3.0 TREE REMOVAL APPLICATION AND VEGETATION MANAGEMENT PROCESS

Division 51A-10.130. Urban Forest Conservation.

The immense community forest of Dallas, Texas is regulated under the Article X urban forest conservation ordinance and additional codes and regulations. The forest covers both intensely dense urban environments as well as rural open settings, on both private and public lands. Trees do have a numerous range of values and benefits for our community, but there are also costs and risks that come with their presence. The City of Dallas established a conservation ordinance to help administer the transitory nature of woodland management in our city while seeking to achieve the goal of maintaining a healthy urban forest canopy. Each individual landowner and resident is a steward of trees on their property and premises which assures that strict controls over tree removal *on the whole* is unrealistic. The tree removal authorization process of determining how and when a tree is to be removed under a tree removal application begins with our landowners first, the tree second, and the city arborist after. The following are the primary factors in deciding a tree removal not associated with a building permit:

1. **Exceptions to the ordinance** (majority of properties which are single family or duplex uses)
2. **Defenses to prosecution** (the right and ability to remove trees of poor condition or location)
3. **Decision of the building official** (based on 14 factors to be considered for issuing a permit)

TREE REMOVAL AUTHORIZATION

1. Exceptions to the ordinance (10.131).

SEC. 51A-10.131.

APPLICATION OF DIVISION.

(a) This division applies to all property in the city ***except for****:*

(1) except as provided in this section, lots smaller than two acres in size that contain ***single-family or duplex uses in residential districts****; and*

(2) lots in an ***overlay district*** *or a* ***planned development district*** *with tree preservation regulations that vary appreciably from those in this article, as determined by the building official.*

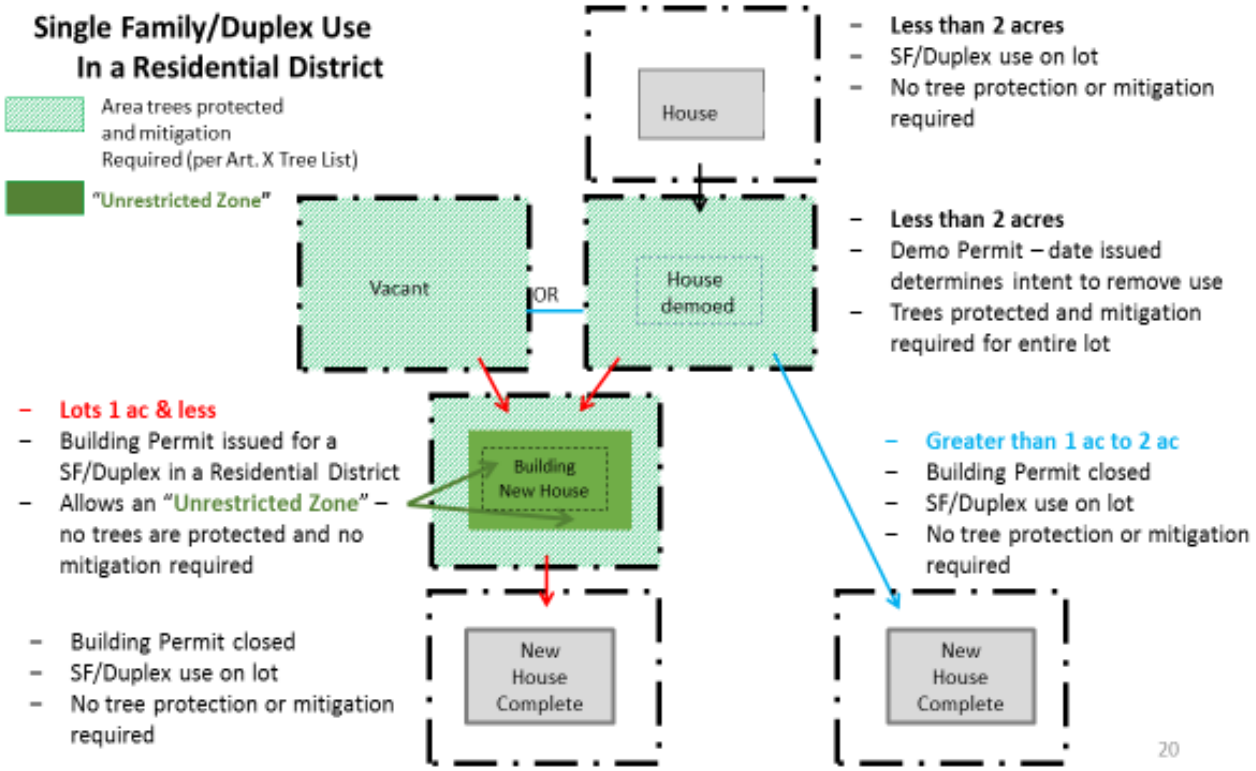
Removal of exception by demolition permit.

