Item# 31

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Request to advertise and set Public Hearings for Amendments to the Land Development Code of Seminole County establishing Canopy Roads, Candidate Roads, and Tree Protection Zones

DEPARTMENT: Planning and Development **DIVISION:** Planning

AUTHORIZED BY: Donald S. Fisher **CONTACT:** Jeff Hopper **EXT.** 7377

Agenda Date 10/10/06	**Regular** ☒ **Consent** ☐ **Work Session** ☐ **Briefing** ☐
	Public Hearing – 1:30 ☐ **Public Hearing – 7:00** ☐

MOTION/RECOMMENDATION:

1. Authorize the Planning and Development Director to advertise and set public hearings for amendments to the Land Development Code of Seminole County establishing canopy roads, candidate roads, and tree protection zones, with staff findings; or

2. Continue this item to a date and time certain.

(Countywide) (Jeff Hopper, Senior Planner)

BACKGROUND:

The Design Element of the Seminole County Comprehensive Plan (SCCP) includes objectives and policies that encourage the preservation of canopy trees along County roads, treating these roadways as resources having both aesthetic and economic benefits. Policy DES 2.2 of the SCCP calls for maintaining a program to identify and protect scenic and canopy roads with "existing, heavy vegetation and natural canopy trees," and notes that the County will establish development standards along such roads to prevent the loss of this vegetation.

Per Board direction, the attached ordinance has been prepared, which will amend Chapter 2 (Definitions) and Chapter 60 (Arbor Regulations) of the Land Development Code (LDC) establishing canopy roads, candidate roads, and tree protection zones (see Staff Findings for additional details).

STAFF RECOMMENDATION:

Staff recommends the Board authorize the Planning and Development Director to advertise and set the public hearing for amendments to the Land Development Code of Seminole County

Reviewed by:
Co Atty: KL
DFS:
Other:
DCM:
CM:
File No. rpdp04

establishing canopy roads, candidate roads, and tree protection zones, with staff findings.

Staff Findings:

A. In 2004, the Board designated General Hutchison Parkway, between US 17-92 and Ronald Reagan Boulevard, as the County's first official canopy road, as designated by the Vision 2020 Seminole County Comprehensive Plan. The attached ordinance designates additional roads as canopy roads and candidate roads.

Canopy roads and candidate roads are defined as thoroughfares that are characterized by rows of trees bordering both sides (canopy) or one side (candidate) of the road corridor of sufficient height, density and crown spread to create natural canopy coverage over the road.

B. In general, the attached ordinance will accomplish the following:

1. Designate certain roads as canopy roads and candidate roads
2. Establish tree protection zones for canopy and candidate roads
3. Establish regulations to ensure the protection of canopy roads (including General Hutchison Parkway) and candidate roads
4. Amend LDC provisions regarding the authority to require the removal of trees; requirement for routine maintenance plan; and tree trimming provisions
5. Amend the permit and application procedures regarding maintenance and trimming of trees by public utilities; permits for tree removal within a tree protection zone; authorization to set reasonable fees; requirement for and contents of a plan for work within a tree protection zone; and provision for inspection of work within a tree protection zone
6. Provide for remedies in law and equity by the Tree Committee for compliance with the Arbor Regulations
7. Amend the Definitions section of the LDC relating to canopy and candidate roads

C. The proposed LDC amendments will implement, and are consistent with, the Vision 2020 Seminole County Comprehensive Plan.

D. Board of County Commissioner Public Hearing: November 7, 2006

Attachments:

A. Proposed Ordinance
B. Economic Impact Statement
C. Property Rights Analysis

ORDINANCE NO. 2006 - ____ SEMINOLE COUNTY, FLORIDA

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, FLORIDA; AMENDING CHAPTER 2, SECTION 2.3 BY ADDING DEFINITIONS FOR BORDER TREE, CANOPY ROAD, CANDIDATE ROAD, DISTURBANCE, DIAMETER AT BREAST HEIGHT, INVASIVE PLANT, NATURALIZED PLANT, PROTECTED TREE, TREE REMOVAL, TRAVELWAY, TREE PROTECTION ZONE, TREE REMOVAL AND PROTECTION PERMIT, AND TREE LOCATION SURVEY, AMENDING 60.2 PROVIDING FOR PROPERTY IN A TREE PROTECTION ZONE NOT EXEMPT FROM REGULATIONS; CREATING SECTION 60.2.1, "CANOPY ROADS, CANDIDATE ROADS, AND TREE PROTECTION ZONES" TO CHAPTER 60; DESIGNATING CERTAIN COUNTY ROADS AS CANOPY ROADS; DESIGNATING CERTAIN COUNTY ROADS AS CANDIDATE ROADS, AND ESTABLISHING TREE PROTECTION ZONES FOR CANOPY ROADS AND CANDIDATE ROADS; AMENDING SECTION 60.5 BY EXEMPTING THE CARROTWOOD TREE FROM THE PROVISIONS OF CHAPTER 60; AMENDING SECTION 60.5.2 BY EXPANDING THE AUTHORITY TO REQUIRE THE REMOVAL OF TREES, REQUIREMENT FOR ROUTINE MAINTENANCE PLAN, AND TREE TRIMMING PROVISIONS FOR PUBLIC UTILITIES; AMENDING SECTION 60.22 CLARIFYING THE PERMIT AND APPLICATION PROCEDURES FOR MAINTENANCE AND TRIMMING OF TREES BY PUBLIC UTILITIES, PERMITS FOR TREE REMOVAL WITHIN A TREE PROTECTION ZONE, AUTHORIZATION TO SET REASONABLE FEES, REQUIREMENT FOR AND CONTENTS OF A PLAN FOR WORK WITHIN A TREE PROTECTION ZONE, AND PROVISION FOR INSPECTION OF WORK WITHIN A TREE PROTECTION ZONE; AMENDING SECTION 60.24 PROVIDING FOR REMEDIES IN LAW AND EQUITY BY THE TREE COMMITTEE FOR COMPLIANCE WITH THIS PART; DELETING THE DEFINITION OF TREE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners has an exemplary history of preserving and enhancing the character of roadways within Seminole County by adopting Comprehensive Plan policies and Land Development Code regulations regarding gateway, canopy, and scenic roadways; and

