

SECTION 10

Neighborhood Forest Overlay (NFO)

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Neighborhood Forest Overlay

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10.1 Introduction

The Neighborhood Forest Overlay (NFO) was approved by the Dallas City Council on April 10, 2019. In the process of creating the Article X urban forest conservation amendments, the neighborhood forest overlay concept was proposed after the discussion on single-family and duplex use exceptions were going to be maintained as law. During the ordinance approval in June 2018, the Council directed that the

proposal for a voluntary neighborhood forest overlay be drafted for the benefit of the protection of the community's forest canopy. This ordinance is the product of city staff working with the Zoning Ordinance Advisory Committee and the City Plan Commission and the many community advocates and professionals who provided support.

The concept of the overlay district found its original footing after it was determined that planned development and conservation districts should not be the focus of landscape and tree conservation efforts in the neighborhoods. A separate path was needed for a community to focus on their living environment. Various interests worked together to find the right balance of tree conservation and homeowner property rights protections to develop this instrument to focus on the preservation of trees in contrast to putting the emphasis on development. The neighborhood can work together to make choices to attempt to retain the characteristics of their neighborhood which they call home.

The NFO is separate from Article X procedures like the Historic Tree nomination or conservation easement which may be used for protecting trees of historical or cultural significance or woodlands on properties which are placed under the protection of a deed restriction. Each of these measures may also be available to your community.

If you or your neighborhood are interested in learning more about the NFO application process, you can contact the [Current Planning](#) office in the Sustainable Development and Construction Department at **214-670-4209** for more information.

FEE STRUCTURE

All applications relating to neighborhood forest overlay districts:

0-1 acre	\$500.00
Over 1 acre to 5 acres	\$1,200.00
Over 5 acres to 25 acres	\$2,400.00
Over 25 acres	\$2,400.00

If a petition is signed by property owners of fewer than 75 percent of the lots within the proposed district, the application fee must be paid. If a petition is signed by property owners of 75 percent or more of the lots within the proposed district, the application fee is waived. If the proposed overlay is authorized pursuant to Section 51A-4.701 (a)(1), the application fee is waived.

10.2 Ordinance

Division 51A-4.500, Overlay and Conservation District Regulations.

Section 51A-4.511, Neighborhood Forest Overlay.

(a) Findings and purpose.

(1) *The city council intends to provide a means of conserving and maintaining the existing urban forest within the boundaries of neighborhood forest overlays.*

(2) *The neighborhood forest overlay is provided for the purpose of promoting the health, safety, and the general welfare of present and future inhabitants of city neighborhoods through the managed conservation and protection of the trees in the community. It is intended to help promote or restore the character of established communities as recognized by its inhabitants; to stabilize and protect the air quality near homes; to conserve the city's tree canopy; to retain the living green infrastructure for reducing flood and stormwater effects; to protect property against depreciation; to encourage sustainable construction methods and design in redevelopment; and to assure the sustained stability of neighborhoods for the future.*

(3) *A neighborhood forest overlay is a neighborhood-driven process that extends the protections prescribed within **Division 51A-10.130**, "Urban Forest Conservation," to the properties within the overlay area that contain single-family and duplex uses in residential districts on lots smaller than two acres in size.*

The Single- Family and Duplex Use Exception.

The Article X ordinance was amended in 2018 to maintain the single family and duplex use exception to the ordinance for lots smaller than two acres in size. This exception was ended for similar type lots not in residential districts. The exception also does not apply to any lots measuring 2.0 acres in area and larger. When the exception no longer applies to a property, the urban forest conservation regulations fully apply in accordance with this regulation.

*Except as otherwise provided in this subsection, the regulations in Article X apply in neighborhood forest overlay districts. **Sections 51A-10.135(c), 51A-10.135(d), 51A-10.135(e), and 51A-10.135(f)** do not apply. If there is a conflict between this section and*

Article X, this section applies. If there is a conflict between a neighborhood forest overlay ordinance and Article X, the neighborhood forest overlay ordinance controls.

Not applicable for tree replacement purposes.

10.135(c) – Habitat preservation and restoration areas.