(b) In this section, a tree removal property with an area of two acres or less in a residential district is considered to be vacant when ***an application is made for a demolition permit*** *to demolish a single family or duplex structure. The tree removal property is considered to be vacant until:*

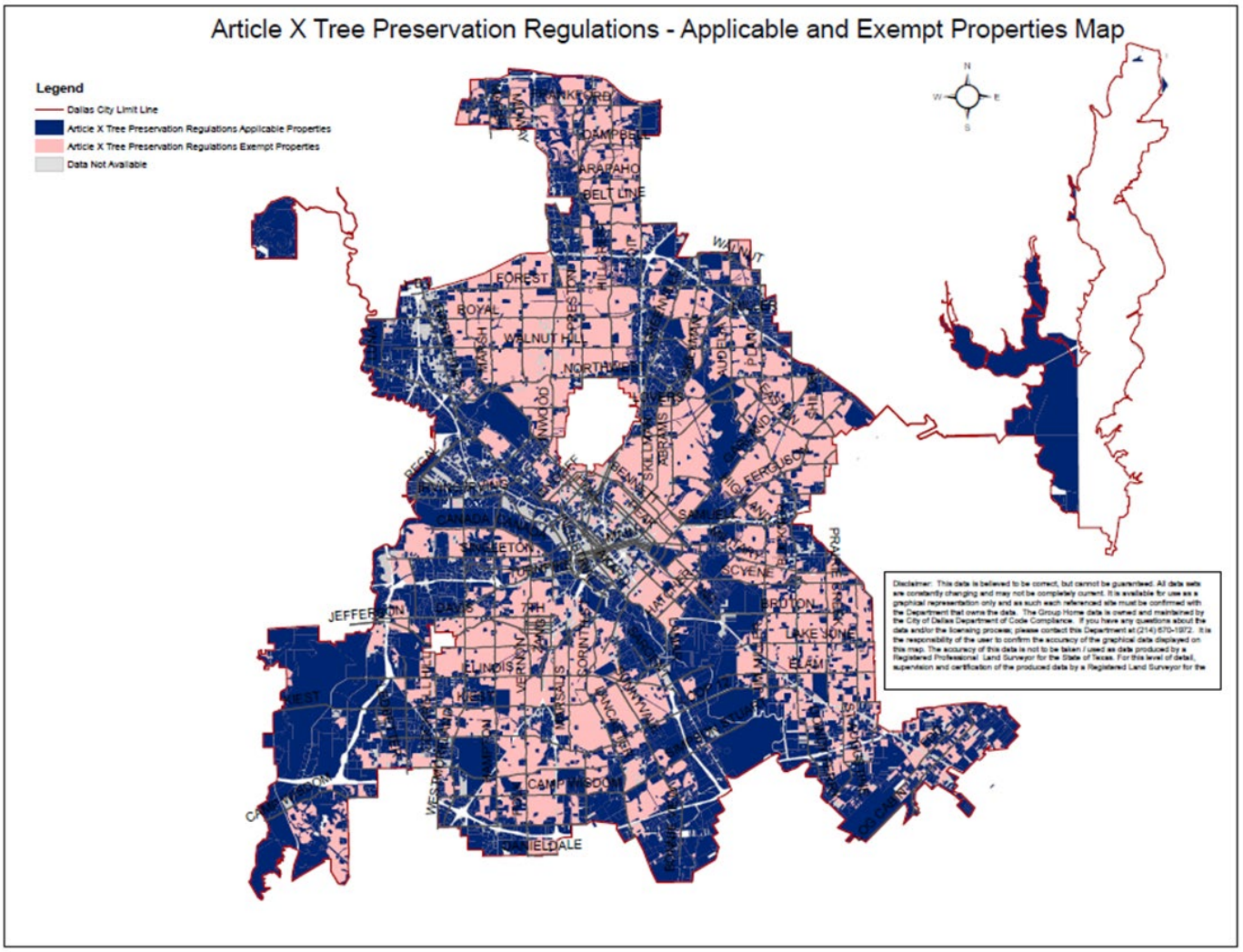
(1) the demolition permit is closed (not expired) by the building inspector (reinstating the single family or duplex use); or