WHEREAS, the Board of County Commissioners desires to designate certain County roads as canopy roads and candidate roads and incorporate provisions for the protection and maintenance of these roads into the County's Arbor Regulations; and

WHEREAS, the Board of County Commissioners desires to strengthen the existing Arbor Regulations of the Land Development Code of Seminole County; and

WHEREAS, an economic impact statement has been prepared and is available for public review in accordance with the provisions of the Seminole County Home Rule Charter; and

WHEREAS, the private property rights analysis relating to this Ordinance has been prepared and made available for public review in accordance with the requirements of the Seminole County Comprehensive Plan (SCCP); and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Amendment to Section 2.3, Land Development Code of Seminole County (LDC). Section 2.3 of the LDC is amended to add the following definitions:

"Border Tree: A tree which has any portion of its trunk, between 12" and 54" above ground surface, growing on the line established as the outer perimeter of the tree protection zone."

"Canopy Road: A thoroughfare that is characterized by rows of trees bordering both sides of the road corridor of sufficient height, density and crown spread to create natural canopy coverage over the road. A canopy road shall have a minimum of 50 percent overhead coverage (excluding invasive species), per section of travelway as measured by branching, drip line, shadows, and other visual cues. Trees within a canopy road tree protection zone shall, or generally consist of a minimum of 75 percent native and naturalized species."

"Candidate Road: A thoroughfare that is characterized by rows of trees bordering at least one side of the road corridor, having the potential to grow to sufficient height, density and crown spread to create natural canopy coverage over the road. A candidate road shall have a minimum length of 1/8 mile (660 feet) and a minimum of 10 percent overhead coverage (excluding invasive species), per section of travelway as measured by branching, drip line, shadows, and other visual cues. Trees within a candidate road tree protection zone shall consist of a minimum of 75 percent native and naturalized species."

"Disturbance: Any action by a person which causes irreparable harm to a protected tree. Actions which disturb a protected tree include, but are not limited to, damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage inflicted on the tree permitting infection or pest infestation, application of herbicides or other chemical agents, infliction of a trunk wound, measured at its greatest dimension, that is 50 percent or greater of the diameter of the tree, or removal of sufficient canopy to cause unnatural decline of the tree."

"Diameter at Breast Height (DBH): The diameter of the trunk measured 54 inches above the ground."

"Invasive Plant: Any non-indigenous plant that grows aggressively enough to crowd out native plants."

"Naturalized Plant: A plant that is not native to Seminole County but has colonized without being aggressive."

"Protected Tree: A tree of 8 inches DBH or greater with sustaining root system and crown and potential to provide shade over travelways. Specifically excluded from this definition are species listed in Chapter 60 of the Land Development Code."

"Tree Removal: To relocate, cut down, poison, or in any other manner destroy, or cause to be destroyed, a tree. It includes topping (except where permitted under state law), damage, or any other action that causes irreparable injury."

"Travelway: The portion of the roadway for the movement of vehicles exclusive of the shoulders, bike lanes, or gutters."

"Tree Protection Zone: An area on either side of a designated canopy road or candidate road, having a width of 50-150 feet from the centerline of such road. The width of any specific tree protection zone shall be as established in Section 60 of this Code, or by resolution of the Board."

"Tree Removal and Protection Permit: The legal authorization to remove trees and/or the requirements to protect the trees from disturbance on a lot, pursuant to the provisions of this Code."

"Tree Location Survey: A scaled drawing, at 1 inch = 200 feet or less, which provides the following information: location of all trees, plotted by accurate techniques; common name of all trees; and diameter at breast height (DBH) for each tree, printed on the proposed site plan. A site plan printed on an aerial photograph may be substituted if it is approved by the Planning & Development Director prior to submittal and if it is a recent, legible aerial photograph that reflects existing site conditions. Such a site plan shall be subject to the same scale requirements as a tree location survey."

Section 2. Amendment to Chapter 60, Land Development Code of County (LDC). Chapter 60 of the LDC is amended to read as follows:

Sec. 60.2. ~~Scope~~ Applicability. The terms and provisions of this chapter shall apply to all real property lying within the unincorporated areas of the county except as to those properties exempted from regulation by the County pursuant to Sections 163.3162 and 823.14, Florida Statutes (2003) and except as to developed single family lots of five (5) acres or less. Any property in a tree protection zone is not exempt from the regulations, unless otherwise stated in this Part.