10.135(d) – Sustainable development incentives

10.135(e) – Tree canopy cover credit for single family and duplex uses

10.135(f) – Conservation easement

(c) Definitions. In this section:

(1) *MEDIAN* means the middle number in a set of numbers where one-half of the numbers are less than the median number and one-half of the numbers are greater than the median number. For example, 4 is the median number of 1, 3, 4, 8, and 9. If the set of numbers has an even number of numbers, then the median is the average of the two middle numbers. For example, if the set of numbers is 1, 3, 4, 6, 8, and 9, then the median is the average of 4 and 6, or 5.

(2) *NEIGHBORHOOD COMMITTEE* means the owners of at least 10 properties within a proposed overlay.

(3) *STRUCTURE PROXIMITY AREA* means the five foot area around a dwelling unit.

(4) *TREE CONSERVATION AREA* means the area of tree protection and the site subject to urban forest conservation regulations.

(d) Petition, initiation, and process.

(1) Except as provided in this subsection, the procedures for zoning amendments contained in **Section 51A-4.701**, "Zoning Amendments," apply.

(2) A neighborhood forest overlay may only be placed on an area:

size;

and

(A) containing lots that are primarily smaller than two acres in size;

(B) developed primarily with single family or duplex structures;

(C) that is zoned either:

(i) as a residential district; or

(ii) as a planned development district, conservation district, or form district (or portion thereof) that is restricted to single family or duplex uses.

(3) The boundary lines of a neighborhood forest overlay should be drawn to include blockfaces on both sides of a street, and to the logical edges of the area or subdivision, as indicated by a creek, street, subdivision line, utility easement, zoning boundary line, or other boundary. Boundary lines that split blockfaces in two should be avoided. The minimum area of a subdistrict within a district is one blockface. An overlay:

(A) **must contain at least 50 lots in a compact, contiguous area, or be an original subdivision if the subdivision contains fewer than 50 single family or duplex structures;** or

(B) **may contain less than 50 lots, but no less than 10 lots,** if the lots are located alongside a primary natural area or if the lots maintain a current forest cover of mature large and medium trees, including significant trees, or trees established prior to the original subdivision.

(4) A neighborhood forest overlay may contain vacant lots and lots greater than two acres in size even though those lots will not be subject to the overlay regulations. Vacant lots within the boundaries of a neighborhood forest overlay, however, are not subject to the **unrestricted zone** exception in Section 51A-10.134(b).

Vacant lots, lots with less than 2 acres with single-family and duplex uses in non-residential districts, and lots two acres or greater in size with single-family and duplex uses, are subject to Article X urban forest conservation ordinance regulations.

(5) The neighborhood committee may request a petition form by submitting a request to the department on a form furnished by the department. The request must

include the boundaries of the proposed district. The boundaries of the proposed district must comply with the requirements of this section. **Contact the Current Planning office.**

(6) As soon as possible after the department provides the neighborhood committee with a petition form, the department shall conduct a neighborhood meeting. The department shall give notice of the neighborhood meeting to all property owners within the proposed overlay as evidenced by the last approved city tax roll at least 10 days prior to the neighborhood meeting.

(7) The petition must be on a form furnished by the department. The petition form must include a map of the boundaries of the proposed overlay, a list of the proposed regulations, the name and address of all property owners within the proposed district, and a statement that by signing the petition the signers are indicating their support of the overlay.

(8) The petition must be submitted with the following:

(A) The dated signatures of property owners within the proposed overlay in support of the proposed overlay.

(i) For a proposed overlay with 50 or fewer single family or duplex structures, the signatures on the petition must be dated within three months following the date of the neighborhood meeting.

(ii) For a proposed overlay with more than 50 single family or duplex structures, the signatures on the petition must be dated within six months following the date of the neighborhood meeting.

(iii) If the proposed overlay is pursuant to Sections 51A-4.511(d)(2)(A)(i) or (ii), 60 percent of property owner signatures are required for staff to accept the petition.

(iv) If the proposed overlay is pursuant to Sections 51A-4.511(d)(2)(A)(iii) or (iv), 70 percent of property owner signatures are required for staff to accept the petition.

(B) The application fee, if applicable.

(i) If a petition is signed by property owners of fewer than 75 percent of the lots within the proposed district, the application fee must be paid.

(ii) If a petition is signed by property owners of 75 percent or more of the lots within the proposed district, the application fee is waived.

(iii) If the proposed overlay is authorized pursuant to Section 51A-4.701(a)(1), the application fee is waived.

(C) A map showing the boundaries of the proposed district.

