor Jester moved, seconded by Councilman Frese, to adopt the agenda as presented. The vote was unanimous.

1. REVIEW OF THE PERSONNEL POLICY HANDBOOK

Town Manager Ritter stated that he purchased a book written by Joseph W.R. Lawson II, titled "HOW TO DEVELOP AN EMPLOYEE HANDBOOK". The book includes a checklist of items that may or may not be included our handbook.

The Committee went through the checklist deciding which items they would like to include in the personnel policy handbook that are not already included.

Town Manager Ritter would also like to get input from the other supervisors to make sure nothing is missing.

2. Committee Member Comments

There were no comments.

Adjourn

Councilman James Frese made a motion to adjourn, seconded by Vice Mayor Jester. The vote was unanimous and the meeting was adjourned.



STAFF REPORT

To: Mayor and Town Council

Via: Robert Ritter, Town Manager

From: William Neville, Director of Planning

Date: March 17, 2010

Subject: Planning Commission By-laws

The Planning Commission has recently completed a review of By-laws to align them with current operating procedures, meeting times, and State Code provisions. At their regular meeting on March 9, 2010, the By-laws were approved by the Commission subject to review and confirmation by the Town Council. The document is attached for Council review. Although formal action is not required, the Commission was encouraged to seek the approval of Council in the interest of maintaining a good working relationship.

The major changes included clarification of the role of the Planning Commission as an advisory body to the Town Council and removal of the sub-committee section because of the staff support now provided by the Town Planner. Other revisions were limited to meeting times, election of officers in February, and determination of a quorum.

By-Laws
Chincoteague Planning Commission
(Approved by PC on 3.9.10)

ARTICLE 1 – OBJECTIVES

- 1-1. This Commission, established in conformance with the resolution adopted by the Chincoteague Town Council on May 16, 2002, hereby adopts the following Articles in order to facilitate its powers and duties in accordance with the provisions of Title 15.2, Chapter 22, Article 2 of the Code of Virginia, as amended.
- 1-2. The official title of this Commission shall be “The Chincoteague Planning Commission”.
- 1-3. The Planning Commission shall promote the orderly development of the Town of Chincoteague and shall serve primarily in an advisory capacity to the Town Council.

ARTICLE 2 – MEMBERS

- 2-1. Said commission shall consist of seven (7) members, one of whom shall be a member of the Town Council, and the remaining six (6) hereafter referred to as appointed members. Such members shall be permanent residents of the locality and be a minimum 50% owner of real property in the Town of Chincoteague.
- 2-2. The term of the member representing the Town Council shall in all cases correspond to their tenure of office. Of the other members first appointed, one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, one (1) shall be appointed for a term of three (3) years, and one (1) shall be appointed for a term of four (4) years, from and after the effective date of this resolution. Their successors shall be appointed for terms of four (4) years. Any vacancy in membership shall be filled by an appointment by the Council and such appointment, in the case of an appointed member, shall be for the unexpired term. Any appointed member may be removed by the Council for inefficiency, neglect of duty or malfeasance in office, provided that such removal may be made only after a public hearing at which said member is given an opportunity to appear and be heard on the charges against him.
- 2-3. The term of a Commission member shall expire on December 31 at which meeting his successor’s term of office shall begin.

ARTICLE 3 – OFFICERS AND THEIR SELECTION

- 3-1. The officers of the Planning Commission shall consist of a Chairperson, a Vice-Chairperson and a Secretary.
- 3-2. Nomination of officers shall be made from the floor at the regular February meeting each year. Election of officers shall follow immediately.
- 3-3. A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected. Such candidate shall take office immediately and serve for one (1) year or until his/her successor shall take office.
- 3-4. Vacancies in office shall be filled immediately by Town Council appointment.