Sec. 60. 2.1 Canopy Roads, Candidate Roads, and Tree Protection Zones
Canopy and Candidate roads and tree protection zones are established herein and shall apply to the following roads:

ROAD	*FROM*	*TO*	*CLASS*	*PROTECTION ZONE WIDTH* [1,2]
Banana Lake Road	CR 46A	South terminus	Canopy	50'
Curryville Rd.	Lake Mills Rd.	Pandora Lane	Candidate	60'
Florida Ave.	Elm St.	Kansas St.	Canopy	75'
Florida Ave.	Oklahoma St.	Van Arsdale St.	Canopy	50'
Florida Ave.	Kansas St.	Oklahoma St.	Candidate	75'
Fort Lane Rd.	Whitcomb Rd.	East terminus	Candidate	50'
Gen. Hutchison Pkwy.	Ronald Reagan Blvd.	US 17-92	Canopy	150'
Hunt Club Blvd.	SR 436	Wekiva Springs Rd.	Candidate	75'
Lake Markham Rd.	Markham Road	Sylvan Lake Dr.	Candidate	50'
Markham Rd.	Orange Blvd.	Longwood-Markham Rd.	Candidate	75'
Markham Woods Rd.	SR 434	Markham Road	Candidate	75'
Mullet Lake Road	SR 46	Mullet Lake Park	Candidate	60'
West Osceola Road	SR 46	End Of The Trail	Candidate	50'

ROAD	*FROM*	*TO*	*CLASS*	*PROTECTION ZONE WIDTH* [1,2]
N. Hart Road	Avenue C	Avenue A	Canopy	100'
N. Hart Road	Avenue A	Geneva Heights Rd.	Canopy	75'
N. Hart Road	SR 46	Main St.	Candidate	75'
N. Hart Road	Main St.	Avenue C	Candidate	100'
Palm Springs Dr.	SR 434	Center Street	Candidate	50'
S. Sanford Ave.	SR 417	Myrtle St.	Candidate	50'
S. Sanford Ave.	Myrtle St.	Lake Jesup Park	Candidate	60'
Snowhill Road	Overlook Dr.	CR 426	Candidate	75'
Wayside Rd.	SR 46	Orange Blvd.	Candidate	60'
Wekiva Springs Rd.	Wekiva Springs Ln.	Orange Co. Line	Candidate	75'
Whitcomb Rd.	Lake Harney Rd.	Fort Lane Rd.	Candidate	50'
Wilson Road	Emmett Ave.	International Pkwy.	Canopy	50'

1 Measured from road centerline
2 Border trees shall be included in the tree protection zone.

Sec. 60.3. The Board of County Commissioners Designated as the Seminole County Tree Committee. The Board of County Commissioners (BCC) is hereby designated as the Seminole County Tree Committee. In that capacity the BCC may:

(1) Consider and impose appropriate tree preservation conditions of approval for land use amendments, rezoning requests, and preliminary master plans;

(2) Approve grading, tree replacement and tree protection provisions contained in final master plans and subdivision plats;

(3) Approve Historic Tree nominations and permits for necessary removal of Historic trees;

(4) Increase citizen awareness of and community support for tree preservation and protection programs and objectives;

(5) Implement a Tree Planting and Management Plan;

(6) Provide for designating and observing an Arbor Day, including a Proclamation relating thereto;

(7) Approve the annual re-certification as Tree County USA;

(8) Coordinate activities and programs with civic and public interest groups devoted to tree care and preservation;

(9) Hear appeals by aggrieved parties from decisions made by the Planning and Development Director, or his or her designee; and

(10) Direct the enforcement of all provisions of this ordinance.

Sec. 60.4. Tree preservation during development and construction.

(a) In order to prevent destruction of or damage to trees, trees not designated for removal may be required by the terms of the permit to be protected by barrier zones. Protective barriers shall be erected prior to any land clearing or construction of any structures, roads, utility service, or other improvements and may be required by the terms of the permit to comply with the following:

(1) Protective posts (two (2) inches by four (4) inches or larger wooden post, two (2) inches outer diameter or larger galvanized pipe, or other post material of equivalent size and strength-rebar shall not be used as a protective post) shall be implanted deep enough in the ground to be stable and with at least three (3) feet of the post visible above the ground;

(2) Protective posts shall be placed at points not closer than the drip line of the protected tree, with the posts being not further than six (6) feet apart, except that pedestrian access may be allowed within this line as needed during construction but, in no case, shall access be permitted closer than five (5) feet to the trunk;

(3) All protective posts shall be linked together (fencing at least three (3) feet high, two (2) courses of rope not less than one-half ($^1/_2$) inch in diameter or a chain of comparable size, or other material of equivalent visibility), and each section shall be clearly visible (flagged with yellow plastic tapes or other brightly colored weatherproof marker);

(4) All existing trees to remain and replacement stock shall have the natural soil level maintained from the trunk to the drip line of each tree. Permanent tree wells, retaining walls or planter islands shall be provided, when found to be necessary by the Planning and Development Director, or his or her designee, to maintain the existing natural soil levels. Insofar as practicable to maintain a reasonable beneficial use of the property, natural drainage to such trees shall be maintained. No grade changes shall be made within the protective barrier zones, without prior approval by the Planning and Development Director, or his or her designee.

(5) Protective barrier zones shall remain in place and intact until such time as landscape operations begin or construction is complete, whichever occurs first;

(6) Landscape preparation in the protected area shall be limited to shallow disking of the area, however, no disking shall occur within five (5) feet of the trunk or above ground roots.

(b) No building materials, machinery or temporary soil deposits shall be placed within protective barrier zones defined in subsection (a) above;

(c) No attachments or wires other than those of a protective or non-damaging nature shall be attached to any tree;

(d) Trenching of any type should be avoided in the protective barrier zone. Where underground installations are conducted adjacent to the trunks of trees to be preserved, tunneling should be utilized to the maximum practicable extent. When trenching or tunneling occurs near trees to be protected, protective measures should be taken in accordance with the Tree Protection Manual for Builders and Developers published by the Florida Department of Agriculture and Consumer Services which is adopted herein by this reference thereto;

(e) The Planning and Development Director, or his or her designee, shall conduct periodic inspections of the site before work begins and during clearing, construction and post-construction phases of development in order to insure compliance with this Code and the intent of this chapter. Trees that are destroyed or which are subject to major damage, as determined by the Planning and Development Director, or his or her designee, shall be replaced in accordance with the requirements of this ordinance before occupancy unless removal has been permitted by the County.

