

REPORT TO CITY COUNCIL

DATE: JUNE 8, 2011

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

SUBJECT: ADOPTION OF ORDINANCE NO. 11-386 AMENDING ZONING ORDINANCE SECTIONS 9654.5.A. AND 9654.5.C PERTAINING TO PARKING LOT LANDSCAPING TREE CANOPY COVERAGE FOR RETAIL DEVELOPMENT (CASE NO. 10-ZOA-003); AND CONSIDERATION OF RESOLUTION NO. 11-1630, ESTABLISHING THE AMOUNT OF THE IN-LIEU FEE FOR PARKING LOT TREE CANOPY COVERAGE

At the April 13, 2011, City Council meeting, the Council, on a 4-1 vote, introduced, read by title only, and waived further reading of Ordinance No. 11-386. The Ordinance will amend Municipal Code Sections 9654.5.A and 9654.5.C to allow an option for retail developments, including shopping centers, to substitute up to 20% of the parking lot tree canopy coverage requirement with pedestrian amenities and an option to pay an in-lieu fee to offset the tree canopy coverage reduction. Ordinance No. 11-386 incorporates the City Council's direction at the April 13 public hearing reflecting the Planning Commission's recommendations regarding the Commission's discretionary authority in approving both requests for tree canopy coverage reduction and the options for payment of the in lieu fee for hardship reasons and for the in-lieu fee to apply to reduction in tree canopy and amenities.

Also for approval by the City Council is Resolution No. 11-1630, which establishes the amount of the in-lieu fee for requests for parking lot tree canopy coverage reduction, as authorized per Ordinance No. 11-386, referenced above. Upon review of a landscape plan, the Planning Commission will determine whether payment of the in-lieu fee is appropriate on a case-by-case basis per the hardship findings in Ordinance No. 11-386. Staff recommends an in-lieu fee amount of \$2,591 for every 400 square feet of canopy coverage deficiency. This amount is based on the City's landscape consultant's quantification of costs assuming purchase and installation of one 48" box tree which will cover 400 square feet of equivalent tree canopy. This in lieu fee amount also represents a higher fee range associated with the equivalent tree canopy and maturity of a 48" box tree, however, it does not assume routine maintenance costs as it is not possible to quantify such costs given the variables in tree maintenance. The in lieu fee may be adjusted annually. A copy of City landscape consultant's study with the analysis of the recommended in lieu fee amount is attached. The in-lieu fees are collected at time of building permit issuance and will be deposited into a special set-aside fund to be used for acquiring and

improving open space with tree canopy coverage, and adding and replenishing tree canopy in the right-of-way and on city-owned properties and parks. These fees may not be used for general routine maintenance activities.

RECOMMENDATION

Staff recommends the City Council adopt Ordinance No. 11-386, relative to parking lot tree canopy coverage requirements.

Staff recommends that the City Council adopt Resolution No. 11- 1630 relative to the in-lieu fee for parking lot tree canopy reduction for retail development.

Attachment: Ordinance No. 11-386
 Resolution No. 11-1630
 Canopy Coverage In-Lieu Fee Study (May 23, 2011)

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ORDINANCE NO. 11-386

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING SECTIONS 9654.5.A AND 9654.5.C OF THE AGOURA HILLS MUNICIPAL CODE PERTAINING TO PARKING LOT LANDSCAPING TREE CANOPY COVERAGE FOR RETAIL DEVELOPMENT

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council has considered an amendment to Article IX, Chapter 6, Part 2, Division 4, Sections 9654.5.A and 9654.5.C of the Agoura Hills Municipal Code and finds that the amendment will enhance the visual environment, enhance pedestrian experience, address difficulty in meeting the parking lot landscape shade coverage requirement, and address visibility of tenant signage and compliance with Fire Department fuel modification requirements.

SECTION 2. The proposed amendment complies with the General Plan Land Use and Community Form Element goal. The revisions provide options that encourage the development of exterior spaces that are of human scale and encourage pedestrian activity.

