

**City of Durham
Planning Commission
August 1, 2017**

1-2. CALL TO ORDER AND ROLL CALL. Chair Goddard called the meeting to order at 7:30 pm at Durham City Hall.
Commissioners Present: Brian Goddard, Krista Bailey, Pat Saab, Laurie Volm, and Jeffrey Anderson
Commissioners Absent: Julie Atwood and Emily Baker
Staff Present: City Administrator Linda Tate and Administrative Assistant Lynn Schroder
Public Present: Tony McCormick - Meyer Sign Company; Diane Mossler and Robert Archer - 7890 SW Kingfisher Way; Jim Shelman – 7932 SW Kingfisher Way; Lorna Kautzky – 17637 SW 79th Place.

3. MINUTES OF THE July 11, 2017 COMMISSION MEETINGS. Commissioner Volm moved to approve the minutes of the July 11, 2017 meeting. Commissioner Saab seconded the motion. The minutes were approved 5-0. **MO 0801.1-17**

4. PUBLIC FORUM – Diane Mossler testified to the Commission regarding an interaction she had with City staff in June 2017 about irrigation of the Heron Grove monument planting area.

The Heron Grove monument and landscape area are located on private property at the corner of Ellman Lane and SW Upper Boones Ferry Road. The maintenance of the Heron Grove monument, brick wall, irrigation system, and landscaping is the responsibility of the property owner located at 7732 Redhawk Court. The property owner was not present at the Planning Commission meeting.

Diane Mossler testified that she spearheaded a neighborhood effort to landscape the Heron Grove monument area two years ago. She collected money from neighbors to install an irrigation system and plants. At that time, she asked the City to tie into the City's existing irrigation system along Upper Boones Ferry Road to provide water to the private planting area. The City agreed to allow the neighborhood group to attach their irrigation system to the City's irrigation system and provide water to the area in the summer.

Mossler stated that in June 2017 when she asked city staff when the irrigation system would be turned on, she was met with an unusual amount of resistance to her request. She stated that in September, the City staff informs her when the water for the area will be turned off. She stated that in late May or June as the weather heats up, she wants the City to inform her of the specific date when the water will be turned on. She clarified that her request does not mean that the water will be used before it is necessary. She stated that she asked City staff to call the contractor to ask when the water would be turned on. She stated that she encountered resistance to that request as well. She stated that City staff did call the contractor the next day as a courtesy to her and turned on the water. She asked that the Commission solve this problem.

Chair Goddard asked the City Administrator to explain the conversation from the City's perspective. City Administrator Tate asked if this citizen concern was a Planning Commission matter. Commissioner Bailey questioned if this issue was a Planning Commission matter. Commissioner Volm said it did not seem like it was a matter for the Planning Commission. Chair Goddard stated that, because the Planning Commission represents the City in terms of beautification, land use, and care of the City, it would appear that this is a matter for the Commission. Additionally, because the monument planting is a

neighborhood investment, Goddard felt the Planning Commission should address this matter. He stated that a group of citizens voluntarily improved the appearance of the Heron Grove monument planting. He stated that Mossler's question about when the water would be turned on was a simple question that should have been answered by City staff.

Administrative Assistant Schroder stated that the monthly water fee for irrigation includes a base rate that is charged every month regardless of water usage. She stated that the water has been turned off in the fall before the October billing cycle to avoid unnecessary base fee charges. Consequently, there is a known date for turning off the water in the fall. She stated that the decision to turn on the water in the spring depends on the weather. The City waits as long as possible to avoid the base charge. Schroder stated that the City relies on the landscape contractor to tell them when to turn on the water. The landscape contractor monitors the weather and the plants to make a determination and informs the City when to turn on the water. The City has three different active irrigation areas in the City. One of the areas includes the private Heron Grove monument landscape area. The City turns all three systems on and off at the same time, depending on the needs of the overall landscape irrigation needs of the City. Once the water is turned on, the landscape contractor needs to inspect the complete irrigation system for leaks and make any repairs before irrigation can begin.

Diane Mossler stated that she installed a soaker system that uses less water than sprinkler heads. She stated that she has her landscape contractor check for leaks as soon as the water is turned on. She stated that she relies on the City to turn on the water.

City Administrator clarified that the City's irrigation system includes three irrigation areas; the Heron Grove monument area is a part of one irrigation area. She stated that once the water is turned on, the entire system must be inspected and repaired before irrigation can begin.

Chair Goddard stated that since the Heron Grove monument irrigation system is tied into the City's irrigation system and Mossler's effort is an investment, this is a matter for the Planning Commission. He stated that he respects that so much effort went into planting the Heron Grove monument area. He stated that the Heron Grove wall has been a bone of contention in the past. He stated that resistance to making the City look better does not make sense. He stated that Mossler should not have to haul water in buckets from her house to the area.