Sec. 60.5. Exemptions. The following exemptions are self executing, but any person desiring a document attesting to such exemption may make application to the Planning and Development Director, or his or her designee. If deemed necessary the property shall be inspected to confirm that the specified activity is, in fact, exempt. If the activity is determined to be exempt, the Planning and Development Director, or his or her designee, shall place on record the basis for the same, including all statements and documents submitted by the applicant and shall describe with particularity the precise activities exempted.

(a) **Emergencies.** In the event that any tree endangers health or safety and requires immediate removal, such as, but not limited to, the cutting of emergency fire lanes by fire-fighting units, verbal authorization may be given by the Planning and Development Director, or his or her designee, and the

tree may be removed without obtaining a written permit as herein required. Such verbal authorization shall later be confirmed in writing;

(b) **Nurseries.** All state-approved, governmental and private plant or tree nurseries and botanical gardens are exempt from the terms and provisions of this chapter only in relation to those trees which are planted and growing for the sale or intended sale to the general public in the ordinary course of business or for some public purpose;

(c) **Pruning.** Normal pruning (less than 25 percent of the canopy) of trees, when conducted in accordance with the adopted "Tree Pruning Standards" of the National Arborist Association, are exempt from the terms and provisions of this chapter, except that the following pruning practices are not permitted and constitute a violation of this chapter requiring replacement of the trees subjected thereto in accordance with the replacement requirements of this chapter:

(1) Hat-racking: the severe trimming of trees in which most branches are cut and few branches with leaves remain;

(2) Lollipopping: the severe trimming of trees to create a non-natural shape.

Trees planted and maintained as topiaries which are not part of the required landscaping are exempt from these pruning restrictions.

(d) **Agricultural Uses.** Activity of a bona fide farm operation on land classified as agricultural land pursuant to section 193.461, Florida Statutes (2003), is exempt from this chapter 60 if such activity is regulated through implemented best management practices, interim measures, or regulations developed by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district and adopted under chapter 120 as part of a statewide or regional program; or if such activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

(e) **Exotic Trees.** All tree species listed as Category I or Category II invasive exotics in the Florida Exotic Pest Plant Council's List of Invasive Species, including the following species of trees, shall be exempt from the provisions of this chapter:

(1) Acacia (Acacia species);

(2) Australian Pine (Casuarina species);

(3) Brazilian Pepper (Schinus terebinthifolius);

(4) Tree or Punk Tree (Melaleuca quinquenervia);

(5) Camphor (Cinnamomum camphora);

(6) Carrotwood (Cupaniopsis anacardiodes);

(~~6~~7) Chinaberry (Melia azedarach);

(~~7~~8) Chinese Tallow Tree (Triadica sebifera);

(~~8~~9) Ear Tree (Enterolobium cyclocarpum)

(~~9~~10) Eucalyptus (Eucalyptus robusta)

(~~10~~11) Flamegold Tree (Koelreuteria elegans);

(~~11~~12) Guava (Psidium species);

(~~12~~13) Jacaranda (Jacaranda acutifolia)

(~~13~~14) Java Plum (Syzygium cumini);

(~~14~~15) Mimosa (Albizia julibrissin);

(~~15~~16) Paper Mulberry (Broussonetia papyrifera);

(~~16~~17) Rosewood (Dalbergia sissoo);

(~~17~~18) Silk Oak (Grevillea robusta);

(~~18~~19) Tung Oil Tree (Aleurites fordii);

(~~19~~20) Umbrella Tree (Schefflera actinophylla); and

(~~20~~21) White Lead Tree (Leucaena leucocephala).

(f) **Disasters.** In the case of emergencies such as hurricane, hailstorm, windstorm, flood, freeze, or other disasters, the requirements of this chapter may be temporarily waived by the Planning and Development Director, or his or her designee, or the Public Safety Director. At the earliest possible meeting of the board, findings shall be presented to the board establishing that such waiver was necessary so that public or private work to restore order in the county would not be impeded. Said waiver must be for a time certain and may not be for an indefinite period;

(g) **Dead Trees.** Dead trees are exempt from the terms of this chapter.

Section 60.5.1. Logging.

(a) Except as to activity conducted on land classified as agricultural land pursuant to section 193.461, Florida Statutes (2003), no person shall engage in logging operations without first obtaining a logging permit.

(b) Each application for a logging permit shall comply with all applicable conditions and recommendations outlined in the Florida Department of Agriculture and Consumer Services' publication titled "Silviculture Best Management Practices". Applications shall describe in detail the lands to be logged, the size and types of trees to be logged, the term of operations, the months during which trees will be logged, the procedures for safeguarding trees not to be logged, procedures for restoration of altered terrain, procedures for preventing erosion and pollution, and to what extent reforestation is to occur. A reforestation plan indicating all appropriate cover and plantings shall be submitted with all applications for logging permits unless waived by the Planning and Development Director, or his or her designee, based upon his or her determination that submission of a plan would not further the public interests based upon future development conditions that will relate to the site. The Planning and Development Director, or his or her designee, upon receipt of said application, may require such additional information as deemed necessary to meet the intent and purposes of this chapter;

(c) The Planning and Development Director, or his or her designee, may, in granting a logging permit, place such reasonable conditions or restrictions upon the same as deemed necessary to:

(1) Protect trees not permitted to be logged;

(2) Buffer logging operations from waterways, parks, and residentially designated, zoned, occupied or used lands;

(3) Guarantee restoration of terrain to a degree necessary for the prevention of erosion and protection of flora;

(4) Prevent pollution;

(5) Insure reforestation, if part of the management plan;

(6) Preserve historic trees;

(7) Otherwise promote the intents and purposes of this chapter.

