

City of Durham
PLANNING COMMISSION MINUTES
September 6st, 2022

1. **CALL TO ORDER.** Commissioner Joshua Drake called the meeting to order at 7:32 p.m.
2. **ROLL CALL.** *Commissioners Present:* Chair Joshua Drake, Vice Chair Susan Deeming, Commissioners Brian Goddard, Krista Bailey, Pat Saab, Gary Paul, and Matt Winkler
Staff: City Administrator Linda Tate, Administrative Assistant Becky Morinishi
Resident: Bruce Howard
3. **PLANNING COMMISSION MINUTES.** Commissioner Pat Saab moved to approve the minutes from the June 7, 2022 meeting. Commissioner Paul seconded the motion. The vote passed unanimously (7-0).

MO 090622-1

4. **PUBLIC FORUM.** None.
5. **TREE REMOVAL PERMIT APPLICATION. 8213 SW Kingfisher Way, Permit 647-22**
Bruce Howard was welcomed to the Zoom meeting to answer any questions the Commission had about the application to remove one 18" DBH western red cedar from the side of his property. Howard stated that the tree is located between his and his neighbor's houses. He said he planted it, but it was not the best choice to plant in that location as it has grown quite large and is pulling up a stone path and causing a tripping hazard. He is afraid it will eventually pull up the neighbor's sidewalk and driveway. He is trying to be proactive and cut it before it causes further damage. He plans to replant with a better choice of tree based upon the arborist's recommendation. Commissioner Paul asked if the stump would need to be ground. Howard replied that he will grind it.

Administrator Tate noted that signs have been posted on the property, notices were delivered to nearby property owners, and a notice was on the website about the tree removal hearing, but City Hall was not contacted with any concerns. Chair Drake asked if any of the commissioners had gone out to look at the tree. The Commissioners indicated that they had.

Deeming asked if putting a mitigation tree back in the same spot is a good idea. The mitigation tree will also be a large tree, as it is meant to replace the existing canopy. She asked if the mitigation tree could be planted in another location. Howard answered that he could put it further away from the house and other structures.

Commissioner Winkler asked if there are any concerns from the neighbor about removing the tree. Howard stated that the neighbors had been asking him to cut it down for years and were happy he planned to remove it.

The Commissioners went through the staff report to determine their Findings. Commissioner Paul noted that it sounded like the Commission was in agreement that this permit is a Type E permit. The Commissioners agreed. Drake said that based on Section 9.6 of the Durham Development Code, this permit is processed as a Type 2. All Commissioners agreed. Drake said that according to the Tree Protection Ordinance, there are 7 criteria to address regarding removal. After reading over the packet and looking at the criteria, he noted that A is most applicable due to the proximity of the tree to a structure. Criteria B was not applicable and Criteria C would not be affected. Criteria D would need to be discussed as it pertains to the character of the neighborhood. Criteria E applies as well. Criteria F and G are not applicable. The Commission's consensus was that A, D and E were the issues that needed to be discussed.

The Commission discussed Criteria A, noting that the staff report indicated that the tree was too large for the space, it was between houses, it was creating a tripping hazard, and it would continue to grow. The arborist's report recommended removal, but the reason for removal was not a reason that fits into Criteria A. Paul noted that the staff report pointed out that the arborist's report did not claim the tree will spread far enough to cause further damage. Tate noted that she cannot administratively approve the removal based upon what is in the arborist report, but the Planning Commission can make their own assessment.

Drake asked the Commissioners for their "Big Picture" thoughts. Paul stated that the neighbors want the tree removed and the applicant is willing to mitigate. The applicant is being proactive. Commissioner Goddard agreed, stating that the tree probably will continue to grow and eventually get to the house. Commissioner Bailey noted that she had a similar issue with a tree and has no problem with the applicant's tree being cut. Goddard said he also had no problem with it being cut. Deeming stated that it is the wrong tree in the wrong place and there is not enough room. It is a good time to address it to prevent further damage. Drake agreed that it is close to the neighbor's driveway and is the wrong tree in the wrong place. Deeming asked to move on to Criteria D, as it sounded like there was a consensus about Criteria A. She said there are lots of big trees in the area and, although it will be noticed if it is removed, there are plenty more trees there so the character of the neighborhood will not be changed. Bailey agreed. Drake agreed and suggested they move to Criteria E, adequacy of the applicant to plant a new tree. The applicant indicates he will work with the arborist to plant a more appropriate tree. Drake asked if there was any discussion or questions on Criteria E. There were none.

Drake moved to approve the tree removal subject to the applicant planting one mitigation tree with the conditions listed in the staff report. Winkler seconded the motion. The vote passed unanimously (7-0).

MO 090622-2

6. COMMISSIONER COMMENTS/REPORTS/STAFF UPDATES.

Commissioner Saab asked for updates on the new housing developments and if there have been any reports of break-ins or theft in the area lately. City Administrator Tate responded that police reports are posted on Durham's website on a monthly basis and any information on thefts would be on there. Tate said that the new housing developments are still in the works and that the property sale for the development that was previously approved in November has not happened yet. Tate said she thinks they are waiting for ODOT permission for access off of Upper Boones Ferry Rd. Tate anticipates that there will be tree removals for the southernmost property on the Planning Commission agenda for next month. Commissioner Goddard asked if Tate had a ballpark number of how many trees would be cut. Tate did not, but noted that this tree removal request would only address the trees that need to be removed to build the road. Deeming asked for clarification on whether mitigation for tree removals on undeveloped property should be looked at differently than property with a home on it. Tate answered that there is a separate section in the Development Code for undeveloped lots and it includes a formula for figuring out mitigation and where they should be planted.

7. ADJOURN. Commissioner Bailey moved to adjourn and Commissioner Paul seconded the motion. The vote passed unanimously (7-0) and the meeting adjourned at 8:08 pm.

MO 090622-3

Approved: _____
Joshua Drake, Chair

Attest: _____
Linda Tate, City Administrator