SECTION 3. Article IX, Chapter 6, Part 2, Division 4, Section 9654.5.A of the Agoura Hills Municipal Code is amended to read:

“A. Purpose. The intent and purpose of this section is to provide ~~attractive landscaping by regulative~~ an enhanced pedestrian experience and exterior visual interest of non-residential properties regulating size, placement, and design of ~~said landscaping and other amenities accessible to the public.~~ Parking area landscaping ~~Together, landscaping and other outdoor amenities are~~ is intended to enhance the visual environment, promote public safety, moderate the temperature, and reduce noise and glare.”

SECTION 4. Article IX, Chapter 6, Part 2, Division 4, Section 9654.5.C. of the Agoura Hills Municipal Code is amended to read:

“C. Special landscape design standards.

1. Parking lot landscaping shall include shade trees, from an approved list, placed so as to cover fifty (50) percent of the total parking area with tree canopies within fifteen years after the issuance of the building permit for the related building, structure or other improvement.
2. ~~Reserved.~~ Canopy reduction option for retail developments. – Planning Commission Review.

- A. For any new retail developments, any exterior remodel of existing retail developments that includes changes to the parking lot, or any other parking lot remodel at existing retail developments, the fifty (50) percent tree canopy coverage requirement of Section 9654.5.C.1 may be reduced by up to twenty (20) percent provided that the parking area, including driveways, are enhanced with pedestrian amenities with an equivalent square foot coverage area to offset the reduction of tree canopy coverage. The request for reduction in the 50% tree canopy coverage requirement in Section 9654.5.C.1 shall be reviewed by the Planning Commission.
- (a) The pedestrian amenities shall include:
 - i. Shade structures such as carports, trellises, and arbors;
 - ii. Other amenities such as decorative paving and walkways in the parking lot, raised landscape planter seats, benches, fountains, art pieces, and other pedestrian amenities of similar intent approved by the City.
 - (b) Calculation of the coverage:
 - i. Shade structures defined in Section 9654.C.2.A.(a).i.: The total square footage of shade structures shall apply toward equivalent tree canopy coverage.
 - ii. Other amenities defined in Section 9654.5.C.2.A.(a).ii: One-half of the square footage of coverage of other amenities shall apply toward equivalent tree canopy coverage.
 - (c) Parking lot plan review: An application for a Site Plan Review application shall be filed with the Department of Planning and Community Development along with a parking lot plan. The parking lot plan shall show the existing and proposed landscaping with the proposed pedestrian amenities and any other pertinent information deemed applicable for the Planning Commission to render a decision.
- B. In the event that an applicant's development cannot meet the requirements of Section 9654.5.C.1, and 9654.5.C.2, such applicant may request the option of paying an in-lieu fee, in amount established by resolution of the City Council. Only those properties that cannot meet the requirements of Section 9654.5.C.1 and 9654.5.C.2 are eligible for the option of the payment of said in-lieu fee only if all of the following findings can be made by the Planning Commission.
- (a) Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of Section 9654.5.C.1 and

9654.5.C.2 deprives such property of privileges enjoyed by other property in the vicinity and other retail developments.

- (b) The granting of the in-lieu fee payment request will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and other retail developments.
- (c) The strict interpretation and enforcement of Section 9654.5.C.1 and 9656.5.C.2 of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of this article; and
- (d) The granting of the in-lieu fee payment request will not be detrimental to the public health, safety or welfare, or materially injurious to the subject property or adjacent properties.

SECTION 5. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable.

The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, even if one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof is declared invalid or unconstitutional.

SECTION 6. Environmental Findings. The City Council hereby makes the following environmental findings and determinations in connection with the approval of the Parking Lot Landscaping Ordinance Amendment (the "Project"): Pursuant to California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines. City staff prepared an Initial Study of the potential environmental effects of the approval of the Parking Lot Landscaping Ordinance Amendment as described in the Initial Study (the "Project"). Based upon the findings contained in that Study, City staff determined that there was no substantial evidence that the Project could have a significant effect on the environment and a Negative Declaration was prepared.