(D) A list of the names and addresses of the neighborhood committee members.

(E) Any other information the director determines is necessary.

(9) A public hearing to create an overlay is initiated by submission of a complete petition or by authorization pursuant to **Section 51A-4.701(a)(1)**.

(10) For purposes of **Section 51A-4.701**, "Zoning Amendments," once a complete petition has been submitted to the director, the neighborhood forest overlay shall be treated as a city plan commission authorized public hearing. If the district is initiated by petition, the notice of authorization contained in **Section 51A-4.701(a)(1)** is not required.

(11) Along with any other required notice, at least 10 days prior to consideration by the city plan commission, the director shall mail a draft of the proposed neighborhood forest overlay ordinance and a reply form to all owners of real property within the area of notification. The reply form must allow the recipient to indicate support or opposition to the proposed neighborhood forest overlay and give written comments. The director shall report to the city plan commission and the city council the percentage of replies in favor and in opposition and summarize any comments.

(12) Upon passage of a neighborhood forest overlay ordinance, the director shall file a copy of the ordinance in the county deed records to give notice of the regulations. The director shall also file in the county deed records a verified written instrument listing each property by the street address, if available, the legal description of the real property, and the name of the owner, if available.

(e) Neighborhood forest overlay.

(1) In general.

(A) A neighborhood forest overlay establishes regulations that must be selected from the options described in this subsection.

(B) The regulations of the neighborhood forest overlay must reflect the existing forest conditions within the neighborhood.

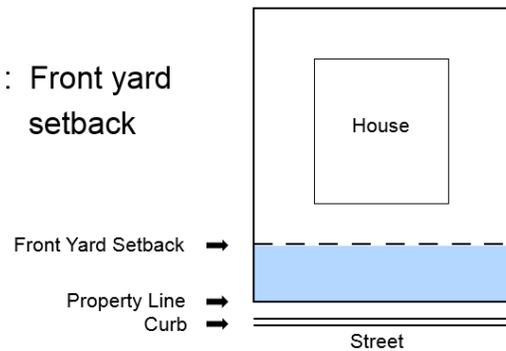
(C) Except as provided in the neighborhood forest overlay, all regulations of the underlying zoning remain in effect.

(2) Tree conservation area.

(A) The neighborhood committee will select their tree conservation area from the following options:

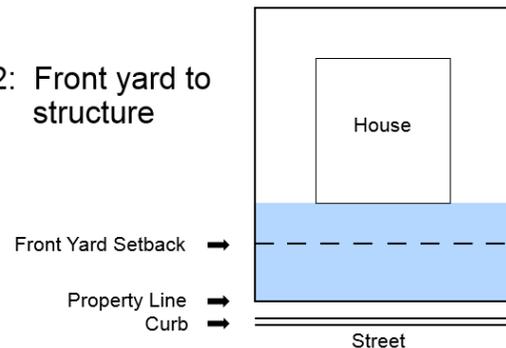
(i) Front yard setback (60% required)

Option #1: Front yard setback

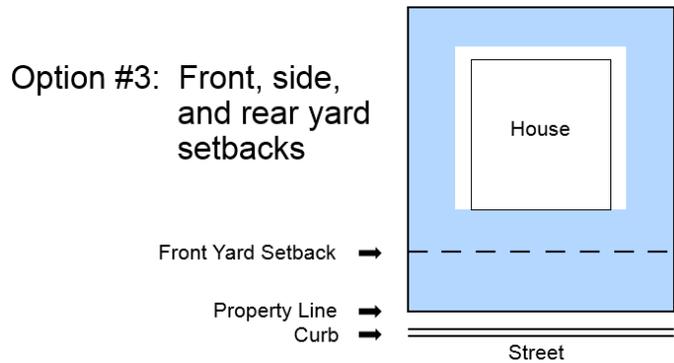


(ii) Front yard to structure (60% required)

