

TEXT AMENDMENT

RZ09-06

Text Amendment to the Roswell Zoning Ordinance Section 15.2.8 regarding tree pruning.

Brad Townsend stated that this next text amendment relates to tree pruning. It is to amend section 15.2.8 regarding tree pruning to add clarifying language and will include a reference to the American Standard National Standards for tree pruning. The city of Roswell cited a gentleman for excessive tree pruning and took the case to court and the judge indicated that the language of the ordinance was ambiguous because it had no standards. So, the city is including as the standards the International Society of Arborists as a standard for national tree pruning. That is how the language is being amended. They are taking the current

section of tree pruning, removing it and added a section 15.2.8, which then refers to the National Standard on Tree Pruning.

Loren Conrad stated that this looks like over regulation to him. He is thinking about himself. He would be out of code when he goes out and trims his holly trees out by his front door that grows like crazy. He cuts them down to half size and lets them re-grow. That would keep him from doing that.

Brad Townsend stated that he does not think it would eliminate Conrad from doing it. There are proper methods to prune certain trees that they look like they are being over-pruned. This was a case in which a good, healthy tree was just absolutely hat-racked on the top. Loren Conrad stated that if the city of Roswell puts this into effect then he would be in violation of that code.

Karen Geiger stated that it looks to her like they have already cited the International Society of Arboriculture Standards. Is the only difference that they are now going to be attaching it as an exhibit? Brad Townsend stated that was correct. Geiger stated that they are basically already...they have always had this standard, they just haven't attached it. Townsend stated that was correct. That is what the city tried to get through to the judge and he just did not feel that they were clear enough in the language that was adopted.

Loren Conrad cited paragraph B, topping defined. He inquired if that was in the original language. Karen Geiger and Susan Baur stated that it was. Townsend concurred. Conrad stated that he guessed that he is in violation of the code now.

Sarah Winner stated that she had a question for Townsend. How does this relate to Georgia Power coming through and whacking off of the oak trees that are planted underneath the phone lines within the city limits? Brad Townsend stated that Georgia Power is normally exempt from those requirements related to their equipment and their structures in easements and right-of-ways. Winner clarified that the city does not have to have anything in its language about that or that just over rides it. Townsend stated that was state guidelines in dealing with Georgia Power and providing service to everybody. Winner asked what the ramifications are if someone does prune more than a third of their tree? Townsend stated that if there is a citation to them they are brought in front of the judge and cited for non-compliance with the code. Which is the judge's determination as to whether they are fined or not.

Susan Baur asked if there were any further questions for staff? Hearing none, she asked if there was anyone from the public who would like to speak.

Curtis Wright
Brookfield

Curtis Wright stated that he spent 32 years being a law enforcement officer for Fulton County. He lives in Brookfield and has for the 16 years. He worked in the courts for 32 years. So he worked for the judges, he has seen what they have done and what they don't do. He is a very strict constitutionalist. He doesn't believe anybody that owns property should have anything to say about something that is somebody else's. If it is theirs, they are paying for it, it is theirs. It is not somebody else's. It is not Wright's say so; it is not his neighbor's say so, it is the owner's personal problem. Wright stated that he loves trees but he can remember when the only trees around this area were the trees that grew on the property lines along the fence lines or grew on the creek banks, or grew on the river banks. There were no trees up here, Mimosa and around up in here. But they have giant, old trees around here and they are coming down all of the time. There was one fall on the director's house over at the Smith Plantation. If the woman had not have walked out of there when she did, it would have killed her. The same thing up at the old park. Arborists can't tell a good tree from a dying tree. A dying tree needs to be removed. Wright is not so sure that these rules, they may be very good rules and they may not be very good rules. But he thinks that each individual property owner and citizen should have the right to cut it down if he wants to, prune it if he wants to, plant a new one if he wants to. A tree that becomes a danger needs to be removed. They had a woman and two children killed down on Highland Avenue in downtown Atlanta a couple of years ago. The husband was driving the car, they were sitting in the back seat and one of these 100 year old trees came down in the storm. They have had them all over.

Susan Baur told Curtis Wright that this is about pruning, not cutting down the tree all together.

Wright stated that it is still in the same ordinance though, isn't it. Baur stated that it was the pruning section of that ordinance and that is all that is being changed. Wright stated that what he is saying is, why should he or anybody else, when they have plenty of qualified tree trimmers out here and companies that are used to it. Why should one have to come and get a permit to take care of his own trees? If they are going to get advice, that is one thing. He doesn't want to put in some jack-leg to do the trimming and he is going to take Wright for a ride. That he is for. But when it comes to a person's decision on his own property, Wright thinks that he has that freedom. Take it away from him, whatever. The judge threw it out because of ambiguous language. That is what he felt like. Most of those judges down there can nit-pick something to death. Some of them may, some of them may go with someone, some of them may not. But how many times has the city of Roswell been carried into state court or into Superior Court only to have the whole entire ordinance thrown out? So they have lost all of this

time. It has happened. This is what Wright is saying, be careful on what the Commission imposes on the citizens of this city. Make sure that they are taking care of them not taking away from them. That is what Wright wanted to say.

Susan Baur asked if there was anyone else from the public that would like to speak in regards to this proposed amendment. Hearing none, Baur closed the public comment portion of the hearing. She asked if there were any other questions for staff. Hearing none, Baur stated that they would now have discussion among the Planning Commission members.

Motion

Karen Geiger made a motion that this text amendment, RZ09-06 be approved. Sarah Winner seconded the motion.

The motion passed 5-1. Loren Conrad voted against the motion.