(2) a certificate of completion is provided to the tree removal property owner for a new single family or duplex structure for occupancy on the property.

(c) ***historic trees*** *on lots smaller than two acres in size that contain single-family or duplex uses in residential districts may be recognized in accordance with Section 51A-10.133.*



1. *Excepted or not excepted?*



2. Locations of properties (pink) that qualify for exception status with a SF/Du use.

2. Defenses to Prosecution (10.140)

*(b) It is a defense to prosecution under this section that the act is included in one of the enumerated categories listed in this section. A tree removal application or tree replacement is not required if **the tree**:*

TREE CONDITION:

(1) was dead and the death was not caused by an intentional or negligent act of the owner or an agent of the owner;

(2) had a disease or injury that threatened the life of the tree and was not caused by an intentional act of the owner or an agent of the owner;

(3) was in danger of falling or had partially fallen and the danger or the fall was not due to an intentional act of the owner or an agent of the owner;

CITY INFRASTRUCTURE AND MANAGEMENT:

(4) was in a visibility triangle (unless the owner was legally required to maintain the tree there) or obstructed a traffic sign;

(5) interfered with service provided by a public utility within a public right-of-way;

(6) threatened public health or safety, as determined by one of the following city officials:

(A) the chief of the police department;

(B) the chief of the fire-rescue department;

(C) the director of public works;

(D) the director of sanitation services;

(E) the director of code compliance;

(F) the director of park and recreation;

(G) the director of sustainable development and construction; or

(H) the director of aviation.

(7) was designated for removal without replacement in a ***landscape plan*** *approved by the city council, city plan commission, or board of adjustment;*

(8) interfered with construction or maintenance of a ***public utility*** *or* ***public right-of-way;*** *or*

(9) was removed or seriously injured to allow construction, including the operation of construction equipment in a normal manner, in accordance with ***infrastructure engineering plans approved under Article V of Chapter 49*** *or* ***street paving and grading in a public right-of-way, storm drainage easement, detention or retention pond designation, or bridge construction, for private development****.*

3. Decision of the building official.



Section 51A-10.132(e)

The building official shall deny a tree removal application if the removal or serious injury is not in the public interest. *This decision must be based on the following factors:*

(1) The feasibility of relocating a proposed improvement that would require the removal or serious injury of the tree.

(2) The cost of preserving the tree.

(3) Whether the lot or tract would comply with this article after the removal or serious injury.

(4) Whether the removal or serious injury is contrary to the public health, safety, or welfare.

(5) The impact of the removal or serious injury on the urban and natural environment.

(6) Whether an economically viable use of the property will exist if the application is denied.

(7) Whether the tree is worthy of preservation, is a significant tree, or a historic tree.

(8) Whether the tree is diseased or has a short remaining life expectancy.

(9) The effect of the removal or serious injury on erosion, soil moisture retention, flow of surface waters, and drainage systems.

(10) The need for buffering of residential areas from the noise, glare, and visual effects of nonresidential uses.

(11) Whether a landscape plan has been approved by the board of adjustment, city plan commission, or city council.

(12) Whether the tree interferes with a utility service.

(13) Whether the tree is near existing or proposed structures.

(14) Whether the proposed mitigation for tree removal or serious injury is sufficient.

Irreparable damage (10.136)

*(e) Damage to protected trees. Where the building official has determined that **irreparable damage** has occurred to trees within tree protection zones, the responsible party must remove and replace those trees. The building official may determine that irreparable damage to a tree has occurred based on, but not limited to, the following factors:*

(1) site evaluation;

(2) visible extensive damage to a tree root system;

(3) extensive soil compaction around the tree protection zone;

(4) visual evidence that required tree protection has been removed or is in disrepair; or

*(5) a **tree risk assessment** by a consulting arborist that includes the current condition and proposed remedial measures.*

(f) Topping.