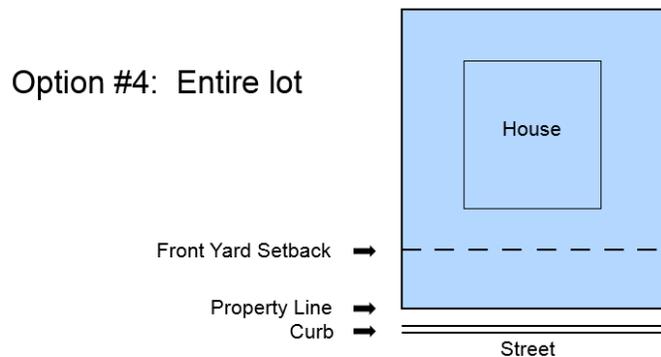
Option #2: Front yard to structure



(iii) *Front, side, and rear yard setbacks (70% required).*



(iv) *Entire lot (70% required).*



(B) *The conservation, establishment, and maintenance of trees in Section 51A-10.136(a) apply to trees within a tree conservation area.*

Section 51A-10.136(a)

(a) *City property. Except as provided in this section, trees on city property:*

(1) *must be established and maintained in accordance with ANSI A300 standards for tree care operations and the ISA Best Management Practices; or*

(2) *the American Standard for Nursery Stock Z60.*

ANSI A300 standards and ISA Best Management Practices can be purchased through the [International Society of Arboriculture webpage](#). For more general information on best practices for your trees, go to the sections in this manual, or refer to [TreesAreGood.org](#).

Learn more about the ANSI A300 industry standards through the [TCIA](#).

(3) **Additional options.**

(A) **Tree canopy cover goal option.** To reduce tree replacement requirements, a portion of existing tree canopy coverage over a tree conservation area must be preserved.

(i) The tree canopy cover goal is determined by the neighborhood during the petition process. The minimum percentage is to be determined by the median of the tree canopy coverage in the tree conservation area (TCA) on each lot within the proposed overlay.

(ii) Healthy large and medium trees preserved in the tree conservation area, including boundary trees, may be included in tree canopy cover calculations. Invasive trees and trees located within 20 feet on center of the nearest overhead public electric line are not included in the calculation.

(iii) Each large and medium nursery stock tree planted as landscaping may also qualify as 300 square feet of tree canopy cover. If the tree canopy cover goal is met, additional landscape trees are not required, except that one tree must be provided in the required front yard.

(iv) Boundary trees located on adjacent private property must be protected to the drip line according to the tree protection shown on the site assessment plan.

(v) The tree canopy cover for the tree conservation area on the lot may be measured by the property owner and verified and approved by the building official. **Refer to Appendix G for more information on measuring tree canopies.**

The tree canopy cover goal option is not the same as the Tree Canopy Cover Credit for Single Family and Duplex Uses found in Article X, Section 51A-10.135(e). In the NFO, the tree canopy cover goal is established by the committee and determined by the median (or greater) of the tree canopy coverage in the TCA on each lot in the NFO.

(B) **Minimum front yard tree option.** Lots must maintain a minimum number of trees in the front yard, as designated by the neighborhood forest overlay ordinance. Replacement is not required in the case that a property falls below the minimum number of large or medium trees due to a reason enumerated in the defense to prosecution section of Section 51A-10.140(b).

(4) **Structure proximity area.** *More than 50 percent of the tree trunk at grade must be within the structure proximity area to qualify for an exception from mitigation. An approved tree removal application is required prior to tree removal.*

A tree outside of the structure proximity area may still be excepted from mitigation by defense to prosecution if the evidence on the property provided to the building official affirms the necessity of tree removal due to an imminent threat to the property or other conditions that warrant removal. The structure proximity area only directs that the building official *shall* authorize a tree removal under a defense to prosecution if the owner perceives the tree in the specified location, and conditions near the structure, directly warrant the tree removal. A tree removal application will be required before removal unless a separate defense to prosecution (ex.: dead or seriously injured tree) is applicable to the protected tree. However, the tree may be removed in an emergency situation without first notifying the arborist if necessary.

(5) **Site assessment plan.** *Prior to any development, construction activity, or disturbance of an area that may affect trees within the tree conservation area, a tree removal application, or permits for construction or grading, a site assessment plan must be submitted to the building official. The overlay regulations do not prohibit the removal or alteration of unprotected trees, or landscape ornamental and small trees, or other landscape shrubs, grasses, or other materials, that do not qualify as a protected tree. Any work or disturbance which includes significant soil compaction, trenching, tilling, excavation, paving, grading, chemical mixing, or pruning exceeding 10 percent tree canopy reduction, on the tree and within the dripline of the protected tree, is subject to the site assessment plan review. The site assessment plan must show the following:*

- (A) Structures.
- (B) Paving.
- (C) Proposed development, construction or disturbance.
- (D) Location, diameter, and species of all trees (including boundary trees) in the tree conservation area, and 10 feet beyond.