- A. Thereafter, City staff provided public notice of the public comment period and of the intent to adopt the Negative Declaration as required by law. The public comment period commenced on February 10, 2011, and expired on March 14, 2011. Copies of the documents have been available for public review and inspection at the offices of the Department of Community Development, located at City Hall, 30001 Ladyface Court, Agoura Hills, California, 91301.
- B. One written comment was received prior to the public hearing, and a response to the comment made therein was prepared, submitted to the City Council and incorporated into the administrative record of the proceedings.

- C. The City Council has reviewed the Negative Declaration and the comment received regarding the Negative Declaration prior to and at the April 13, 2011, public hearing, and based on the whole record before it, finds that: (1) the Negative Declaration was prepared in compliance with CEQA; (2) there is no substantial evidence that the Project will have a significant effect on the environment; and (3) the Negative Declaration reflects the independent judgment and analysis of the City Council.
- D. Based on the findings set forth in this Resolution, the City Council hereby adopts the Negative Declaration prepared for the Project. The Director of Community Development is authorized and directed to file a Notice of Determination in accordance with CEQA.

SECTION 7. The City Clerk shall publish and cause notice of this ordinance to be given according to law.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2011, by the following vote:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Harry Schwarz, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

Craig Steele, City Attorney

RESOLUTION NO. 11-1630

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS APPROVING THE AMOUNT OF THE IN-LIEU FEE FOR PARKING LOT TREE CANOPY COVERAGE REDUCTION AS AUTHORIZED BY ARTICLE IX, CHAPTER 6, PART 2, DIVISION 4, SECTION 9654.5 A AND 9654.5 C OF THE AGOURA HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES HEREBY RESOLVE, FIND, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The City Council adopted Ordinance No. 11-386 on June 8, 2011 amending Zoning Ordinance Article IX, Chapter 6, Part 2, Division 4, Section 9654.5.A and 9654.5 C of the Agoura Hills Municipal Code pertaining to tree canopy coverage reduction. Ordinance No. 11-386 provides for an option to request reductions in the parking lot tree canopy coverage from the required 50% of the total parking lot area to as low as 30% of the total parking area, provided that the parking lot is enhanced with pedestrian amenities with an equivalent square footage coverage area to offset the reduction in tree canopy coverage.

Section 2. Zoning Ordinance Article IX, Chapter 6, Part 2, Division 4, Section 9654.5.C.2.B of the Agoura Hills Municipal Code (Ordinance No. 11-386) provided for the option for payment of in lieu-fee in the event that an applicant cannot meet the requirements of Section 9654.C.1 and 2.

Section 3. The City Council desires that the in-lieu fee be considered only after the applicant has demonstrated to the Planning Commission, and the Commission makes the hardship findings in Section 99654.5.C.2.B of the Municipal Code, that the 50% tree canopy coverage, or added pedestrian amenities to offset any reductions from the 50% tree canopy requirement, cannot be met.

Section 4. Zoning Ordinance Article IX, Chapter 6, Part 2, Division 4, Section 9654.5.A and 9654.5 C of the Agoura Hills Municipal Code (Ordinance No. 11-386) was introduced on Aril 13, 2011, and adopted on June 8, 2011. Section No 9654.5.C.2.B of Ordinance No. 11-386, provides that the City Council shall establish the amount of the in-lieu fee payment option by resolution.

Section 5. The purpose of this resolution is to: (1) adopt the parking lot tree canopy reduction in-lieu fee; and (2) establish the fee schedule and methodology for setting the amount of the in-lieu fee. For purposes of this resolution, the term in-lieu fee refers to the money to be paid by an applicant as an alternative to the requirement that the applicants themselves provide shade coverage in parking lots of retail centers. The amount of the in-lieu fee shall be \$2,591 for every 400 square feet of tree canopy coverage deficiency. This amount is based on the cost of purchase and installation of one 48" box tree which will cover 400 square feet of equivalent

tree canopy and is subject to adjustment annually. The in-lieu fee shall be paid at the time of issuance of building permits.

