

City of Durham
PLANNING COMMISSION MINUTES
October 4th, 2022

1. **CALL TO ORDER.** Commissioner Joshua Drake called the meeting to order at 7:31 p.m.
2. **ROLL CALL.** *Commissioners Present:* Chair Joshua Drake, Vice Chair Susan Deeming, Commissioners Brian Goddard (arrived late), Krista Bailey, Pat Saab, Gary Paul, and Matt Winkler
Staff: City Administrator Linda Tate, Administrative Assistant Becky Morinishi
Public: Shelly Wells, Fast Signs, Tigard, OR; Matt Sprague, Pioneer Design Group, Inc., representing property owner, Mohsen Alavi; Todd Prager, Arborist, Todd Prager and Associates
3. **PLANNING COMMISSION MINUTES.** Commissioner Pat Saab moved to approve the minutes from the September 6, 2022 meeting. Vice Chair Deeming seconded the motion. The vote passed unanimously (6-0).

MO 100422-1

4. **PUBLIC FORUM.** None.
5. **SIGN PERMIT APPLICATION. 16520 SW Upper Boones Ferry Road, Permit 464-22**
Chair Drake asked if Shelly Wells, representing Fast Signs of Tigard, had anything to share with the Commission regarding the sign permit. Wells stated that the sign had been approved by the property manager. Commissioner Paul clarified that the sign is just three letters – GRI. Wells said that is correct. Vice Chair Deeming asked if there is a monument sign on the property that has GRI on it. Wells affirmed and said she does not have pictures, but there is a monument sign by the road with all six tenants on it. Deeming stated that the new sign is already mounted on the far right of the entrance and asked if it was mounted off to the side to leave room for more signs because there are other businesses in the building. Wells responded that the property manager wanted it off to the side. Wells said that the building is set back and the sign being on the far right is better for visibility. Deeming stated that it looks a little odd off to the side and the monument sign is more visible. Wells stated that it is a multi-tenant building. This tenant takes up the first floor, which is half of the building. That is maybe why this tenant got a sign on the building and the other tenants did not. Tate noted that this is the first time that there has been a sign on the building, and, for that reason, the City checked with the property owner first. Paul noted that the style looks similar to a sign they approved 2-3 weeks ago. Drake stated that the sign is within the regulations, so there are no issues with that.

Commissioner Saab moved to approve the sign permit. Commissioner Bailey seconded the motion. The vote passed unanimously (6-0).

MO 100422-2

6. **TREE REMOVAL PERMIT APPLICATION. 16605 SW Upper Boones Ferry Road, Permit 656-22**
Matt Sprague of Pioneer Design Group, Inc. was welcomed to the Zoom meeting to answer any questions the Commission had about the application to remove 36 trees from 16605 SW Upper Boones Ferry Road. The removal would allow the construction of portions of Cambridge Lane and Taylor Road to the north of Afton Commons.

Sprague introduced Todd Prager as the project arborist and said that Todd can answer any detailed tree questions. Sprague noted that this property is just to the South of the planned Durham Heights subdivision, which was previously approved by the Planning Commission. The owner of the property realized that it would be a good opportunity to join forces with David Weekley Homes to dedicate the public right-of-way and construct the street improvements for the

remainder of the streets that have already been approved in the city. The owner recognized that a completed street system is more beneficial for pedestrians, vehicles and bicycles. There will be a full intersection at Upper Boones Ferry Road instead of a partial improvement on the David Weekley property. The driveway access will be moved off of Upper Boones Ferry Road for the existing house on the property and there will not be any tearing up of streets for utilities and further improvements in the future, which will minimize the disturbance to the neighborhood. It is also more cost efficient to build the entirety of the streets all at one time versus building them in two separate stages. Additionally, there will not be a secondary vehicle access point needed for the construction of the David Weekley project (Durham Heights).

For all of these reasons, the property owner decided to coordinate with David Weekley and develop some engineering plans in order to construct improvements all at the same time. As part of that plan, there is a tree removal permit that is required. There are 36 trees that are being removed for the sole purpose of street and utility construction. Sprague continued, noting that they designed the grading as steep as they can to minimize impact to trees, so this is the absolute minimum in terms of grading and improvements that can be completed while removing just 36 trees on the site. Sprague opened himself up to questions from the Commissioners.

Vice Chair Deeming asked for clarification on how this application for construction of road and grading relates to the Durham Heights subdivision, as the Planning Commission has not seen a proposal for it yet. She expressed concern about approving these tree removals without mitigation requirements prior to seeing a plan for the subdivision tree removals. Sprague answered that they are in the middle of developing a subdivision application. He agreed that it is a little unusual to do the street improvements first, and said that he does not think any mitigation will be required for the rest of the subdivision development because there will be enough canopy left to meet the code requirement. He explained that a Type G permit will be required with the subdivision application. There will be nine lots and as the lots are platted, each will go through an individual tree removal process. Removals will be based on the footprint of the houses so that individual trees are not cut down if they do not need to be. He stressed that going through the process in this way protects the most trees.