Topping is not an acceptable practice.

Tree Transplanting (10.133.1)

(a) Procedure.

*Established and healthy protected trees on a tree removal property may be transplanted within the city. The transplanting process must conform to operational and safety standards stated in **ANSI A300 (Part 6)**, as amended, and with **ISA Best Management Practices for Tree Planting**, as amended.*

(1) A protected tree that meets the requirements of this section is not considered removed, or seriously injured, if the transplanted tree is planted and maintained in a healthy growing condition.

(2) Building official approval is required before beginning the transplantation for credit as a landscape tree, for tree replacement, or for acceptance in tree canopy coverage measurements.

(3) The following information is required to obtain building official approval.

(A) An initial assessment report describing transplanting practices from beginning to end of the process, including post-planting care practices.

(B) A tree survey or landscape plan identifying the original and final locations of the protected tree after transplant, as applicable.

(C) Names and contact information of the property owners and contractors.

(D) Contractor credentials and a statement of equipment and procedures to be used for the operation.

(E) Other information required by the building official.

(b) Credit for transplanted trees.

(1) Healthy small trees qualify for one inch of replacement credit for each inch of the transplanted tree.

(2) Healthy large and medium protected trees six inches in diameter or less qualify for one inch of replacement credit for each inch of the transplanted tree.

(3) Healthy large and medium protected trees between seven inches and 12 inches in diameter qualify two inches replacement credit for each inch of the transplanted tree.

(4) Healthy large and medium protected trees between 12 inches and 24 inches in diameter qualify for three inches of replacement credit for each inch of the transplanted tree.

(5) Healthy large and medium protected trees 24 inches or more in diameter qualify for five inches of replacement credit for each inch of the transplanted tree.

(c) Tree canopy coverage.

Transplanted trees may be measured as part of the overall tree canopy coverage of a property in a forest stand delineation as a preserved tree.

Historic Trees (10.133)

OVERVIEW of process and qualifications.

(a) A property owner must agree, on a form approved by the director, to have a tree designated as historic before the historic designation can be approved by city council.

(b) Except as provided in this section, historic status lasts for the life of the tree.

(c) A certified copy of the resolution declaring a tree historic must be filed in the deed records of the county where the historic tree is located.

(d) Except as provided in Section 51A-10.140, historic trees may only be removed by authorization of the city council.

Appendix has nomination form and instructions.

SEC. 51A-10.131.1. INTENT.

The city council intends that this division fully comply with state law to encourage the active planting of new trees and the replacement of damaged, injured, or removed trees by providing alternatives and options that will enhance the urban forest.

SEC. 51A-10.131.2. PLANNED DEVELOPMENT DISTRICTS.

Deviations from this division require a three-quarters vote of the city council.

In short, the trees are defined as protected, but we must recognize that every tree which has value can also become a liability or a source of concern and cost for the property owner. The building official will specify that public safety is the paramount concern in all cases until it is defined otherwise. It is the focus of this manual to provide you with the regulations by which the city's trees are administered, but to also provide you with the tools to help you manage as good stewards of the trees the urban forest under your control.

Although homeowners do not require permits for tree removal on their own lots, there are situations where the application does become necessary and the review of the tree must be provided. The ordinance to these processes are below.

TREE REMOVAL APPLICATIONS

OVERVIEW

SEC. 51A-10.132. TREE REMOVAL APPLICATIONS.

Tree removal application and posting.

*(1) Except as provided in this subsection, a responsible party must post either an **approved tree removal application** in accordance with this section or a **building permit** in a conspicuous place at the entrances to the tree removal property, before removing or seriously injuring a protected tree on that tree removal property.*

*(2) A tree removal application must be posted in a conspicuous place at the entrance to the tree removal property in conjunction with a **demolition permit** or a **grading permit**.*

(3) For trees removed from public right-of-way, posting of the required tree removal application is not required. (The public right-of-way is city property and unauthorized tree removal in the parkway is prohibited. Notify the city arborist with requests to remove a parkway tree. Refer to **city code** and **Article X** for the maintenance of city trees.)