ARTICLE 4 – DUTIES OF OFFICERS

- 4-1. The Chairperson shall be a member of the Commission and shall:
 - 4-1-2. Preside at all meetings.
 - 4-1-3. Rule on all procedural questions (subject to a reversal by a two-thirds (2/3) majority vote by the members present.)
 - 4-1-4. Be informed immediately of any official communication and report same at the next regular meeting.
 - 4-1-5. Carry out other duties as assigned by the Commission.
- 4-2. The Vice-Chairperson shall be a member of the Commission and shall:
 - 4-2-1. Act in the absence or inability of the Chairperson to act.
 - 4-2-2. Have power to function in the same capacity as the Chairperson in cases of the Chairperson's inability to act.
- 4-3. The Secretary shall:
 - 4-3-1. Keep a written record of all business transacted by the Commission.
 - 4-3-2. Notify all members of all meetings.
 - 4-3-3. Keep a file of all official records and reports of the Commission.
 - 4-3-4. Certify all maps, records, and reports of the Commission.
 - 4-3-5. Give notice of all hearings and public meetings.

- 4-3-6. Attend to the correspondence of the Commission.
- 4-3-7. Prepare and be responsible for the publishing of advertisements relating to public hearings.

ARTICLE 5 – EMPLOYEES, CONSULTANTS, SPECIAL S TUDIES

- 5-1 Upon request of the Planning Commission, the Town Council or other public officials may, from time to time, for the purpose of special studies under the direction of the Commission, assign or detail to it any members of the staffs of municipal administrative departments, or may direct any such department employee to make for the Commission special surveys or studies requested by the Commission.
 - 5-1-1. In addition, the Commission may establish, upon authorization by the Town Council, an advisory committee or committees to provide unique expertise and public participation of community representatives and to assist in meeting the purpose and objectives of the Commission for the preparation of special surveys and studies. The Planning Commission shall establish a mission statement, work plan and timeline for completion of any sub-committee created.
- 5-2. The Chairperson shall be an ex officio member of every sub-committee.
- 5-3. The Planning Commission shall make recommendations and an annual report to the Town Council concerning the operation of the Commission and the status of Planning within its jurisdiction, and may prepare, publish and distribute reports, ordinances and other material relating to its activities.

ARTICLE 6 – MEETINGS

- 6-1. Regular meetings of the Commission shall be held on the second Tuesday of each month at 7:00 p.m. excluding the months of July and December. When a meeting falls on a legal holiday, the meeting shall be on the day following unless otherwise designated by the Commission. Such meetings must be held in a public building.
- 6-2 Special meetings shall be called at the request of the Chairperson or at the request of a quorum of the membership.
- 6-3 All regular meetings, hearings, records, and accounts shall be open to the public.
- 6-4 A majority of the membership of the Commission shall constitute a quorum. The number of votes necessary to transact business shall be a majority of the members

present. Voting may be by roll call, in which case a record shall be kept as a part of the minutes.

ARTICLE 7 – ORDER OF BUSINESS

- 7-1. The order of business for a regular meeting shall be:
 - 7-1-1. Call to order by Chairperson.
 - 7-1-2. Roll call.
 - 7-1-3. Determination of a quorum.
 - 7-1-4. Invocation.
 - 7-1-5. Pledge of Allegiance.
 - 7-1-6. Public Participation
 - 7-1-7. Review of Agenda.
 - 7-1-8. Reading of Minutes.
 - 7-1-9. Old Business.
 - 7-1-10. New Business.
 - 7-1-11. Adjournment.
- 7-2. Parliamentary procedure in Commission meetings shall be governed by Robert's Rules of Order, most current edition.
- 7-3. The Planning Commission shall keep a set of minutes of all meetings, and these minutes shall become a public record.

The Chairperson shall sign all minutes, and at the end of the year shall certify that the minutes of the preceding year are a true and correct copy.

ARTICLE 8 – HEARINGS

- 8-1. In addition to those required by law, the Commission, at its discretion, may hold public hearings when it decides that a hearing will be in the public interest.
- 8-2. Notice of special hearings shall be published once a week for two successive weeks in a newspaper of general circulation in the area not less than five (5), nor more than twenty-one (21) days before the time of public hearing.