Mossler asked why she cannot have a firm date for turning on the water. City Administrator Tate stated that the City has always agreed to call her to let her know when the water would be turned on, but that the exact date depends on the weather. Schroder stated that the water will always be on by June 30th and may be turned on earlier depending on the weather.

Chair Goddard stated that his lawn would die if he did not turn on his irrigation system before June 30th. Mossler stated that she was very careful to plant drought-resistant plants but even drought-resistant plants need water to become established. Commissioner Volm asked if the water was on now. Mossler stated that the water was turned on the day after she went into City Hall in June.

Mossler stated that she wants the Commission to establish a specific date by which she knows that the water would be turned on every year. Chair Goddard stated that the City will turn the water on by June 30th. Mossler stated that June 30th was too late when you have 100-degree temperatures in June. She stated that last year the water was turned on in May. Tate stated the water was turned on earlier in 2016 because the weather warranted it.

May 2016 was very hot. This year, June was wetter than average and turning on the system earlier than it was turned on was not warranted. Volm stated that 100 degree days in June are unusual for the Portland area.

Tate stated that the landscape contractor monitors the conditions frequently and tells the City when to turn on the system. The City would, in turn, tell Mossler when the system would be turned on. Mossler stated that she wanted a system in place to know in advance when the water would be turned on.

Jim Shelman of Heron Grove stated that a lot of effort went into improving the Heron Grove monument area. Neighbors donated money and labor to plant the area. He stated that Mossler hauled water from her home in buckets to water the area. He wanted to know the minimum base fee for water. He asked if it was worth it to let all the plants die and then go through a whole effort to replant the area again.

Tate reiterated that the Heron Grove monument is private property. She stated that the City agreed to donate water to the area but, up until the water is available, she suggested that the owner of the property could water the area. Mossler stated that the reason why Heron Grove neighbors had volunteered their time and money was that the private property owner had not done anything with the area. Tate interjected that the property owner did have a landscape plan to improve the area when Mossler proposed her plan for the area two years ago. Mossler stated that she worked with the private property owner on the final plan for the area.

Commissioner Volm asked if the plants are drought-resistant and established. Mossler stated that the plants are drought-resistant but they will take time to become established. Volm stated that, if the plants are drought resistant, the problem will self-correct. Mossler questioned if turning on the water by June 30th would provide enough water for drought-resistant plants. Volm stated that June 30th is not a hard date. Volm reiterated that the city's landscape contractor would recommend that the water is turned on earlier if weather conditions warranted it.

Commissioner Bailey asked how frequently the landscape contractor is scheduled to be on site. Tate replied that the contract landscaper manages his own schedule. She stated the landscaper assesses the area on a frequent basis and communicates regularly with the City. The City does not have a contract with the landscaper. His services are at will. Bailey stated that the City should establish a formal protocol that requires the landscaper to evaluate the irrigation needs on a regular basis and communicate with the City. She stated that a protocol would provide reassurance that the water would be turned on appropriately. Bailey stated that the City should have a specific date the water would be turned on but that it would vary year-to-year depending on the weather. Tate stated that the City does have the landscaper evaluate the irrigation needs of the City's landscape areas and communicate with the City regularly. Bailey asked how soon Tigard Water would turn on the water after the City requested it. Tate stated that the water meters were already unlocked by Tigard but City was waiting to turn on the water until the system was inspected and repaired and the weather conditions warranted irrigation.

Mossler reiterated her request that City staff call the contractor to ask him when he planned to turn on the water. Bailey stated that there is only so much onus on the City to communicate in specific detail but she thought that there was more information about procedures and operational protocol that could potentially reassure Mossler. Schroder stated that the City does not have a formal protocol in place. Schroder stated the lack of a formal protocol seems to be the problem; Mossler was asking the City staff to establish a formal protocol when the City has always addressed the matter on an as-needed basis.

Bailey stated that a June 30th turn-on date does not provide reassurance to Mossler but she stated that she wanted to protect against the need for staff to be in constant communication about the water.

Chair Goddard stated he was going to make his observations and cut off the conversation. He stated that it is a pretty straightforward set of questions. He stated that the City should be the face of helping residents understand. He stated that he senses that there was some resistance to addressing Mossler's concerns. Sometimes people do not understand the inner workings of stuff. He stated that when residents step up and take on a project, they should not be met with resistance when they want answers to questions. He stated that the City should provide answers to citizen inquiries. He stated that he felt the issue was more about resistance to answering a citizen's question rather than when the water would be turned on. He stated that his biggest concern is that there is resistance to answering simple questions or providing solutions for the future. He stated that the City should work with citizens.