Vice Chair Deeming said that Sprague's explanation gives her a broader understanding of how the pieces are going to work, but suggested that the Commission look at the project as a whole instead of as three different steps. Tate noted that the Commission is only dealing with the road at this point because of the need to coordinate with David Weekley Homes for that project, and she pointed out that Prager put the numbers and percentages in the arborist's report and the Commission will have access to these figures when addressing mitigation concerns with the nine lots with private driveways.

Deeming indicated that the map in the packet was printed very small and was hard to read. She said it looked to her like many of the trees were not on the roadway. Tate reiterated that some of the trees marked for removal need to be taken down for grading purposes. Deeming asked for clarification if there would only be Taylor and Cambridge streets and no additional streets in the subdivision. Tate confirmed that there will be just the two roads and the private driveways will come off of those roads.

Sprague shared drawings of the roadway and grading on his screen to give the Commissioners a closer look at the plans. He explained that they had to cut the grading back in order to meet City code. Sprague showed that all of the trees being removed are in the grading area or in the roadway. Sprague then showed trees that are being retained on the rest of the site. Deeming asked if all of the green circles on the map represent trees that are being retained. Sprague confirmed that they are trees that are being retained and asked Prager to explain the difference between the green circles and the yellow circles. Prager introduced himself as the project arborist and explained that the green represents the typical root protection radius, which is one foot per inch of trunk diameter. If you have a 36 inch diameter fir, you have a 36 foot radius around that fir that represents the root zone that, ideally, you would like to preserve for the tree's health and

structural stability. The orange circle represents where the tree can be encroached upon if needed, which is the typical minimum construction set back of a half foot per inch of trunk diameter, which would be an 18 foot setback for a 36 inch tree. This is only done if the impact is on one side of the tree because root will be impacted when they get inside the green circle radius. Prager stated there were a few cases where the tree was not 100% in the grading footprint, but, if too much of the root zone was going to be impacted by grading, or he was concerned about the health or species of the tree, he identified it for removal. He said that, of the 36 trees, 20 are considered invasive, 7 are dead, and 9 are not dead and not invasive. Deeming asked if the green circles in the southwest that extend almost to the middle of the property will be affected by the grading. Prager answered that some of the trees shown on the map are there for his analysis and are not impacted. Others that are shown are in poor health and are less resilient to construction impact and it is unrealistic to try to preserve a tree like that. Deeming asked if the other numbers that are on the map represent trees. Prager said that some do, but that a lot of them represent English Laurel, which is considered a shrub. Tate noted that all of the numbered trees and shrubs are identified on a list in the arborist's report.

Deeming asked if the Commissioners will be looking at this map again and considering these trees when they talk about the subdivision. Tate responded that, in Durham's Tree Ordinance, one of the reasons you are allowed to remove a tree is if you are building a house. Because there will be nine additional houses on the property, there will likely be some trees removed and it will be decided at that time if mitigation is needed. Tate reiterated that $\frac{3}{4}$ of the road has already been approved by the Planning Commission, and when it was approved, the Commission knew that the other $\frac{1}{4}$ of the road was going to be built. Now the project arborist and the City Arborist have agreed on the trees that need to be removed to build the road. Deeming asked if the previous approval of the Planning Commission on the Durham Heights subdivision plan was for the tree removal for the whole subdivision. Tate explained that the prior approval for DW Homes did not require mitigation because there was enough tree canopy left on the property.

Chair Drake asked for clarification on Deeming's point; that if there are x amount of trees on the lot and the road goes through and takes out a number of those trees, the amount of trees based on the code is okay because there is enough canopy left. But then, when the subdivision goes in, there will be additional trees removed and we are not taking into consideration the trees that were already removed. Deeming said that is correct and she is concerned that the Planning Commission will approve the mitigation requirements based on the amount of trees left on the whole lot, and when the plats are developed, there will not be as many trees because they were removed for the roads. Drake clarified that Tate is stating that, even though that may be the case, the only thing the Commission can consider right now is the amount of trees on the lot currently. Tate affirmed and stated that the mitigation aspect is something that can be figured out down the road when something is actually being built. At this point in time, no mitigation is needed for any of the trees being removed.

Sprague noted that they have gotten pretty far along in their planning for the subdivision and that the Commission would find that a substantial number of trees are being preserved, even with the subdivision application. It is highly unlikely that any mitigation will be required with the subdivision as well. The City will be able to review the trees in the most detail by considering the tree removals per individual lot prior to building. Prager confirmed that there will be no mitigation required for the subdivision based on the calculations. Sprague stated that their goal is to give the trees the best opportunity for retention over the long-term rather than removing them ahead of time.