(d) Notwithstanding anything herein to the contrary, no person shall:

(1) Destroy, damage or log any trees which have been designated by the county or other appropriate agency as threatened, endangered or historic; or

(2) Conduct logging operations within fifty (50) feet of any lands that are residentially designated, zoned, used or occupied.

Section 60.5.2 Authority to require removal of trees. The Board of County Commissioners may, after such notice as is reasonable under the circumstances, order the removal of ~~dead, damaged or diseased~~ trees on private or public property when such trees:

(1) constitute an imminent threat to life or property; or

(2) harbor pest insects which threaten other trees in the area; or

(3) are diseased with a disease that threatens other trees in the area~~.~~; or

(4) have the potential for interference with the construction of public roads, utilities, landfills, stormwater facilities, or other government uses where such trees are located within a tree protection zone; or

(5) are dead and located within tree protection zones.

The owner of the property upon which the tree is located shall remove the tree within the time specified by the Board. Failure to comply with the Board's order shall authorize the County to enter upon the property and remove the tree and bill the owner for the expense thereof.

Nothing in this Part shall be construed to prevent routine maintenance or the trimming of trees within tree protection zones by public utilities or their authorized agents, where such trimming or maintenance is required for the establishment or continuation of the service provided by such utility. Prior to undertaking such activities, the utility shall submit to the Planning & Development Director a general maintenance plan which shall indicate:

(a) The type of maintenance to be performed.
(b) The location of the affected tree protection zone(s) and the location of utility structures within such zone(s).
(c) An approximate (e.g. yearly or monthly) maintenance schedule.
(d) Specific measures to be taken by the utility to minimize damage to trees and the canopy or tree-lined effect within the protection zone(s).

The Planning & Development Director, or designee, shall review the submitted maintenance plan and shall, within 30 days, issue a letter of agreement authorizing maintenance within the tree protection zone(s). The

letter shall contain all pertinent information submitted in accordance with subsection (3)(a-d) above as well as any revisions deemed necessary by the Director to preserve the tree protection zone. The letter shall be signed by the Planning & Development Director and an authorized representative of the utility. The letter of agreement shall be valid for a maximum period of 5 years. Upon expiration of this time period, the utility may seek a new letter of authorization and shall be subject to any new regulations then in effect.

Trimming within a tree protection zone shall be limited to 16 feet clearance over the travelway for vehicles, and eight feet over walkways for pedestrian clearance.

Sec. 60.6. Variances. The preservation of any tree on the preferred tree replacement species list with a trunk diameter of twenty-four (24) inches and greater measured four and one-half ($4^1/_2$) feet above the ground [Diameter at Breast Height (DBH)] may be considered as the basis for the Planning and Development Director, or his or her designee, granting a variance from the required replacement ratios or the literal application of the provisions of this chapter. Conditions of a variance so granted shall be made a part of the arbor permit.

Sec. 60.7. Appeals. Any affected person, as hereafter defined, aggrieved by any decision made in the application of this chapter may file a written appeal with the Tree Committee in accordance with the provisions of this section. An "affected person" is the person, firm, corporation or other legal entity making an application for a permit pursuant to this Chapter or that is the subject of any enforcement action pursuant to this Chapter.

(a) The appeal shall be filed not later than fifteen (15) days from the date on which the disputed decision was rendered;

(b) The fee for filing an appeal shall be paid when the appeal is filed. The amount of the fee shall be established by resolution of the Board of County Commissioners.

(c) The hearing on the appeal shall be held within sixty (60) days of the date of filing of the appeal.

(d) After a full and complete hearing on the appeal, the Tree Committee shall, within fifteen (15) days of said hearing, render its decision in writing either affirming, overruling, or modifying the decision of the administrative official, agency or body.

Sec. 60.8. Effect of violations upon building permits and final approvals. No building permits shall be issued on lands where violations of this chapter are found to exist by the Planning and Development Director, or his or her designee, until such time as appropriate remedial action is approved by the

county. Final approval shall not be given to any construction until all violations have been corrected.

Sec. 60.22. Permit application and procedures. The following procedures shall be followed and shall govern the granting of all permits pursuant to this chapter, except for the permits for maintenance and trimming of trees by public utilities within tree protection zones, as defined in Sec. 60.5.2.:

(a) *Application.* Permits for removal, relocation, or replacement of trees covered herein shall be obtained by making application in a form prescribed by the Planning and Development Director, or his or her designee, to the following appropriate public bodies:

(1) In the case of a subdivision development, an application for an arbor permit shall accompany the preliminary subdivision plan of said subdivision and shall be submitted to the Development Review Division for review. The arbor permit submittal information included with the preliminary subdivision plan may be limited to an aerial photograph or drawing of the areas where trees are proposed for removal or relocation. Upon submittal of final engineering plans for a subdivision, the applicant shall provide all information required in Section 60.22 (b) and (i). The Planning and Development Director, or his or her designee, shall have final authority over the approval or denial of applications for permits in such instances. Approval of the final engineering plans shall constitute approval of the arbor permit, provided however that no clearing pursuant to the arbor permit shall commence until the site permit has been issued for the final engineering plans;

