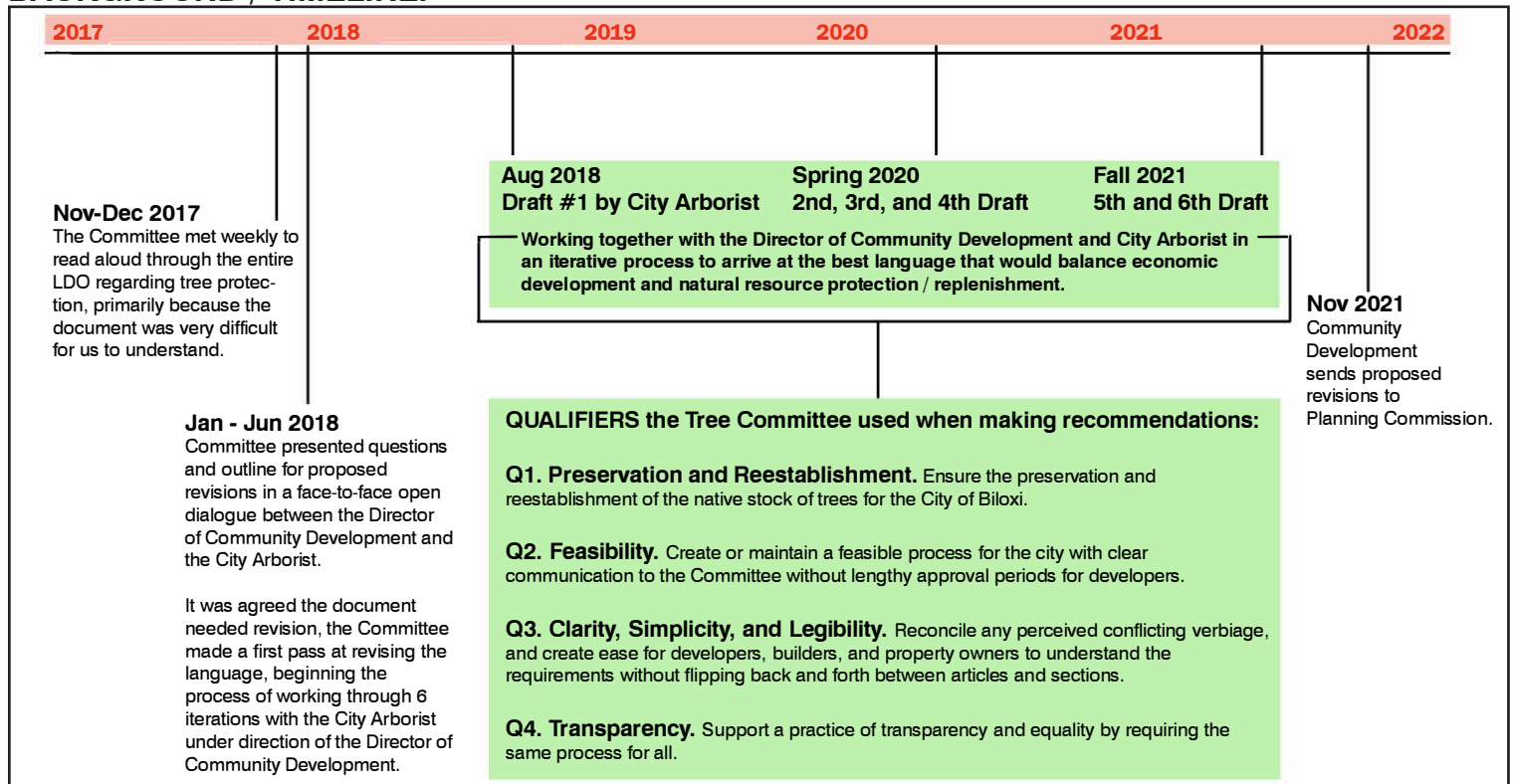


City of Biloxi, Council Meeting, November 22, 2021

Tree Committee Comments Regarding LDO Revisions

BACKGROUND / TIMELINE.