Commissioner Paul asked Prager to explain how tree preservation works on the trees next to the grading and how often he is onsite during tree removal. Paul clarified that he was looking at the trees on the east side of the slope and wondered if there would be fencing around them. Tate noted that Prager's tree protection recommendations are in the packet on page 32. Prager answered that the fencing is demarcated by the red circles on the map and that he likes to have it

surveyed in before any work starts. After the fencing is installed Prager likes to meet with the tree removal contractor and other contractors on site to make sure that the trees that are to be removed are marked and identified correctly. There will be a sign on the fencing stating that they need to contact the arborist before entering or modifying any fence. If roots are encountered during construction that are over 2 inches in diameter, Prager needs to be involved in evaluating that. Commissioner Winkler asked if the fencing would be metal or orange plastic. Prager answered that he specified metal fencing in his report because it holds up better than the orange plastic. He also specified metal signage.

Commissioner Saab asked when the site would be accessible for the Commissioners to go in and look. Sprague asked what she is interested in assessing. Saab stated that a new neighbor went in and maybe did not know that they were not supposed to. Sprague responded that there is a tenant who appreciates privacy and if the Commissioners want to go in, to let Tate know and Sprague can coordinate with the property owner. Sprague added that they will try to give the Commissioners an opportunity to visit the site when they submit the subdivision plan. Saab noted that it is not important right now, but she would like to see the site eventually to get more familiar with it.

Vice Chair Deeming asked Sprague to share the demolition plan because she could not read it in the packet. Sprague shared the map and explained which existing structures will be retained and what will be relocated or removed. Deeming asked how the equipment will get into the area. Sprague responded the primary access is Taylor Road and the equipment will not be coming through Afton Commons. Deeming asked when the work will start. Sprague answered that they had hoped to start this summer, but were not able to, so probably at the beginning of next summer. Tate asked if the tree removals will happen first. Sprague said that it will all happen at the same time.

Commissioner Saab asked if it is official that the name of the new road will be Taylor. Sprague said that after he and Tate had several discussions and meetings with the County Surveyor, it appears that it will officially be Taylor Road. Tate added that Cambridge will be the name of the other road.

Chair Drake recommended moving on to the fact finding analysis. The Commissioners went through the staff report to determine their Findings. All Commissioners agreed that, according to sections 5.7 and 5.10 of the Durham Development Code, this is a Type G permit and has been processed as a Type 2 Process as required. The Commissioners agreed that the applicant has provided a tree preservation plan and has addressed the requirements for preserving existing trees, as required by sections 5.7.1 and 5.7.2 of the Durham Development Code. The Commissioners agreed that no mitigation is required, as sufficient canopy coverage is being maintained. 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 criteria A and F are not applicable. Criteria B, C, D, E and G are applicable. The Commissioners agreed that Criteria B has been met, as the trees are being removed for grading and construction of streets and utilities. The Commissioners agreed that Criteria C has been met, as only the trees necessary to build the street are being taken down and the streets provide the minimum amount of open space possible. The Commissioners agreed that Criteria D has been met because no tree removal is proposed that will affect the preservation of any upland wooded corridor or street side vegetated corridor. The Commissioners agreed that Criteria E has been met and that no mitigation is required based on the canopy coverage calculations in the submitted Arborist's Report for a Type G permit. The Commissioners agreed that Criteria G has been met as seven of the trees are dead.

Commissioner Paul moved to approve the tree removal with the condition that the tree protection recommendations in item 4 of the City Arborist's Report are implemented. Winkler seconded the motion. The vote passed unanimously (7-0).

7. **COMMISSIONER COMMENTS/REPORTS/STAFF UPDATES.**

Commissioner Goddard asked if business owners are responsible for the care of the sidewalk in front of their business. City Administrator Tate responded that the property owner is responsible for the care of the sidewalk. Chair Drake asked if the property owner assumes liability if they choose not to fix the sidewalk. Tate confirmed that the property owner does assume liability.

Vice Chair Deeming stated that the recent Durham newsletter says that there are two openings on City Council and two candidates. She asked whose terms are up and who are the candidates. Tate answered that Mayor Schirado and Commissioner Hadfield's terms are expiring. Mayor Schirado is running again. Commissioner Hadfield is not running. The other candidate is Joshua Drake.

8. **ADJOURN.** Commissioner Saab moved to adjourn and Vice Chair Deeming seconded the motion. The vote passed unanimously (7-0) and the meeting adjourned at 8:46 pm.

MO 100422-4

Approved: _____
Joshua Drake, Chair

Attest: _____
Linda Tate, City Administrator