(2) In the case of any development which requires site plan approval by the Planning and Zoning Commission, the Board of County Commissioners, or both; permits for removal, relocation or replacement of trees covered herein shall be obtained by making application at the time of site plan submittal to the board charged by law, ordinance or regulation with the approval of said site plan. In those cases where a site plan is required to be approved by both the Planning and Zoning Commission and the Board of County Commissioners, the decision of the Planning and Zoning Commission with respect to the tree permit application shall be recommendatory only, and the Board of County Commissioners shall make the ultimate decision as to whether to grant or deny said application for permit. Staff evaluation of the appropriateness of the application will be included in their recommendation to the Board of County Commissioners and approval of the site plan shall constitute approval of the arbor permit;

(3) In the case of property in a tree protection zone where development requires approval under the Land Development Code, said tree

removal and protection permit shall not be issued until after the final engineering is approved. Any person applying for a permit to remove or disturb trees shall file a written application and pay such a fee as established under separate resolution by the Board of County Commissioners. The written application shall constitute a written authorization for County staff to enter the property to conduct inspections to determine if the applicant is in compliance with the provisions of this Part. A tree location survey for the lot must be submitted with the application.

(~~3~~4) In the case of a vacant single family lot development involving tree removals, an application for an arbor permit shall accompany the building application for said lot and shall be submitted to the Building Division for approval; or

(4~~5~~) In all cases, other than those described in subsections (1), (2), (3) and (~~3~~4) above, permits for removal, relocation, or replacement of trees covered herein shall be obtained by making application to the Planning Division.

(b) *Fees.* The Board of County Commissioners is authorized to set reasonable fees and charges for the implementation of this Part. Fees charged shall substantially finance the costs incurred in processing authorizations and other related activities administered by the Planning & Development Director. Fees shall be waived with reference to any tree that is determined to be exempt under the conditions of Sec. 60.5.

(~~b~~c) *Submittals.* All applications shall be accompanied by such permit fee as shall, from time to time, be established by duly adopted resolution by the Board of County Commissioners; provided, however, that governmental agencies are exempted from permit fees. Each application for a permit to remove, relocate or replace trees covered herein shall be accompanied by a written statement indicating the reasons for removal, relocation or replacement of trees and two (2) copies of a legible site plan drawn to the largest practicable scale, but need not be certified by a registered surveyor, indicating the following:

(1) Location of all existing or proposed structures, improvements and site uses, properly dimensioned in reference to property lines, setback and yard requirements in spatial relationship;

(2) Proposed changes, if any, in site elevations, grades and major contours;

(3) Location of existing or proposed utility services and easements;

(4) Location of all trees on-site which have a minimum DBH of three (3) inches designating the trees to be retained, removed, relocated, or

replaced. Groups of trees in close proximity may be designated as "clumps" of trees with the estimated number and type of trees noted when they are to be removed, relocated or replaced. Trees with a DBH of twenty-four (24) inches and greater shall be identified by species and diameter measurement. Trees to be removed, relocated or replaced shall be labeled by (common or botanical name) on the site plan;

(5) Tree information required above shall be summarized in legend form on the plan and shall include the reason for the proposed removal, relocation or replacement; and

(6) Applications involving developed properties may be based on drawings showing only that portion of the site directly involved and adjacent structures and landscaping on natural growth incidental thereto.

(7) Applications involving work in a tree protection zone shall include a plan showing proposed scope of work, and shall identify protected trees (by species and DBH), the scaled location of the tree protection zone, and the proposed location of the tree protection barricades. The application shall also include a tree survey, general description of the trees to be removed or relocated, an area map indicating the location of the trees to be removed or relocated, and any proposed structures or vehicle use areas. In addition, part of the application shall contain a signed acknowledgement by the applicant verifying that no protected trees will be removed as a part of the development project except as noted on the approved application. The written statement and site plan shall include, at a minimum, the following:

(i) Written detailed justification for removing a tree.
(ii) The location and dimensions of all existing and proposed structures.
(iii) Significant natural features.
(iv) Existing and proposed contours.
(v) Existing protected trees to remain on site.
(vi) Trees to be removed and retained.
(vii) Existing and proposed utilities.
(viii) Building and other structural setbacks.
(ix) Trees on adjacent property that may be affected by proposed construction.
(x) Any land use requirements pertaining to property use or restrictions.
(xi) For items (v) and (vi) above, the general location of the trees, including blocks of trees, is acceptable, providing a listing of individual trees by species and size is provided.

(d~~c~~) *Tree preservation.* For trees that are to be saved or retained, each application must contain a statement of how these trees or tree areas are to be protected during construction and landscape operations;

(e~~d~~) *Application review.* Upon receipt of a proper application, the appropriate body or agency shall review said application. The review may include, but need not be limited to, a field check of the site and referral of the application for recommendations to other appropriate administrative departments or agencies. The designated public agency or body shall take all steps to assure that a decision is made on the application within thirty (30) days; provided, however, that, in the case of site plan approval, a decision on an application shall be made within the time required for site plan approval; and provided, further, however, that, if more time is required to process any application, a request in writing stating a specified extension of time shall be made to the applicant for his or her approval. If the request for extended process time is rejected by the applicant, an approval, conditional approval or denial of the application shall be issued without undue delay; provided, further, however, that expiration of the review time does not entitle the applicant to remove the trees which are the subject of the application.