- 8-3 The case before the Commission shall be summarized by the Chairperson or other member delegated by the Chairperson. Interested parties shall have the privilege of the floor. Records or statements shall be recorded or sworn to as evidence for any court of law, only after notice is given to the interested parties.
- 8-4 A record shall be kept of those speaking before the hearing.

ARTICLE 9 – CORRESPONDENCE

- 9-1. It shall be the duty of the Secretary to draft and sign all correspondence necessary for the execution of the duties and functions of the Planning Commission.
- 9-2. All official papers and plans involving the authority of the Commission shall bear the signature of the Chairperson and Vice-Chairperson.

ARTICLE 10 – AMENDMENTS

- 10-1. These rules may be changed by a recorded two-thirds (2/3) vote of the entire membership of the Commission, and subject to review and confirmation by the Town Council after thirty (30) days notice.

MEMORANDUM

THE TOWN OF CHINCOTEAGUE

To: Mayor & Town Council
From: Robert Ritter, Town Manager
Date: March 17, 2010
Subject: Committee/Commission/Board Vacancy Appointments

The term for the following member currently serving on the Building Code Board of Appeals elapsed on December 31, 2009:

Reginald Birch, Jr.

The position was advertised in the Chincoteague Beacon for two consecutive weeks prior to the February 1, 2010 Council meeting with no response. It was advertised again on March 4, 2010. The following applicants have shown an interest in serving on the Board:

Applicant:

Nancy Lane, 3890 Main Street

Spiro Papadopoulos, 5534 Warren Street

Attached are optional questionnaires submitted by the applicants for your review.

The term shall be for a period of 4 years and shall expire on December 31, 2013.

Council will need to take the necessary action to replace the above member at your convenience.



Building Code Board of Appeals - Applicant Questionnaire

Name: Nancy Lane

3890 Main St., Chincoteague, VA 757-336-3375 (home) * 202-841-9602 (cell) * nancyclane@gmail.com



Why do you think you would be a good Board Member?

I am a retired federal employee with over 30 years of experience working successfully in government organizations. I have worked effectively on many project teams.

I have owned a home in Chincoteague since 1979 and have lived on the island full-time since January, 2007. I volunteer with Chincoteague Reports, attending Planning Commission meetings to insure meeting results are available to all interested people on the Chincoteague Reports website. I also volunteer for various Chincoteague Cultural Alliance-sponsored activities. I conduct island history tours in the summer months.

I love the island and have the time and energy to devote to making Chincoteague a town that is responsive to both it's year-round residents as well as the tourists who visit.



What do you see as major issues the Town is currently facing?

Major issues that the town must address are

- promoting economic development while maintaining environmentally-friendly policies,
- establishing and maintaining a land use plan that maintains the unique character of the island while insuring affordable housing for year-round residents,
- building a public sewer system,
- developing an infrastructure that complements the refuge and seashore facilities, and
- being responsive to our citizens' needs,



What motivated you to apply for the Board of Appeals?

I have intense interest in making the island a better place to live for everyone: long-term residents, part-time residents, and seasonal tourists. The physical appearance and management of the island will insure that Chincoteague continues to be a desirable place to live and will significantly affect the island economy.



What is your hope for the future of Chincoteague?

I would like to see a prosperous, year-round economy that maintains the special character of this beautiful island.



Would you be willing to attend courses and/or training sessions for Building Code Board of Appeals Members?

