

City of Durham
PLANNING COMMISSION MINUTES
February 7th, 2023

1. **CALL TO ORDER.** Chair Susan Deeming called the meeting to order at 7:37 p.m.
2. **ROLL CALL.** *Commissioners Present on Zoom:* Chair Susan Deeming, Commissioners Pat Saab, Gary Paul, Matt Winkler, and Cheri Frazell
Commissioners Absent: Vice Chair Brian Goddard and Commissioner Krista Bailey
Staff: City Administrator Linda Tate, Administrative Assistant Becky Morinishi, Planner Keith Liden, and Engineer Ed Hodges
Public: Wayne Hayson, Pioneer Design Group (PDG); Habib Matin, Emerald Homes NW; Max Bondar, David Weekley Homes; Todd Prager, Arborist for PDG; Geoff Mihalko, Engineer for PDG; Matt Hughart; Zoom User Name "Shirin"
3. **PLANNING COMMISSION MINUTES.** Commissioner Paul moved to approve the minutes from the January 3, 2023 meeting. Commissioner Saab seconded the motion. The vote passed unanimously. (5-0)

MO 020723-1

4. **PUBLIC FORUM.** None
5. **APPLICATION FOR 9-LOT SUBDIVISION –** 16605 SW Upper Boones Ferry Road, Application 593-22. Keith Liden presented the Staff Report for the 9-Lot Subdivision application, known as Durham Estates, by Emerald Homes NW. Liden noted that the 9 lots are all at least 10,000 square feet and the necessary public services such as water, sanitary sewer, storm drainage, and utilities are available to serve the existing parcel with recommended conditions of approval from service providers. He reminded the Commission that a development on the adjacent property, Durham Heights, was approved in 2021 and part of that plan involved completing improvements on part of Cambridge Lane and Taylor Road. The Durham Estates plan assumes that Durham Heights will improve $\frac{3}{4}$ of Taylor Road. Durham Estates will finish the Taylor Road improvement on the South side, as well as complete the connection of Cambridge Lane down to the existing Cambridge Lane.

As part of the development, there are two proposed open space tracts. Durham Development Code 3.1.8.1 requires common recreational open space to be not less than 5% of the gross site area of the development. The gross site area is 116,766 feet, and the 5% standard yields a minimum open space requirement of 5,838 square feet. Tracts A and B have a total of 5,840 square feet. Although the total area requirement may be satisfied, Tract B is not usable as recreational open space. Liden noted that Tract B is a narrow 1,253 square-foot piece of land on the opposite side of Cambridge Lane. Liden stated that "recreational open space" in the Durham Development Code is not defined and it would be appropriate for the Planning Commission to decide on an interpretation. The staff recommends the open space be able to have some sort of "active" use, as opposed to being strictly a visual amenity. The staff recommends that Tract A be enlarged to satisfy the 5,838 square-foot minimum requirements. Liden also noted that there is one existing house on the property that is proposed to be removed and that the lots 2, 5, 6, and 9 are proposed to have shared driveways with access from Taylor Road. These driveways would be private and not publicly maintained.

Wayne Hayson presented on behalf of Pioneer Design Group. Hayson showed the location of the proposed development on a map in relation to Durham Heights and stated that they will be sharing the responsibilities for constructing Taylor Road with Durham Heights. He said most of the lots will access from Taylor Road, but the largest lot will access from Cambridge Lane. Hayson reiterated

that all lots exceed 10,000 square feet and that Lot 1 is a little over 15,000 square feet. Hayson pointed out that open space Tract B abuts with Tract B of Durham Heights, which is an active open space.

Hayson noted that the Tree Removal Permit being considered is also a part of this process. He reminded the Commission that the tree removal application for the construction of Taylor Road was previously approved, so Taylor Road is not a part of the Tree Removal Permit on the agenda. They will only be looking at the trees that need to be removed for this part of the subdivision development, not for the homes. This will allow them to separately consider which trees need to be removed at a later time in order to build the homes, which facilitates tree retention. Hayson reported that the outlines of the homes shown on the lots represent the maximum footprint of the home that can be placed on the lot according to the minimum setbacks, but he does not anticipate that the actual size of the homes will be that large.