Upon receipt of the complete application for work in a tree protection zone, the Planning & Development Director, or designee, will conduct a field inspection to determine if the information is sufficient for review, and if the proposed plan is in compliance with the provisions of this Part. Upon completion of the review, the Planning & Development Director will notify the applicant that the application is insufficient; does not comply with the provisions of this article; or that the permit is approved, or approved with conditions;

(f~~e~~) *Issuance of permits for removal.* No permit shall be issued for tree removal unless one (1) of the following conditions exists:

(1) The tree is located in a buildable area, yard area or right-of-way where a structure or improvement is to be placed and for which a permit application has been filed, and/or it unreasonably restricts the permitted use of the property;

(2) The tree is diseased or injured~~,~~ or in danger of falling on pedestrians, vehicular traffic or in such proximity to existing or proposed structures so as to endanger such structures;

(3) The tree interferes with utility services or creates unsafe vision clearance;

(4) The tree is diseased or infested with a condition that will require removal of the tree to prevent the transmission of the disease or infestation.

(gf) *Relocation or replacement.* As a condition of the granting of a permit, the applicant may be required by the Planning and Development Director, or his or her designee, to relocate or replace (with authorized replacement trees) the trees being removed. Replacement trees, when required, will be provided based on the DBH of the trees being removed and the caliper (trunk diameter measured one foot above the ground) of the replacement stock trees. A site plan depicting the proposed location of the replacement trees is required as part of the permit application. The replacement standards below will apply, provided, however, that under no circumstances shall the number of required replacement trees exceed 250 trees per acre.

TREE REPLACEMENT STANDARDS

DBH of Tree Removed	*Number of Replacement Trees Required for Each Tree Removed*	*Minimum Caliper for Standard Replacement*	*Replacement Trees Required for Each Tree Removed due to an Arbor Violation*
3 inches to less than- 12 inches	Two (2) replaced for one (1) removed	Two (2) inches	Four (4) replaced for one (1) removed
12 inches to less than 24 inches	Four (4) replaced for one (1) removed	Two (2) inches	Six (6) replaced for one removed
24 inches or larger	Five (5) replaced for one (1) removed	Two (2) inches	Eight (8) replaced for one (1) removed

In determining the required relocation or replacement of trees, the following shall be considered:

(1) Existing tree coverage;

(2) Number of trees to be removed and retained. Special consideration will be given to the retention of Florida native species and trees with a DBH of twenty-four (24) inches or larger;

(3) Area to be covered with structures, parking, and driveways;

(4) Topography and drainage of the site and its environs;

(5) Character and ecology of the site; and

(6) Characteristics and amount of trees, shrubs and grass proposed for planting on the site by the applicant. Special credit may be given in consideration of planting of trees that exceed the minimum diameter requirements or are selected from the "Preferred Tree Species" list.

(h~~g~~) *Alternatives to standard tree replacement.* If the total number of trees required cannot be reasonably accommodated on a site, the total caliper inches shall be met by the placement of fewer, but larger, trees on the site, as approved by the Planning and Development Director, or his or her designee;

(i~~h~~) When ten (10) or more trees are required to be planted on a site to meet the requirements of this chapter, a mix of trees shall be provided at least one (1) of which shall be native to the Central Florida Region and no single tree species may constitute more than fifty (50) percent of the trees planted. The minimum number of species to be planted is set forth below.

REQUIRED MIX OF TREE SPECIES

Required Number of Trees Planted	*Minimum Number of Species*
10 - 20	2
21 - 30	3
31 - 40	4
41+	5

(j~~i~~) *Permit form.* Permits shall be issued in such form as may be prescribed by the Planning and Development Director, or his or her designee, and may set forth in detail the conditions upon which the permit is granted. One (1) permit may cover several trees or groups of trees as long as the same can be clearly identified thereon; provided, however, that, no permit may be issued for more than one (1) parcel or area of land unless said parcels or areas of land are contiguous to one another; and

(k) In a tree protection zone, any authorization for tree removal or disturbance shall specify the location approved, the species of tree, the action allowed to be performed, the duration of the approval, and any other requirement deemed necessary by the Planning & Development Director to regulate the disturbance or removal of canopy road trees in the County.

(l) If a protected tree within a tree protection zone dies after a tree removal permit has been issued, and prior to the issuance of a Certificate of

Occupancy, the applicant shall notify the Planning & Development Director and request an inspection prior to the removal of the dead tree. An inspection shall be made within two working days of the notification by the applicant. Failure to notify the Planning & Development Director prior to the removal of any protected tree constitutes a violation of this Part .

(m) All permits for tree removal for trees within a tree protection zone will require a final inspection to ensure compliance with the provisions of this Part. Final inspections shall be scheduled by the applicant after completing the project.

(n~~j~~) *Permit expiration.* Any permit issued under this ordinance shall automatically expire twelve (12) months after issuance, or, when issued as part of a building permit, at the time of expiration of the building permit, whichever is later.

(o~~k~~) *Stop Work Order.* Whenever any work is being done contrary to the provisions of this ordinance, the Planning and Development Director, or his or her designee, may order the work stopped by serving written notice on the holder of the permit or the person(s) at the work site.

Sec. 60.23. Replacement stock.

(a) In all cases wherein this chapter requires replacement of any tree removed, said replacement shall be made with "replacement stock." Replacement stock is hereby defined as any immature tree, other than palm trees, with a minimum diameter of two (2) inches at one (1) foot above ground level (i.e. 2" caliper) and having a height of at least eight (8) feet. Replacement stock shall be maintained by the permittee until replacement stock meets the definition of a tree as defined in Chapter 2. Any dead or substantially damaged tree under maintenance shall be replaced with same kind within thirty (30) days of notification. Trees listed as Category I or Category II invasive exotics identified in the Florida Exotic Pest Plant Council's List of Invasive Species shall not qualify as replacement stock.