(E) *Tree protection, as applicable.*

(F) *Replacement trees, as applicable.*

TREE CONSERVATION AREA APPROVAL PROCEDURE

- 1. Site Assessment Plan (SAP) is submitted to the building official.**
- 2. Obtain approval of the Site Assessment Plan, and any applicable approved tree removal application, building permit, or other authorizations.**
- 3. Implement designed tree protections per the SAP for inspection.**
- 4. Conduct site work in the TCA while maintaining tree protection.**
- 5. Complete tree mitigation or replacement per ordinance.**
- 6. Receive the final inspection and approval by the building official.**

(6) **Tree mitigation.** *Upon approval of tree removal within the tree conservation area, or an unauthorized removal of a protected tree, tree mitigation or replacement is required in accordance with **Section 51A-10.134(c)**. The applicable methods are:*

(A) *Replacement on the site of removal.*

(B) *Replacement with a legacy tree on the site of removal.*

(C) *If replacement is not possible on the lot of removal then:*

(i) *Replacement on other property within boundaries of NFO.*

(ii) *If replacement is not possible within NFO, the tree must be replaced within five miles of the NFO.*

(D) *Payment into reforestation fund. This option is only available if the building official determines that, due to restrictive site conditions, it would be impracticable or imprudent for the responsible party to plant a replacement tree on the tree removal property or comply with one or more of the mitigation methods in this section.*

(f) **Criminal responsibility and defenses to prosecution.**

(1) *The criminal liability and defenses to prosecution provisions in **Section 51A-10.140** apply to properties subject to a neighborhood forest overlay.*

(2) *A tree removal application or tree replacement is not required if the tree is determined by a certified arborist to be diseased or dead or poses an imminent threat to people or property and such determination was not caused by an intentional act of the owner or an agent of the owner.*

10.3 Forming the NFO, Deciding on goals, Implementation

Deciding to form a NFO with your neighbors is a big step and the process should be taken patiently and with reasonable expectations of the goals your community wish to place on yourselves. Remember that you are imposing upon yourself and your neighbors similar regulations that apply to other non-exempt properties in the city. In this case, it may be even more detailed in process. You need to consider what this NFO can and will do for you, and what it will not.

The NFO does not preserve trees.

Although the City of Dallas does restrict the removal of trees based on what is in the public interest, the tree in the NFO may be removed based on circumstances that may not be obvious in some cases. A tree which is affecting a safety factor in a public area could be considered for removal based on structural or health concerns with the tree. But a tree will also be able to be removed by the owner or building contractor if a building permit is issued and the tree had to be taken down for the construction of the house in accordance with city zoning and building code laws.

Tree preservation is more of a question of choices by the property owner. This is easier to address on public property where we share in the common ownership and care of that tree, but each individual homeowner (and tree steward) has the right to remove a tree if the circumstances favor removal. When your lot is excepted from ordinance, you are free to remove your tree, and in some cases, you may be obligated to do so due to health or structural factors. Under the NFO, the exception rules change.

Approval of the NFO means that each individual lot is now under the Article X regulations for urban forest conservation. Trees on the lot are now protected by ordinance. The building official shall deny a tree removal application if it is not in the public interest to remove the tree. The building official will authorize the removal of trees when necessary for the construction under a building permit, and may approve it for other circumstances if the purpose of the removal is addressed in the factors for approval ([Section 10.132](#), [Section 3.1](#), [Appendix E](#)).

If the NFO owners have a number of trees of particular stature and meaning to the owner or community, you may wish to consider an Article X provision for **Historic Tree** status. This status is the only time in city regulations where a tree is preserved with no expectation of potential removal. It requires approval by the owner and an affirmation by the City Council ([10.133, Section 3.1](#)).

The NFO is an opportunity to know your tree community.

Depending on the age and physical characteristics of the neighborhood, the community forest around you can vary dramatically from other neighborhoods. It's time to identify where your small community of trees and fellow **tree stewards** can come together for mutual benefit. You may have a small enclave of homes surrounded by a creek, or you may live in a broad expanse of a neighborhood. The trees may be large and growing older and require some periodic replacement, or you could even be a relatively young neighborhood of less than 40 years. The NFO is designed to help you establish goals and direction for the future 40 years and more.

