

Southwest Dallas Residents Say Tree Preservation Ordinance Not Enforced

12:19 AM CDT on Wednesday, April 2, 2008

By RUDOLPH BUSH and DAVE LEVINTHAL / The Dallas Morning News
rbush@dallasnews.com; dlevinthal@dallasnews.com

For nearly three years, the people of Cedar Vista in southwest Dallas have lived with the moonscape.

At the corner of Grady Niblo and Kiwanis roads, the dead, dusty field rolls for acres without a hint of the thick stand of cedar and hackberry trees that covered it in 2005, before the chainsaws and chippers arrived.

Just a few miles away, in Mountain Vista, a similar scene unfolded around the same time, with hundreds of large, shady trees cleared into a barren expanse by another developer.

In both places, residents are furious and wondering what the city plans to do about it, and why it's taking so long.

"The city government is closing their eyes when it comes to holding [the developer] responsible," said Stashka Star, a Cedar Vista resident.

Despite a tree-mitigation ordinance that's intended to discourage clear-cutting and require replanting of protected trees, city officials acknowledge that developers can drag out the process of replacing trees with little or no penalty.

"The last thing we want to see is trees planted that won't be maintained and are going to die. So in a lot of subdivisions, we allow the builder or developer to time the planting of trees," said Theresa O'Donnell, director of the city's development services department.

Also Online

[Link Dallas' landscape and tree preservation ordinance](#)

But if a development stagnates as it did at Grady Niblo Estates, nearby residents are left with an eyesore.



G.J. MCCARTHY/DMN

From left) Stashka Star, Chris Lomax, Sandy Breakfield and Gary Cochrane stand on the erstwhile site of Grady Niblo Estates in southwest Dallas, where thousands of native trees were cleared in August 2005.

"If you wanted to buy a home in this vicinity, would you buy one near us?" said Frank Bracken, who has pressed City Hall to crack down on the developer of the property.

"The city is trying to scramble to cover up instead of admitting that they didn't enforce their own ordinances," said Warren Hansen, who lives next to the Mountain Vista housing development managed by Fort Worth-based Sandlin Custom Homes.

Sandlin, Mr. Hansen and his neighbors say, clear-cut hundreds of trees in 2006 ahead of developing home sites on a tract adjacent to Eagle Ford Drive. The company then failed to replace any trees as required by city law, residents say.

Generally, a developer must replace felled trees within 30 days, unless it applies for extensions or obtains permission to take comparable action, such as paying into a tree-mitigation fund.

But Sandlin, which did not return calls seeking comment, failed to do any of this, neighbors say. And the city, for its part, did not punish them.

Ultimately, Sandlin appeared before the city's Board of Adjustment, which granted the developer until Oct. 1, 2009, to replace the trees.

The city also obtained a letter of credit, which states City Hall may collect up to \$77,800 from Sandlin if the company doesn't replace the trees by then.

Mr. Hansen said the lack of trees in his hilly neighborhood has led to significant soil erosion. Since beginning its project, Sandlin failed to properly maintain erosion or sediment controls about 40 percent of the time, according to Dallas Department of Public Works and Transportation construction inspection reports.

"To me, this is a crime, what they're doing to the environment and the ecology," Mr. Hansen said.

Erosion and soil degradation are a major problem at Grady Niblo, too, and several city officials called the site one of the worst abuses of the tree ordinance since it was updated in 2003.

After months of prodding developer Marlin Atlantis to do something about eroding topsoil and water run-off, city planners and chief arborist Philip Erwin have referred the case to the city attorney's office.

But what relief that will bring, or when it will happen, is anyone's guess.

Marlin Atlantis recently sold interests in Grady Niblo Estates to Dallas-based Graham Mortgage Investments, said attorney Robert Miklos, who represents both companies.

Mr. Miklos said he plans to file an application Monday to go back before the Board of Adjustment.

"We have full intentions of coming up with a good development that eventually people are going to be proud of," he said.

Residents say restoring Grady Niblo could take a long time.

"It's still going to look like this 10 years from now," Cedar Vista resident Will Connell said.

Unlike some cities, Dallas doesn't have a tree-preservation ordinance. Developers are free to clear-cut land.

But in return, they are required to restore greenery to the city. They can replant trees on the site, plant trees near the site, contribute to the city's parks reforestation fund or preserve developable land.

In most cases, that happens without any problems. But when it doesn't, getting relief can be difficult.

Ms. O'Donnell said the city's tree ordinance is an attempt, albeit imperfect, to strike a balance between preservationists and developers.

For years, southern-sector council members pushed for less stringent protections for fear they would discourage development, she said.

Today, no one at City Hall seems eager to reopen the tree-ordinance issue.

And with development slowing to a snail's pace in a sluggish economy, the ordinance is a pressing issue only to people who live near problem areas.

Still, Ms. O'Donnell said developers who cut down trees won't be let off the hook.

Staring at the moonscape, Cedar Vista resident Chris Lomax is skeptical.

"They've been saying that for years," she said.

Reprinted with Permission of the [Dallas Morning News](#)