



Dear Friends and Neighbors,

As many of you are aware, and for those of you who have not heard, a healthy 2 trunk 54" live oak was removed from a development on Howell Branch road in violation of the permit for the property. Luckily, the neighbors alerted the City and a stop work order was issued.

Since then, I have received many questions regarding what is the law for tree removal and what can be done to protect our trees. I forwarded these questions to Jason Seeley, Director of Parks and Recreation, and he provided the following information:

Q. What happened at 1298 Howell Branch Road that resulted in healthy trees being cut down?

A. In February, Urban Forestry approved a permit to remove trees on the lot at 1298 Howell Branch Rd in association with a site work permit. The trees were approved for removal based on condition or for being in the building footprint of the site work. All other trees removed were either exotic/invasive species or under 9" diameter at breast height (DBH).

The developer installed a silt fence behind trees and vegetation lining the lakefront. No work was to be done beyond the silt fence. All lakefront vegetation was to remain per an agreement between the developer and the City. Some of this vegetation was intended to serve as a temporary screening for residences across the lake during construction. Still other, better-quality oaks on the lakefront were to remain in perpetuity.

On Friday, May 14th Urban Forestry responded to reports of unpermitted activity on the lot. Site workers had taken it upon themselves to remove the silt fencing and clear a portion of the lakefront on the east side of the lot. In doing so, they destroyed a healthy two-trunk, 54" DBH live oak that was to be preserved.

The City immediately placed a stop work order on the site. A code violation was issued for the unpermitted removal of the live oak totaling \$11,880. Additional actions are currently under consideration by the City.

Q. What is the city's policy regarding tree removal from residential properties?

A. The City of Winter Park has a tree preservation ordinance in place. The current ordinance includes a process by which residential property owners may obtain a permit to remove trees. Tree removal permit applications are assessed by a Tree Risk Assessment Qualified, ISA Certified Arborist employed by the City. Factors considered by the inspecting arborist may include but are not limited to a tree's health, the presence of hazardous defects, and significant active

structural damage. Trees on residential lots slated for construction may be removed if they are in the proposed building footprint with no possibility of making reasonable accommodation in order to preserve a healthy tree.

Q. Is it different for commercial?

A. No.

Q. What impact has the state law had on tree removal?

A. **Florida Statute 163.045** provides an avenue for residential property owners to exempt themselves from local tree permitting requirements. The language of the law prohibits municipalities from requiring “notice, application, approval, permit, fee, or mitigation” for removing or pruning trees on their property, so long as they obtain a letter from an ISA Certified Arborist or a Florida licensed landscape architect declaring the tree dangerous.

Anecdotal evidence seems to indicate that more trees are being removed in the City of Winter Park than were in years past. The law makes it far easier for residential property owners to remove trees on their property without going through the permitting process. There is no standard set forth dictating that the “danger” posed by a tree be documented in any industry-recognized form. The prohibition on requiring notice under this statute effectively bars the City of Winter Park from asking for the arborist’s letter prior to a tree being removed. Urban Forestry staff is then left with only the ability to request a copy of the letter after-the-fact. At that point if the property owner is not able to produce such a letter, the City’s tree preservation ordinance may be enforced.

The existence of this law muddies the waters regarding what is allowed and what is not when it comes to tree work. Some unscrupulous tree work companies are telling residents that they no longer need a permit to remove a tree. They neglect to complete the sentence by saying, “...if you have a letter from a certified arborist declaring the tree dangerous”. In this way, some unwitting residents are falling prey to misinformation by companies who value their bottom line over their clients’ best interests.

Trees on City rights-of-way and trees on commercial property are not covered by the statute. However not everyone is aware that a tree in their yard may actually be a City tree. Not everyone is aware that they live on a property that the City of Winter Park considers to be commercial, such as a townhome subdivision or an apartment complex.

Q. Since the state preempts City regulations, is there anything the City can do to protect our trees?

Florida Statute 163.045 appears to be here to stay. Efforts to overturn the law or greatly restrict its use failed in the Florida Legislature this year. Fortunately, the City of Winter Park still holds clear jurisdiction over commercial and public property when it comes to protecting and preserving our trees.

Making people more aware of which trees in their yard may in fact be on the city right-of-way is one way we can protect our trees. For those who do not have a sidewalk in front of their house, it can be particularly confusing. Residents who are unsure about the ownership of a specific tree may access the City’s online **tree inventory** and search their address. If the tree in question shows up in the inventory, it is a City tree.

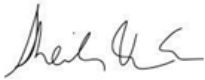
For the purpose of interpreting F.S. 163.045, the City of Winter Park treats all residential lots zoned R-3 and up as commercial lots. This means that stand-alone single-family homes and duplexes are considered residential lots by the City. Everything else is considered commercial. When in doubt, contact **Urban Forestry**.

Another important way the City is working to increase protection of its trees is through the code revision process. Winter Park's Tree Preservation Board recently approved a draft proposal to update, clarify and strengthen our tree preservation ordinance. This revision has several more steps to go through before it reaches a final form to be voted on by the City Commission. The core of this code revision is a matrix which lays out mitigation and compensation requirements for permitted tree removals. The ultimate aim is to codify an easy-to-understand mitigation/compensation scheme reflective of the value that the citizens of Winter Park place on their trees.

The tree canopy is an integral part of what makes Winter Park so special. The more we know, the better we can protect this precious resource.

My sincerest thanks to Jason and to your team, as well as to all the residents that are vigilant and report problems so they can be corrected before it is too late.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheila DeCiccio".

Sheila DeCiccio
Winter Park City Commissioner Seat 2
Sheila@sheilaforwinterpark.com
