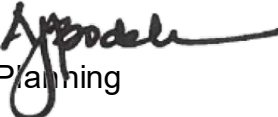


September 14, 2023

TO: Staff

FROM: Amy J. Bodek, AICP 
Director of Regional Planning

SUBDIVISION AND ZONING ORDINANCE INTERPRETATION NO. 2023-09 - REVIEW PROCESS FOR ADMINISTRATIVE OAK TREE PERMIT APPLICATIONS

PURPOSE

This memo provides policy guidance on how to review Administrative Oak Tree Permit (OTP) applications in accordance with the provisions and requirements of [County Code Section 22.174.040.D \(Oak Tree Permits – Application and Review Procedures – Application Without a Public Hearing\)](#). The policy ensures that the intent of [County Code Section 22.174.010 \(Oak Tree Permits – Purpose\)](#) is achieved in the review process for Administrative OTP applications.

APPLICABILITY

This policy applies to all Administrative OTP applications that are filed on or after the date of this memo.

APPLICATION AND REVIEW PROCEDURES

Additional Application Materials

In addition to the application materials listed in [County Code Sections 22.174.040.A and 22.174.040.B \(Oak Tree Permit – Application and Review Procedures – Application Checklist and Additional Application Materials\)](#), the following application materials shall be required for Administrative OTPs:

1. Site Plan – Alternative Site Designs Analysis. The Site Plan shall depict and/or describe alternative designs that have been considered for the proposed development on the site. The Analysis shall describe how the proposed design was chosen among the alternatives and shall describe in detail and affirm how the proposed development on the site has been designed to avoid the removal or encroachment of any oak trees on the site to the greatest extent feasible. The Analysis shall demonstrate that the proposed design is the least impactful design possible for the proposed development

on the site and shall include an attestation signed by the applicant and the property owner, if different than the applicant.

In demonstrating compliance with this requirement, the applicant shall substantiate that at least one of the following circumstances applies to the application:

- a. That the removal or encroachment of the oak tree is necessary as the continued existence of the oak tree at its present location frustrates the planned improvement or proposed use of the subject property to such an extent that:
 - i. Alternative Site Designs cannot achieve the same permitted density or that the cost of such alternative would be prohibitive, or
 - ii. Placement of the oak tree precludes the reasonable and efficient use of such property for a use otherwise authorized;
 - b. That the oak tree proposed for removal or encroachment interferes with utility services or streets and highways, either within or outside of the subject property, and no reasonable alternative to such interference exists other than removal of, or encroachment into the protected zone of the tree; or
 - c. That the condition of the oak tree proposed for removal or encroachment with reference to seriously debilitating disease or danger of falling is such that it cannot be remedied through reasonable preservation procedures and practices.
2. Site Plan – Oak Tree Protection Plan. The Site Plan, in conjunction with the required Oak Tree Report, shall include an Oak Protection Plan that depicts and/or describes the protective measures that are being implemented to protect the remaining oak trees on the site. The Oak Tree Protection Plan shall describe in detail and affirm how the proposed development on the site will be accomplished without endangering the health of the remaining oak trees on the site and shall include an attestation signed by the applicant and the property owner, if different than the applicant.
3. Site Plan – General Attestations. The Site Plan shall also include attestations signed by the applicant and the property owner, if different than the applicant, that describe in detail and affirm:
- a. That the removal or encroachment of the subject oak tree will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated; and

- b. That the removal or encroachment of the subject oak tree will not be contrary to or be in substantial conflict with the intent and purpose of the Oak Tree Ordinance.

Review Procedures

1. **Planning Staff Review.** Upon receipt of a complete Administrative OTP application, Planning Staff shall review the application materials for compliance with the requirements listed above. If Planning Staff determines that the requirements above have not been met, they shall work with the applicant to obtain a revised Site Plan with a revised Site Design and/or Oak Tree Protection Plan that complies with the requirements listed above.

This review and revision process shall be conducted iteratively until Planning Staff is satisfied that the requirements listed above have been met.

2. **Planning Staff Biologist Consultation.** If the site is located within or contains an [Oak Woodland](#) or is located within a Significant Ecological Area or any other environmentally sensitive area, Planning Staff shall consult with a Planning Staff Biologist with regard to the requested removal or encroachment of the oak tree and the proposed mitigation measures prior to consultation with Fire Department Forestry Division Staff (Forestry Staff).
3. **Forestry Consultation.** After Planning Staff has determined that the Administrative OTP application has met the requirements listed above, Planning Staff shall proceed with the Forestry Staff consultation process in the same manner as the consultation process for a Discretionary OTP.

Additional Requirement – Mitigation Trees

An Administrative OTP shall include the additional requirement of planting mitigation oak trees for any oak tree that is removed or dies due to the development activities on the site. The number of mitigation trees planted shall be at a ratio of two mitigation trees for every oak tree that is removed or dies due to the development activities on the site. The mitigation trees shall be planted on-site or off-site at a County Park or within a County right-of-way, such as a parkway, within the same community as the original oak tree that was removed or died, unless the applicant is able to demonstrate by written substantial evidence to the satisfaction of the Director of Regional Planning that such replanting is technically infeasible.

Documentation of Decision

The approval of an Administrative OTP shall be in the form of a digitally stamped-approved Exhibit “A,” with the County Forester’s Letter and the “Oak Trees: Care and Maintenance” handout attached. The requirement for planting mitigation trees described above shall be

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included in the Approval Notes, which Planning Staff will affix to the digitally stamped-approved plans. The actual proposed development activities on the site shall be reviewed separately and shall make a reference to the associated Administrative OTP for the removal or encroachment of the oak tree on the site.

If you have any questions regarding this policy, please contact Mitch Glaser.

AJB:MG:lm