Todd Prager introduced himself and said that he developed the Tree Protection and Removal Plan for the subdivision phase along with the road construction phase. Prager said he met with the City Arborist and walked the site. They reviewed his report and he and the City Arborist are in agreement about which trees need to be removed and which can be retained for the grading and improvements. He noted that the Planning Commission requested they include these trees with the prior 36 that were approved to be removed for the road construction when considering the canopy and mitigation. He stated that there are 17 trees proposed to be removed for this phase of the project and they are retaining 44 healthy trees that are over 5" DBH. Including the previous trees, the canopy retained is greater than the canopy that will be removed, so there will be no mitigation requirements.

Habib Matin, of Emerald Homes NW, shared that the large lot sizes are unique in this area. He said that they are working very closely with David Weekley Homes [Durham Heights] and that it will be a very nice product for the City.

Hayson pointed out Tract A on the map, which is the larger open space recreational area. He said that they had worked hard to plan it according to the goals that Matin has for the area. Features of the space include a small rock wall with ornamental plantings along the frontage, a gazebo, a barbeque for the enjoyment of the residents, a fire pit, a landscaped seating area, picnic tables with ADA seating, and a lawn area.

Hayson reiterated that they have planned for the required amount of open space, but that Durham's Development Code (DDC) does not provide guidance on what improvements would be required within that open space to qualify it as being considered "recreational open space." The DDC also does not provide guidance on whether the recreational space can be "active" or "passive." Hayson shared that, when considering Tract B, they planned for it to be attractively landscaped and provide a visual amenity for the residents and the public, but it also extends Tract B of Durham Heights and provides additional buffer between their open recreational space and Cambridge Lane. It also adds to the recreational amenity value of Tract A, as it provides a visual buffer between Tract A and water quality facilities and the driveway on the west side of Cambridge Lane. It also provides separation from Cambridge Lane and the driveway to the west for anyone walking on the public sidewalk.

Hayson said that what they are asking is if they can revise Condition 3 to say, "obtain City approval of the Home Owners Association documents and maintenance provisions for Tracts A and B. This shall include a provision in the final HOA documents prohibiting yard debris dumping, or other material dumping, or pesticide applications to Tracts A and B. Landscaping plans for Tract B shall be revised to include a recreational amenity, such as a seating area. Alternatively, Tract A may be enlarged to satisfy the recreational open space minimum area of 5,838 square feet."

Hayson asked for guidance from the Planning Commission on what would be considered a recreational amenity that would qualify an area to be included in the open space minimum area. He noted that Tract B will have a lot of plantings and canopy vegetation, and will make an attractive seating area. He said that they do not have any other questions about the conditions of approval, but would like guidance on the interpretation of the open recreational space.

Commissioner Saab asked what the approximate width is of Tract B. Hayson replied that Tract B is about 11 feet wide and would easily support a bench. Commissioner Paul clarified that the Code says, "common recreational open space," and wondered what kind of recreational activities could happen on an 11' by 136' space. Hayson responded that in many cases there is definition around what "passive" and "active" open space are and you are required to provide a combination of the two. He added that he does not think the Code intends to stipulate that every square inch of an open space must be used for some sort of active recreational purpose. Paul agreed, but added that he believes that adding 13 square feet to Tract A would add more use for the community. Hayson responded that what they are asking is for the option to do one or the other, either increase Tract A or landscape and add an amenity to Tract B. Hayson stated that he is not sure that adding 13' to Tract A will enhance or change the use of that area. He added that he sees value in having Tract B as part of the open space and landscaping it to a higher degree than it would be otherwise.