Section 6. The City Council finds that the payment of the in-lieu fee provides benefit of flexibility to the applicant and option to the City to replenish tree canopy coverage off site.

Section 7. The City shall deposit the payment of the in-lieu fee in a Parking Lot Tree Canopy Deficiency Mitigation fund. The revenues from this account will be used for the purpose of acquiring and improving open space parcels with valuable tree canopy coverage in the City and adding and replenishing the tree canopy in the right-of-way and on city-owned properties and parks. Revenues from this account may not be used for routine maintenance activities such as street and park maintenance.

Section 8. The accumulation of the in-lieu fee payments will enhance the City of Agoura Hills' ability to preserve open space elsewhere in the City and replenish the right-of-way and city-owned properties and parks with tree canopy in order to mitigate impacts to the environment caused by urban development and to preserve the semi-rural character of the community.

Section 9. A duly noticed public hearing was held by the City Council of the City of Agoura Hills on June 8, 2011, in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was presented to and considered by the City Council of the City of Agoura Hills at the aforesaid public hearing. Following the receipt of all staff reports, public testimony and other evidence, the public hearing was closed.

Section 10. After reviewing and analyzing various options, as presented in the reports to the City Council and considering all relevant evidence and testimony that was presented at the public meetings and public hearings, and pursuant to the Agoura Hills Municipal Code Section 9654.5.C of the Municipal Code, the City Council hereby adopts this resolution and adopts the recommendations of Kay Greeley, City Landscape and Oak Tree Consultant, in her study dated May 23, 2011, attached hereto as Exhibit A and incorporated herein by this reference.

Section 11. If an eligible applicant opts to apply for payment of the in-lieu fee instead of providing the required canopy coverage on-site himself or herself, such applicant shall pay the in-lieu fee prior to and as a condition of the issuance of a building permit.

Section 12. The in lieu fee complies with the General Plan in that the in-lieu fee represents an implementation measures of the Land Use and Community Form Element, specifically Goal LU-16.3 which allows the City to expand the urban forest to mitigate impacts caused by traffic and developments.

Section 13. The City Council hereby finds that the in-lieu fee is consistent with the environmental findings and determinations previously made in connection with the Negative Declaration prepared for Zoning Ordinance Amendment Case No. 10-ZOA-003 and adopted by the City Council on June 8, 2011.

Section 14. This resolution shall become effective on the effective date of Ordinance 11-386. If Ordinance No. 11-386 does not go into effect, this resolution shall be null and void.

PASSED, APPROVED, and ADOPTED this ____ of ____, 2011, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Harry Schwarz, Mayor

ATTEST:

Kimberly Rodrigues, City Clerk, MMC

APPROVED AS TO FORM:

Craig A. Steele, City Attorney

Memo

To: Mike Kamino, City of Agoura Hills
From: Ann Burroughs for Kay Greeley, Landscape and Oak Tree Consultant
Date: May 23, 2011
Re: Canopy Coverage In-Lieu Fee Study

City of Agoura Hills Municipal Code Section 9654.5.C.1 discusses special landscape design standards for parking lot landscaping and specifically states "Parking lot landscaping shall include shade trees, from an approved list, placed so as to cover fifty (50) percent of the total parking area with tree canopies within fifteen (15) years after the issuance of the building permit for the related building, structure, or other improvement". The City is considering an alternative that would revise the requirement to a minimum of thirty percent (30%) canopy coverage and twenty percent (20%) enhanced public amenities (as measured in square footage) such as benches, shade structures, carpools, enhanced paving, etc. If the applicant is physically unable to meet the revised requirement, due to site geometry constraints or other significant site issues, there would be an option for the City to accept an in-lieu fee for the deficit.