Tate asked to comment. Tate stated that Mossler was not very polite when she came in with her questions in June. Tate stated that when Mossler originally proposed the landscaping project in 2015, Tate requested that she install drought-resistant plants. Tate stated that she reminded Mossler in June that the plants were to be drought-resistant but Mossler shook her finger at Tate stating that she was never informed that the plants should be drought-resistant. Tate stated that she later found and provided Mossler with the email from 2015 that specifically stated the request for drought-resistant plants. She stated that Mossler was being blatantly rude to the administrative assistant and that is why she stepped in to talk with Mossler.

5. **SIGN PERMIT APPLICATION 458-17 – 17400 SW UPPER BOONES FERRY ROAD.** Tony McCormick with Meyer Sign Company requested approval of a 22.36 square foot wall-mounted sign for Team Rehab. The sign will be flat cut out aluminum letters painted black. The letters will be attached to the building with industrial tape. The sign is similar to other signs currently attached to the building.

Commissioner Saab moved to approve the Team Rehab sign permit application. Commissioner Volm seconded the motion. The motion was approved 5-0. **MO 0801.2-17**

6. **TREE REMOVAL PERMIT 423-17 – 7651 SW WILLOWBOTTOM WAY.** Julie and Brett Atwood submitted an application to remove a large Douglas fir tree in their backyard. Atwood was unable to attend the Planning Commission meeting but submitted a letter to provide additional information.

Commissioner Volm stated that she did not have a problem allowing the tree to be cut down but questioned whether the Commission should consider the application if Atwood was not present. Volm stated that the Commission usually requires permit applicants to attend the meeting to provide testimony and answer questions before a decision is made. Since Atwood is a Planning Commission member, Volm asked if the same standard should apply to her.

Commissioner Saab stated that Atwood did provide a letter providing details of her permit application. Volm asked if the Commission would accept a letter in lieu of attendance for all applicants.

Goddard stated that he has always required applicants to attend the meeting for consideration of their application. Bailey stated most applicants do not provide additional information with their application. Bailey stated that because Atwood provided a detailed

explanation of her request, her attendance is not required for the Planning Commission to make a decision.

Volm asked if the Commission is applying the same procedural standards to all applicants. Commissioner Saab stated that the requirement to attend the meeting usually favors the applicant.

Bailey stated that the Commission usually prefers that an applicant attend the Planning Commission meeting to make a decision but does not require it. She stated that if there are questions that cannot be answered by the information presented, then the Commission may table an application until the applicant can attend. Bailey stated that the letter provided by Atwood provides enough details for the Commission to make a decision.

Volm reiterated her question of whether the Commission is applying the same standards to all applicants. She asked if other applicants submitted a letter instead of attending the meeting, would the Commission act on the application. Bailey stated that if someone provided adequate information in a letter, then the Commission could proceed with a decision. Volm stated that, since she has been a member of the Commission, applicants have been required to attend the meeting for a decision.

Bailey stated that Atwood's letter states that she will plant 1-2 evergreens on her property to mitigate for the removal of the tree. Goddard stated that Atwood's request is based on her desire to construct a new patio, not on the health of the tree. He stated that this case may be an exception to the requirement.

Commissioner Anderson stated that having the applicant present provides an opportunity to consider alternatives to cutting down the tree. Anderson stated that Atwood may not have considered less expensive, alternative solutions. He stated that the tree appears healthy and not in danger of falling down. He stated that the cracked patio is small potatoes compared to the value the tree provides. He stated that Atwood could install pavers around the tree to replace the cracked patio. Tate stated that the previous homeowner opted to install a deck over the cracked patio.

Goddard asked what the green spray was on the ground in the photo. Tate could not be sure, but if the green paint marked a utility, then it marks the sewer line. Anderson stated that the property owner could have used spray paint to designate the location of a future patio. He stated that without her attendance, the Commission can only guess what the paint designates.

Goddard stated that the Douglas fir is a significant tree. Bailey stated that the property owners have likely already worked through landscaping options. She stated that the property owners want to keep improving the value of their property. She stated that it goes back to how the property was developed. She stated that a decision was made to leave the tree in a location that it does not belong for the next lifetime. She stated that the Commission continuously faces the problem of poorly placed trees and must strive to find solutions to regenerate the tree canopy.

Goddard asked if there was another tree in the backyard. Tate stated that it appears from photographs that the proposed tree is the only tree in the backyard. Commissioner Saab stated that Atwood would probably plant the mitigation trees in the front yard.

Commissioner Saab moved to approve the tree removal application with mitigation of 2 evergreen trees. The applicant should work with City staff to determine the kind of trees. Commissioner Bailey seconded the motion. The application was approved 5-0.

MO 0801.3-17

7. **COMMISSIONER COMMENTS.** No comments.

8. **ADJOURN.** Commissioner Saab moved to adjourn the meeting. Commissioner Bailey seconded and the motion passed unanimously (5-0).

MO 0801.4-17

Chair Goddard adjourned the meeting at approximately 8:15 pm.

Approved: _____
Brian Goddard, Chair

Attest: _____
Linda Tate, City Administrator