(b) The following suggested tree replacement species were selected for their hardiness, disease or pest resistance. It is not the intent to limit acceptable species (except as herein set forth), but rather to provide adequate guidelines in the selection of replacements. All replacement trees shall be Florida Nursery grade Number 1. Tree species must be approved in advance by the Planning and Development Director, or his or her designee, except for the following trees which may be used as replacement stock without prior approval:
Preferred Tree Species List

(1) American Elm (Ulmus americana);

(2) American Holly (Ilex opaca);

(3) American Hornbean (Carpinus caroliniana);

(4) Box Elder (Acer negundo);

(5) Bald Cypress (Taxodium distichum);

(6) Carolina Basswood (Tilia americana var caroliniana);

(7) Dahoon Holly (Ilex cassine);

(8) Devilwood (Osmanthus americanus);

(9) Laurel Oak (Quercus laurifolia);

(10) Live Oak (Quercus virginiana);

(11) Loblolly Bay (Gordonia lasianthus);

(12) Loblolly Pine (Pinus taeda);

(13) Longleaf Pine (Pinus palustris);

(14) Persimmon (Diospyros virginiana);

(15) Pignut Hickory (carya glabra);

(16) Pond Cypress (Taxodium ascendens);

(17) Pond Pine (Pinus serotina);

(18) Red Bay (Persea borbonia);

(19) Red Maple (Acer rubrum);

(20) Sand Live Oak (Quercus geminata);

(21) Scrub Holly (Ilex opaca);

(22) Silk Bay (Persea humilis);

(23) Slash Pine (Pinus eliottii);

(24) Southern Magnolia (Magnolia grandiflora);

(25) Southern Red Cedar (Juniperus silicicola);

(26) Swamp Tupelo (Nyssa sylvatica biflora);

(27) Sweetbay (Magnolia virginiana);

(28) Sweetgum (Liquidambar styraciflua);

(29) Sycamore (Platanus occidentalis);

(30) Tulip Tree (Liriodendron tulipifera);

(31) Turkey Oak (Quercus laevis); and

(32) Winged Elm (Ulmus alata).

Acceptable Tree Species List

(1) Carolina Ash (Fraxinus caroliniana);

(2) Carolina Laurel Cherry (Prunus caroliniana);

(3) Eastern Cottonwood (Populus deltoides);

(4) Hackberry (Celtis laevigata);

(5) River Birch (Betula nigra);

(6) Shumard Oak (Quercus shumardii);

(7) Swamp Bay (Persea palustris);

(8) Myrtle Oak (Quercus myrtifolia); and

(9) Sand Pine (Pinus clausa).

Other native and non-native species may be acceptable for use but will require County approval prior to planting.

Sec. 60.24. Authority to impose fines and County arbor violation trust fund.

(a) The Tree Committee may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this Part, and any permit issued thereunder, including injunctive relief to enjoin and restrain any Person from violating its provisions and such damages as may be sustained by virtue of this Part, together with all costs and expenses involved in the case.

(b) The removal or unauthorized pruning of a protected tree, or any action which causes the disturbance of a protected tree in violation of the provisions of this Part, or any permit issued thereunder, may be mitigated by paying a fine equal to $100 per inch of diameter at breast height (DBH), and shall be used only for the purposes of acquiring, planting, and protecting trees within the County.

(~~a~~i) The Code Enforcement Board, after notice and hearing, is authorized to impose fines, in amounts not to exceed those shown in subsection (b), for removal of trees without an arbor permit or removal of trees in excess of those authorized by an arbor permit.

(~~b~~ii) Fines shall be calculated on the basis of the following table, unless in a tree protection zone then Sec. 60.24(b) shall apply:

DBH of tree removed	Amount of fine
3 inches to less than 12 inches	$100.00 per tree
12 inches to less than 24 inches	$300.00 per tree
24 inches or larger	$500.00 per tree

If the DBH of the tree(s) removed cannot reasonably be determined then there shall be a rebuttable presumption that the DBH of each tree removed was in excess of twelve (12) inches but less than twenty four (24) inches. If the number of trees removed cannot reasonably be determined then there shall be a rebuttable presumption that the density of the trees removed was one hundred (100) trees per acre and the number of trees removed shall be calculated using that density applied to the areas cleared. The maximum fine per acre shall not exceed $10,000.00.

(~~c~~iii) All fines shall be in addition to and not in lieu of the requirement to plant replacement trees as specified in Section 60.22(f) of this chapter.

(c~~d~~) An arbor violation trust fund is hereby established by the county for deposit of fines paid to the county. All monies deposited hereunder shall be deposited in the arbor violation trust fund, which shall be a separate account established and maintained apart from the general revenue fund of the County. All money in this fund shall be used for the planting of trees in the County and the administrative costs incurred in enforcing this ordinance as authorized by the Board of County Commissioners. The arbor violation trust fund shall be self-perpetuating from year to year unless specifically terminated by the Board of County Commissioners.

Section 3. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such section, paragraph, sentence, clause, phrase or word may be severed from this ordinance and the balance of this Ordinance shall not be affected thereby.

Section 4. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Seminole County Land Development Code and that the word "Ordinance" may be changed to "section," "part" or other appropriate word and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that sections 3, 4, and 5 shall not be codified.

Section 5. Effective Date. This Ordinance shall become effective upon filing a copy of this ordinance with the Department of State by the Clerk of the Board of County Commissioners.

ENACTED this 7th day of November 2006.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By:_____
CARLTON D. HENLEY, CHAIRMAN

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