The range of cost for pedestrian amenities can vary widely, from relatively inexpensive (e.g., concrete or decomposed granite paving, benches, etc.) to quite costly (e.g., public art). In cases where the minimum code requirements of thirty percent (30%) canopy coverage plus twenty percent (20%) pedestrian amenities cannot be met, calculation of the in-lieu fee should be based on the combined requirement of fifty percent (50%) total amenity coverage.

We recommend that the in-lieu fee be based on the average cost to purchase and install a forty-eight inch (48") box-size tree. This fee would be calculated as follows:

1. Calculate the square footage of the entire parking lot including parking spaces, drive aisles and driveways and multiply the total by fifty percent (50%). This is the total square footage required.
2. Calculate the square footage of canopy coverage and pedestrian amenities provided by the proposed design in accordance with the provisions described in the revised Municipal Code section.
3. Subtract the number obtained in Step 2 from the number obtained in Step 1.
4. Divide the number obtained in Step 3 by four hundred (400) square feet. Four hundred square feet is deemed to be a typical amount of canopy that would be provided by a shade tree within fifteen years after planting.
5. Multiply the number obtained in Step 4 by \$2,591.00 to determine the total in-lieu fee amount. This value is deemed to be the current cost to purchase, deliver and install a typical forty-eight inch (48") box-size tree.
6. The in-lieu fee would be adjusted on an annual basis as follows:

- a. Obtain estimates (preferably from three local nurseries) for purchase, including delivery and tax, of one each of five (5) species of large-canopy shade trees. All estimates obtained to be for forty-eight inch (48") box-size trees.
- b. Obtain three (3) estimates (preferably from three local contractors) for the installation of one forty-eight inch (48") box-size tree.
- c. Add Step a and Step b together.

On May 19, 2011 we obtained the following cost estimates for five (5) species of large-canopy shade trees appropriate for use as parking lot trees in the City of Agoura Hills. All costs are for forty-eight inch (48") box-size trees. The purchase price includes tax and delivery, as discussed above:

Purchase Price:

Botanical Name / Common Name	Valley Crest Nursery	Baron Brothers Nursery	Bamboo Pipeline	Average Purchase Price
<i>Koelreuteria bipinnata</i> / Chinese Flame Tree	\$ 967.00	\$ 899.00	\$1,038.00	\$ 968.00
<i>Pistacia chinensis</i> / Chinese Pistache	\$ 967.00	\$ 899.00	\$1,059.00	\$ 975.00
<i>Platanus x acerifolia</i> / London Plane Tree	\$ 967.00	\$ 843.00	\$1,038.00	\$ 949.00
<i>Quercus agrifolia</i> / Coast Live Oak	\$ 967.00	\$ 843.00	\$1,139.00	\$ 983.00
<i>Ulmus parvifolia</i> / Chinese Elm	\$ 967.00	\$ 843.00	\$1,059.00	\$ 956.00
Average Purchase Price				\$ 966.00

On this same date we obtained the following cost estimates for installation of one forty-eight inch (48") box-size tree.

Installation:

	Valley Crest Landscape	Baron Brothers Nursery
48-inch Box Tree	\$ 200.00	\$ 1,625.00

The Valley Crest estimate does not appear valid based on our experience. Despite our questioning of Valley Crest, they were unable to clarify their estimate to our satisfaction, therefore, we recommend relying on the Baron Brothers estimate at this time. Given that assessment, the in-lieu fee would be \$966.00 plus \$1,625.00, for a total of \$2,591.00 per every 400 square feet of mitigation required. We feel this number to be in line with industry averages at this time.

The in-lieu fee may be deposited into a special "Parking Lot Tree Canopy Mitigation" fund. The revenue from this account could then be utilized to acquire and improve open space parcels with valuable tree canopy coverage within the City or to add and replenish the tree canopy in right-of-ways and other city-owned properties and parks. Such utilization would result in preservation of existing tree canopy and allow for earlier planting on other sites that would otherwise be constrained by budget availability. Revenues from this account, however, may not be used for routine maintenance activities.

Please advise if further discussion would be helpful with respect to this matter.