(b) Application for review.

*An application required under this section must be filed with the building official on a **form** furnished by the city for that purpose. The application must include the following:*

(1) General. The name, address, telephone number, and signature of the applicant. The applicant may be the owner of the tree removal property or a contracted agent acting for the owner

(2) Owner information. The name, address, and telephone number of each tree removal property owner.

(3) Tree removal property information. The street address, zoning district, and any overlay district of the tree removal property.

*(4) **Tree survey or forest stand delineation**. One of the following must be provided.*

Tree Survey

*(A) A **tree survey** that shows the location, diameter, and name (both common and scientific) of all trees on the tree removal property (trees in close proximity that all have a diameter of less than eight inches may be designated as a "group of trees" with only the number noted), or an estimate of the total diameter inches of protected trees, calculated and documented using a tree sampling method determined by the building official to be reasonably accurate. The survey does not have to be prepared by a registered surveyor, architect, or landscape architect. Trees not proposed for removal or serious injury, or located further than **20 feet** from proposed construction activity need not be shown on the survey unless the building official determines it would help evaluation of the application.*

Refer to **Appendix E** for more information on the tree survey and the tree removal application procedures as related to building permits, separate applications, and staff review methodology, and information about report tree conditions for survey analysis.

Forest Stand Delineation

Refer to APPENDIX G

*(B) A **forest stand delineation ("FSD")** used for the purpose of calculating the total square footage of forest canopy coverage of building sites and providing an ecological assessment of a property. An FSD must be approved by the building official. The building official shall determine the information required to be provided in an FSD. The FSD is applicable to and may be used to calculate:*

***(i) Tree canopy cover assessment for old-field tree stands and undeveloped lots, two acres or larger, in early succession stages** when:*

(aa) a stand, or partial stand, with a minimum of 60 percent Class 3, eastern red cedar, or unprotected trees is located in a proposed development impact area;

(bb) the forest stand delineation excludes areas within 50 feet of a 100-year floodplain, 50 feet of a wetland, 50 feet of an escarpment zone, or 150 feet of a stream bank;

(cc) the trees in the stand, or partial stand, is designated in an age class of 60 years or less by the building official based on site and historical data; and

(dd) the stand is assessed and surveyed using tree sampling methods which provide general species quantity and tree size determinations based on the use of quadrat plots, a transect line sampling method, point-quarter sampling method, or other method approved by the building official.

(ii) Tree canopy cover credit for single family and duplex construction.

(iii) Tree canopy cover assessment of development impact areas in conjunction with sustainable development incentives.

(iv) Tree canopy cover assessment on properties five acres or larger with institutional and community service uses or recreation uses *when the measured tree canopy coverage is the baseline for determining the number of trees required for replacement when using the canopy cover replacement calculation for legacy trees in Section 51A-10.134(c)(7).*

(v) Forest analysis for baseline documentation to create a conservation easement.

(vi) Tree canopy cover assessment where trees are removed without authorization.

(5) All permits and approvals related to floodplain, wetland, or escarpment regulations required by city departments or other agencies.

(6) Any other reasonable and pertinent information that the building official determines to be necessary for review.

(c) Form of approval of tree removal application.

A tree removal application is not approved until it has been signed by the building official.

(d) Separate offense for each tree removed or seriously injured without a permit.

A responsible party commits a separate violation of this section for each tree removed or seriously injured without authorization by a building permit or approved tree removal application.

Clearing requirements.

*(c) **Clearing**. For clearing invasive, exotic, or unprotected vegetation on a building site, a **forest stand delineation** is required. The building official may require a **tree protection plan** to be provided on all or a portion of the building site (10.136).*

Clearing authorization is required before commencing any disturbance of trees on a property. A tree removal application is required for protected trees.

The clearing authorization may be attained after a forest stand delineation is completed and approved by the city arborist, and provides that no protected trees will be removed, if there is evidence presented that new construction work is to commence within six months of the request. If protected trees exist within an old-field succession area, a tree removal application is required. Clearing and grading should only be considered when plat early releases and city contracts are secured to create the construction site.