Commissioner Paul asked if there is any slope from the back of the sidewalk up through Tract B. Mihalko replied that there is a slope, but they can put in a retaining wall or regrade to make it a more active area if necessary. Matin added that Durham Heights will have a park setting there, and Tract B can be added to that. Liden stated that integrating Tract B with the Durham Heights Tract B would be worth pursuing. Commissioner Paul said that he is leaning toward simple landscaping for Tract B and a path leading to Tract B of Durham Heights. Chair Deeming agreed that she would like to see a path leading to Tract B of Durham Heights, as well as nice landscaping and the possibility of other amenities being added. Commissioner Frazell asked who is responsible for maintaining the open space areas. Tate responded that the HOAs will be responsible for maintenance.

Commissioner Paul expressed concern that the sidewalks that will encumber lots 4 and 7, located on the easements and along the driveways for lots 2, 5, 6, and 9, will not be used by lots 4 and 7 and that the property owners will be paying taxes on land that they cannot use. Hayson responded that this is a common practice and is provided as an additional amenity of a finished frontage for the properties if the houses are sitting sideways along the driveway instead of facing Taylor Road. Commissioner Saab asked if the Commissioners were able to access the property to take a look. Matin responded that there is no longer a renter there, so the Commissioners are welcome to walk through the property. Commissioner Paul requested that staff let the Planning Commission know when the final plat is available.

Commissioner Paul moved to approve Application 593-22 for a 9-Lot Subdivision with a revision to Condition of Approval 3 to read: Obtain City approval of the Homeowners Associate (HOA) documents and maintenance provisions for Tracts A and B. This shall include a provision in the final HOA documents prohibiting yard debris dumping or other material dumping or pesticide applications into Tracts A and B. Landscaping plans for Tract B shall be revised to complement Tract B of Durham Heights and shall include a pathway from Cambridge Lane to Tract B of Durham Heights and may include other amenities such as a seating area. Alternatively, Tract A may be enlarged to satisfy the recreational open space minimum area of 5,838 feet.

Commissioner Saab seconded. The vote passed unanimously. (5-0)

MO 020723-2

6. **TREE REMOVAL PERMIT – 16605 SW Upper Boones Ferry Road, Permit 667-22.** Chair Deeming went through the staff findings for the application to remove 17 trees to allow construction of subdivision improvements. Deeming asked if the trees being removed are in good condition. Prager answered that the trees are in generally good or fair condition, but many are relatively small and other cities sometimes consider them invasive species. Two or three are larger, more significant trees. Because of where they are located in the grading area, there is not a way to save those. Administrator Tate noted that the largest tree on this application is number 8550, and Prager stated that it has to be removed because the root system will be affected by a driveway. Commissioner Saab asked if the laurels will be removed. Prager stated that he does not know, but they would not be difficult to preserve.

The Planning Commission finds that:

1. This tree removal is a Type G permit type.
2. This permit application should be processed as a Type 2 process.
3. This permit application has been processed as a Type 2 process.
4. The applicant has provided a tree preservation plan.
5. The applicant has addressed the requirements for preserving existing trees.
6. The applicant has met the minimum percentage of canopy required, so no mitigation is required.

Based upon the category of a Type G removal permit, the Planning Commission finds that the following criteria are applicable: B, C, D, E, and G. The Planning Commission finds that the following applicable criteria have been met: B, C, D, E, and G. Commissioner Paul made a motion that tree removal 667-22 be approved with the conditions that the tree preservation plan as proposed be followed, plus a certified Arborist be on site when working/excavating within Critical Root Zones of trees to be preserved. Commissioner Winkler seconded. The vote passed unanimously. (5-0)

MO 020723-3

7. **COMMISSIONER COMMENTS/REPORTS/STAFF UPDATES.** Commissioner Paul asked about the green electric scooters that he has been seeing on the sidewalks. Tate answered that they are part of a pilot project that Tualatin is doing and are not supposed to work in Durham. It is possible people carry them into Durham to be able to use them later. Paul asked if Tualatin picks them up. Tate responded that she did not know.
8. **ADJOURN.** Vice Chair Deeming adjourned the meeting at 10:16 pm.

Approved: _____
Susan Deeming, Chair

Attest: _____
Linda Tate, City Administrator