

TREE ORDINANCE DISCUSSION

It began at my Community Coffee with the Mayor in June and has continued since then. A number of folks at the coffee were upset by the large number of trees that had just been cut down at a home-building site in an old neighborhood in town. The question to me was, why the town allowed this to happen when it was a clear violation of the town tree ordinance.

My response was that while we have a tree ordinance for commercial zones, there is no such ordinance for residential zones. In commercial zones, the requirement is to replace any trees of a certain size, 8" or more in diameter, that are removed during construction. In order to have this commercial tree ordinance, special local legislation had to be acquired from the state legislature. The legislation was secured decades ago, but the North Carolina Legislature never passed legislation for residential zones. I might add that replacing a large, old tree with a new, smaller one still does not totally reduce the impact of losing an old, majestic tree. Large-scale removal of trees has a long-lasting impact on neighborhoods and special places in town. For instance, removing the two large oaks at the Loafers Bench property on Main Street could not be ameliorated by planting two small farm-raised specimens.

Special state legislation would be required permitting regulation of tree removal in residential areas. For many years, the legislature has not been receptive to such local legislation that many representatives believe impinges on personal property rights. For instance, Highlands passed [Extra-Territorial Jurisdiction \(ETJ\) zones](#) about 20 years ago, only to rescind it a few years later. To reinstate ETJ now is an uphill battle in that the legislature has instituted new limitations in recent years. Some folks predict ETJ will soon be invalidated altogether in coming legislative sessions.

So too are ordinances regulating tree removal on private residential property. Any special local legislation regulating trees in residential areas would probably not be well received. There are strong lobbies by builders and real estate organizations that make the case to legislators that local governments already have too many ordinances that impede developers and individual property owners. Some of these lobbyists even contend that there are too many restrictions on land disturbance, erosion control, and watershed restrictions. At

the last town board meeting our town attorney confirmed it may be difficult to secure legislation permitting a residential tree ordinance.

My concern is that folks coming to Highlands to build their dream homes are unaware of the issues related to building in this unique environment; case in point, not totally clearing a site in metropolitan areas to construct a home. What further aggravates this problem is that many new residents will use architects and contractors from outside this area who also have no knowledge of this area's critical construction factors. I will continue to work on this issue in the coming months. Perhaps new initiatives can be made to make prospective homeowners aware of these environmental issues.

In the meantime, this week, I will be once again treating the twenty-five hemlocks that live on our 0.64-acre homestead. Sallie and I take pride in living among some majestic hemlocks, some of which are 6 to 7 feet in circumference. We try to follow Frank Lloyd Wright's concept in building homes, that the house should be sited within nature, not constructed despite and over nature.

The other big challenge with a residential tree ordinance would be the wording and requirements. I am open to ideas, but an ordinance that is too prescriptive would be problematic, especially when it comes to enforcement.