Yes

5534 Warren Street
Chincoteague Island, VA 23336

March 15, 2010

Town of Chincoteague Council
TOWN OF CHINCOTEAGUE, INC.
6150 Community Drive
Chincoteague Island, Virginia 23336

RE: Building Code Board of Appeals

Dear Council Members,

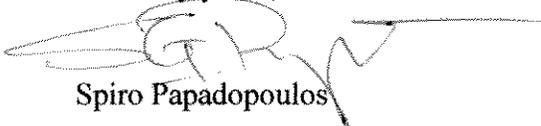
This is to respectfully request your consideration of my application to serve on the Board of Building Code Appeals as advertised in the Chincoteague Beacon on March 4, 2010.

As a Professional Engineer practicing in Virginia since 1974, I am very familiar with the Virginia Uniform Statewide Building Code (USBC) and I have served for several years on the Building Code Advisory Committee for the District of Columbia where I was intimately involved with the continuous modifications, interpretations, various editions and revisions of the national and local building codes (Virginia, Maryland and DC).

As a full time resident of Chincoteague Island for the past four years (January 2006) and a part time resident since 1987, I wish to offer my experience and express my willingness to serve the Council and the citizens of the Town on this Board of Appeals.

Attached is the completed application as required.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Spiro Papadopoulos', with a long horizontal flourish extending to the right.

Spiro Papadopoulos

Enclosure: Application

cc: Mr. William W. Neville, Planning Director
Mr. Kenny Lewis, Building & Zoning Administrator

Building Code Board of Appeals

Applicant Questionnaire

Name: S. G. PAPADOPOULOS

Thanks for your interest in serving as a member of the Building Code Board of Appeals for the Town Chincoteague. Below are a few questions that will assist Councilmembers in selecting individuals to serve on the Board. There will be one position that the Council will fill at the February 1, 2010 Regular Council Meeting. The Board of Appeals meetings are held on an as needed basis. Please fill this questionnaire out and return to Town Office or email responses by **January 27, 2010 at 5:00 PM.** Please use back or attach sheet if more space is required. If you have any questions please contact, William Neville, 336-6519 or wneville@chincoteague-va.gov.

Why do you think you would be a good Board Member?

PLEASE SEE ATTACHED

What do you see as major issues the Town is currently facing?

PLEASE SEE ATTACHED

What motivated you to apply for the Board of Appeals?

PLEASE SEE ATTACHED

What is your hope for the future of Chincoteague?

PLEASE SEE ATTACHED

Would you be willing to attend courses and/or training sessions for Building Code Board of Appeals Members?

YES.

****Please add any additional information you feel is important for Council to review.***

Applicant: S.G. Papadopoulos, PE
5534 Warren Street
Chincoteague Island, VA 23336
Tel: 757-336-2926
Cell: 202-494-8869
Email: sgpchinco@yahoo.com

Why do you think you would be a good Board Member?

Because of my familiarity with the area and my experience with Building Codes and their intent; that is, to safeguard life, health, and property, and to promote the public welfare through establishment of standards and informing various parties such as builders/contractors of changes and issues related with Building Codes and their applicability.

What do you see as major issues the Town is currently facing?

To provide an environment that is healthy and safe and to improve the general welfare of the Town, such as affordable housing, recreational facilities, public transportation, health care, elderly care, beyond high school academic facilities and economic sustainable development.

What motivated you to apply for the Board of Appeals?

After 35 years in professional engineering practice, I have concluded the business aspects of my engineering company. I would now like to volunteer my services to the community that I live in. I feel that my qualifications and experience with the Building Codes may be utilized to support the goals of the Building Code Board of Appeals and provide sound input to the Town Council when so requested.

What is your hope for the future of Chincoteague?

The Town of Chincoteague has assets that are of a positive and desirable nature. Coupled with the attitudes and desires of local residents and by developing sound infrastructure, it is my hope to have a community that is safe, desirable and attractive, a place that will retain and attract people who are concerned and become involved in maintaining the tranquility and natural beauty of Chincoteague, attract quality tourism and improve the quality of life for all residents and visitors.

Would you be willing to attend courses and/or training sessions for Building Code Board of Appeals Members?

Yes.



Spiro Papadopoulos
March 15, 2010