Follow the ordinance for preparing to meet with your neighbors and forming up a committee (pages 4-7 in this document). The Current Planning office will provide you with petition materials and direct you on cost and establishing meeting times and locations.

As a committee, you will begin to consider how to establish information about your property and your trees. How old are the trees in general? When was the neighborhood built? How healthy are our trees? How do the trees help determine the characteristics of the neighborhood? What are our goals for decades to come?

Consider conducting a walk-through of your neighborhood with knowledgeable naturalists, arborists, citizen foresters, and also long-time residents, where you can discuss openly with each neighbor about the trees in your community. The city arborists will be available to help provide support through this process. Methods for measuring trees by diameter and for measuring tree canopy are available in the Landscape and Tree Manual; or consult with the city arborist for best methods for you ([Appendix G](#)).

Through this process, you will also help answer questions about the options for establishing the **tree conservation area** on the properties, a mitigation plan based on tree canopy cover for all of the lots or assuring that large or medium trees are always growing in the front yards. The committee will ponder these decisions together.

Recognize what this NFO will do for you, but also recognize what it will not do. Again, when it comes to trees, each of you make decisions that impact your neighbors directly or indirectly. The NFO, and other overlays, places on each of you a responsibility to consider the welfare of your neighbors when making major changes to the property.

All meetings and preliminary survey and forest stand delineation work will go to forming the data background for the NFO for the neighborhood. The required additional procedures, including the Site Assessment Plan, apply only when a case is presented to the building official for review after the NFO is established.

10.4 Site Assessment Plan (SAP)

Prior to submitting a building permit for construction, a tree removal application, or conducting any applicable work in the tree conservation area, submit a Site Assessment Plan to the building official which describes the following:

1. Structures.

Identify the location of any existing or proposed structures and dwellings in the tree conservation area. A structure is 'that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.' – Dallas City Code

2. Paving.

Identify sidewalks, patios and driveways aside from the foundation of structures.

3. Proposed development, construction or disturbance.

Identify the work zone(s) in the tree conservation area and description and diagram of the work.

4. Location, diameter, and species of all trees (including boundary trees) in the tree conservation area, and 10 feet beyond.

The tree survey should identify all trees in the tree conservation area and the surrounding area including those off-site and provide a canopy over the property. In considering the scope of the tree, establish the greater of the drip-line or critical root zone for the tree. The intent is to strategize ways to preserve your trees from accidental

damages. Refer to [Appendix G](#) for tree survey information and [Section 6](#) for tree protection on construction sites.

5. Tree protection, as applicable.

[Section 6.2](#) provides information on tree protection and then how to implement the plan on the site.

6. Replacement trees, as applicable.

If trees are planned for removal, identify where any required tree replacement would occur on the lot, or indicate other locations off-site and provide required documentation. Confirm acceptance of mitigation on other property by the owner as required in Article X (refer to the manual [Section 3.6](#), ordinance Section 10.135(g)).

Additional Article X Provisions

Tree Survey (provided with the SAP). – [Appendix G](#)

Forest Stand Delineation (with Tree canopy cover goal option) – [Appendix G](#)

Tree Protection Plan (provided with the SAP). – [Section 6.2](#)

Landscape Plan (if applicable). – [Section 2.3](#)

Any work or disturbance which includes the following is subject to SAP review:

Significant soil compaction ([Section 5.2 and 5.5](#))

Trenching ([Section 6.3](#))