ENFORCEMENT

SEC. 51A-10.140. CRIMINAL RESPONSIBILITY

(a) A person is criminally responsible for a violation of this division if the person:

(1) removes or seriously injures, or assists in the removal or serious injury of, a protected tree without complying with the requirements of this division; or

(2) owns part or all of the land where the violation occurs.

SEC. 51A-10.139 FINES

A person convicted of violating this division shall be subject to a fine of not less than $2,000.00 per protected tree removed or seriously injured without authorization, and not less than $2,000.00 per day for any other violation of this division.

SEC. 51A-10.137. VIOLATION OF THIS DIVISION.

*(a) **Stop work order**. Whenever any work is being done contrary to the provisions of this division, the building official may order the work stopped by notice in writing served on any person engaged in the work or causing the work to be done. A person issued this notice shall stop work immediately until authorized by the building official to proceed with the work.*

*(b) **Mitigation.** The building official may require mitigation for the removal, or serious injury, of protected trees without a tree removal application or a building permit upon written notice of a violation of this division.*

(1) Mitigation may include:

(A) replacement of nursery stock trees on the property based on a tree mitigation plan provided by the responsible party, if it is determined by the building official that it is practicable to plant trees on the tree removal property;

(B) other alternative methods of compliance in this article when approved by the building official; or

*(C) a fee to be applied to the **Reforestation Fund**, with the amount determined in Section 51A-10.135.*

*(2) The responsible party must provide a **tree survey** or a **forest stand delineation** identifying all tree sizes and species, or tree canopy coverage, on the property.*

*(A) If the responsible party fails to provide the required information within 30 days of the **notice of violation** the building official may conduct a forest stand delineation using aerial imagery, field analysis, or other reasonable and pertinent information to review and identify the square footage of tree canopy coverage on the property.*

(B) Required mitigation is calculated as follows:

(i) When tree size and species are identified in a verifiable survey provided by a consulting arborist and approved by the building official. Mitigation is required in accordance with Section 51A-10.134.

(ii) When protected trees have been removed with no measurable remaining evidence. Mitigation is required in accordance with Section 51A-10.134 as determined using the following calculation.

(aa) The tree canopy coverage area is estimated by measuring the tree canopy coverage area shown in an aerial image no older than three years before notice of violation.

(bb) The estimated tree canopy coverage area, in square feet, on the tree removal property is divided by 1,200 square feet to determine an estimated number of trees for the area.

(cc) The number of trees is multiplied by eight inches as the estimated average of trees to determine the inches of the trees to be replaced.

*(iii) **Reforestation fund.***

(aa) The number of inches to be replaced for trees not located in a primary natural area is multiplied by the Class 2 base rate (0.7:1) to calculate reforestation fund value.

(bb) The number of inches to be replaced for trees located in a primary natural area is multiplied by the Class 1 base rate (1:1) to calculate reforestation fund value.

(3) Upon a finding by the building official that tree canopy coverage removal has occurred, the building official shall give written notification to the

responsible party. Tree replacement or mitigation must be completed within 90 days of the date of the notification.

Appeals

10.138 Appeals

In considering an appeal from a decision of the building official made in the enforcement of this division, the sole issue before the board of adjustment shall be whether or not the building official erred in his or her decision. The board shall consider the same standards that the building official was required to consider in making the decision.

10.110 Special Exceptions

(b) In general and urban forest conservation.

(1) The board may grant a special exception to the requirements of Division 51A-10.130, other than fee and notice requirements, upon making a special finding from the evidence presented that:

(A) strict compliance with the requirements of Division 51A-10.130 will unreasonably burden the use of the property;

(B) the special exception will not adversely affect neighboring property; and

(C) the requirements are not imposed by a site-specific landscape plan or tree mitigation plan approved by the city plan commission or city council.

(2) In determining whether to grant a special exception under Paragraph (1), the board shall consider the following factors:

(A) The extent to which there is residential adjacency.

(B) The topography of the site.

(C) The extent to which landscaping exists for which no credit is given under this article.

(D) The ability to plant replacement trees safely on the property.

(E) The extent to which alternative methods of replacement will compensate for a reduction of tree mitigation or extended time for tree replacement.