POINTS OF AGREEMENT. During the process, the Tree Committee either recommended verbiage or agrees with Community Development recommendations on the following, which is now reflected in the proposed revisions:

1. Much of the language has been simplified or reordered, with careful attention to aligning unintentionally conflicting verbiage.
2. Majestic Oak program is being proposed as Majestic Tree Program.
3. Clearer verbiage and more complete requirements regarding Tree Permit applications.
4. Clearer verbiage and more complete requirements regarding data the City Arborist is to provide to the Tree Committee for required reports to City Council.
5. Mitigation species requirement of protected and native species, with a requirement for 75% being protected species and 25% being other recommended native species.
6. A Mitigation Trust could be a reliable way to insure replenishment of tree canopy.
7. Elimination of minor and major tree permit language. Replacement of 'specimen tree' verbiage with 'protected'.
8. Elimination of tree canopy table and sizes of protected trees (whether protected or non-protected species).
9. Addition of mitigation requirement table, relating to size of trees removed.
10. Once the revised language has been adopted, an updated process graphic and tree removal application would be developed.

POINTS OF COMPROMISE. The Committee also agrees or made compromises regarding the following proposed language:

1. Water Oaks will no longer require a permit or mitigation for removal. The Committee narrowly voted via email in favor of this compromise.
2. Sizes of protected species ($\geq 8''$) and non-protected species ($\geq 16''$) to be permitted for removal and requiring mitigation. Current requirements are 5'' (protected species) and 8'' (non-protected species). This was decided together with the Director, Community Development and City Arborist.

REMAINING POINTS OF CONCERN. The Committee continues to question and raise concern with the proposed language regarding the following:

1. **Alternative mitigation rate for subdivisions.** Subdivisions allowed a mitigation rate of 1:1 for approved removal of protected trees, as opposed to adherence to the new proposed mitigation chart required by commercial, industrial and multi-family development. This is counter to our desire for an equal process for all; and confuses the language, providing an illogical exception.
2. **Exemption of New Residential from Tree Hearing/Mitigation.** New residential properties are exempt from the requirement of a Tree Hearing AND mitigation when proposing the removal of 5 or more trees. This is counter to our desire for an equal process for all, confuses the language, and actually provides a loophole for developers (who become builders of single-family residential home sites) to remove well over five PROTECTED trees per lot without planning commission knowledge.
3. **Special subdivision allowances.** This speak volumes, disregarding community-wide concern over practices of clear-cutting and lack of mitigation. Subdivisions can be designed with varying lot sizes so that the majority of protected trees are near side and back lot lines (rather than where a home would be placed by future owners/builders), thus creating natural areas and buffers between neighbors-- an appealing selling feature for new homes.
4. **Mitigation Trust.**
 - a) The Committee questions whether 2x the cost of a tree is adequate to cover its planting, maintenance, irrigation, mapping, and tracking the health of every mitigation tree over 3 years while also guaranteeing its successful establishment. This is a major technology and staffing undertaking that should be carefully analyzed before this language is adopted.
 - b) The City (not the developer) would be liable to guarantee mitigation establishment. Verbiage should be removed that holds the developer liable.
 - c) There is no language regarding how the existing trees permitted for removal will meet mitigation requirements (whether by the old language or the new). Currently, there are nearly 2,400 trees owed to the City since the Tree Committee began tracking this in 2017. Though some of those projects have been stalled or are not yet complete, the question remains: "How will previous mitigation requirements be met and accounted for?"
 - d) The sheer number of outstanding mitigation requirements not met compels us to ask questions. How will the Mitigation Trust ensure the replenishment of canopy since the previous policy was unable to? Why is the existing policy not resulting in sufficient mitigation?
 - e) The referenced beautification plan should be made public, and must insure mitigation trees (not general landscape plants or ornamental trees), be the only acceptable use of mitigation trust funds.
5. **Clarity.** A bit more work is needed to prevent too much 'flipping' across the ordinance, reorder, and/or provide consistency to some of the language, as well as address a few typos.
6. **Penalties.** The Committee would like the Community Court process explained or referenced in the "Tree Protection" and "Tree Permit" section of the ordinance.
7. **Incentives for Sustainable Development.** Actual incentives for sustainable development must be significant enough for developers and property owners to begin taking advantage of them. Examples include creating parks, trails, and other natural areas in a subdivision or commercial development; designing subdivisions to provide natural buffers between properties on lots that can also count as stormwater management areas; cluster development, working with a site's natural hydrology first (before designing for roadways and lots); encouraging street tree planning in new development; and using low impact development or green infrastructure principles / strategies to slow, spread and filter stormwater close to its source, relieving pressure from existing municipal systems. These practices would support economic development while also preserving and replenishing our natural resources.