Filling

Excavation

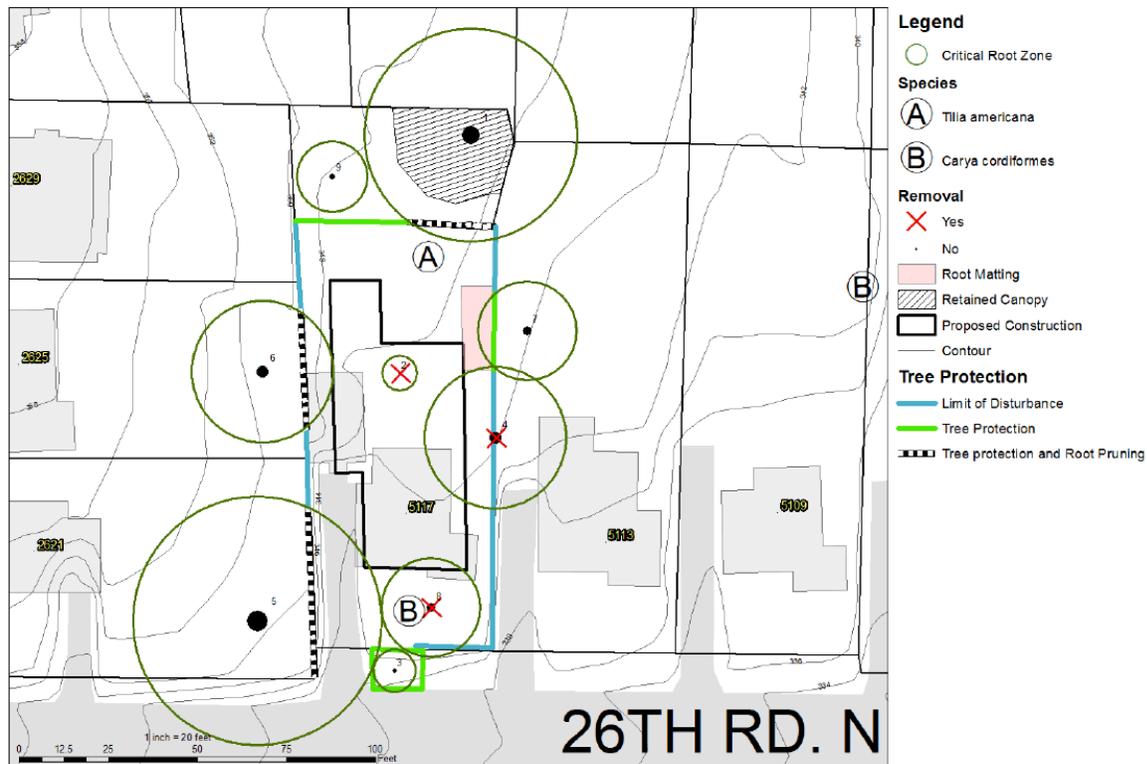
Paving

Grading

Chemical mixing

Pruning exceeding 10 percent tree canopy reduction, on the tree and within the dripline of the protected tree.

Sample Tree Preservation Plan



1. The sample plan for new construction identifies three trees for removal. One is a boundary tree with shared ownership.

Arborist Discussion

General yard work, maintenance, and care of the yard of a property owner is considered the right and requirement of the property owner and is not subject to this review unless it is specified by this ordinance. If there is any question as to the status of your proposed project in the NFO, contact the city arborist who can help answer the questions. If it is not a NFO-related work project in the tree conservation area, the city arborist is still available to provide recommendations for how to minimize the potential for accidental damages to your trees.

As a tree steward, you are also encouraged to provide a reasonable level of maintenance to the trees on your property, regardless of the NFO status ([Section 4](#)).

This helps protect your interests and provide sound preventative measures. All trees are a risk to different degrees and in different times of their lives. As they mature, the trees require our due attention once in a while to minimize the risks to your property.

Of course, cost is a factor in all of this. If you will be part of a NFO, or if not, it may be helpful to create strategies and establish a budget line for the upkeep of trees on your lot. Get estimates for pruning and collect funds for a date in the Fall, or when suitable to you, to obtain a tree checkup and pruning or to have the occasional tree service visit as needed. As a neighborhood group, there may be an opportunity to collectively help each other protect the trees sheltering your small community. These are measures for your community to decide, especially where neighbors own a boundary tree in equal measure.

The City of Dallas arborist office will be available to assist with a neighborhood committee once it has been organized with the Current Planning office and ready to meet to discuss your NFO petition. The staff can assist you with identifying tools for measuring trees, calculating tree canopy coverage, and in providing insight on planning for keeping your trees safe and healthy for many years to come. The city arborist does not conduct full tree risk assessments. It is recommended that each owner has their trees assessed periodically for their safety and to identify tree health and structure issues.

Other resources and educational materials may also be available and we will work with you to bring these forward. You are welcome to bring in any professionals or knowledgeable naturalists, citizen foresters, arborists, or others who may assist in the overall planning for establishing the overlay district. When it comes to your property, you are the expert and we are your guests to assist you in protecting your interests.

We look forward to working with your neighborhood.

- PE