



1. **CALL TO ORDER.** Chair Susan Deeming called the meeting to order at 7:32 p.m.
2. **ROLL CALL.** *Commissioners Present:* Chair Susan Deeming, Vice Chair Brian Goddard, Commissioners Pat Saab, Gary Paul, Matt Winkler, and Cheri Frazell  
*Commissioners Absent:* Krista Bailey  
*Staff Present:* City Administrator Jordan Parente and Administrative Assistant Becky Morinishi  
*Public:* David Streicher of SW Peters Road (Zoom); Stuart Skaug of SW Kingfisher Way; Martha Rainey of SW Kingfisher Way; J.R. Tarabocchia of SW 80<sup>th</sup> Pl.; Nikki Hough of SW 80<sup>th</sup> Pl. (Zoom); Jim Shelman of Heron Grove (Zoom).

3. **APPROVAL OF MEETING MINUTES.** Commissioner Gary Paul moved to approve the minutes from the February 6<sup>th</sup>, 2024 meeting. Commissioner Pat Saab seconded the motion. The vote passed (6-0).

**MO 030524-1**

4. **PUBLIC FORUM.** None
5. **RIDE CONNECTION COMMUNITY TRANSIT SERVICE.** Reza Farhoodi, Washington County Senior Transportation Planner, and Miranda Seekins, Service Planner for Ride Connection, presented to the Planning Commission about a proposed Durham stop on Ride Connection's new King City to Bridgeport Shuttle line. The suggested stop is between Rivendell and Findlay Road. Improvements would be funded through an STIF grant and could include signage, shelters, benches, lighting, and trashcans. The City would be responsible for the ongoing maintenance of any improvements with the exception of signage. The stop would also require a crossing and possibly an island. Ride Connection is requesting assistance from the City to advocate to ODOT for a crossing. If approved, improvements would be made in the Spring of 2025, but the timeline for the implementation of the Durham stop is uncertain.
6. **CITY COUNCIL UPDATE. Tree Ordinance Working Group.** City Administrator Parente informed the Planning Commission that, at the February 27<sup>th</sup>, 2024 City Council meeting, the Council approved a working group to look at the current tree code and ordinance. It will be made up of three Planning Commissioners and four residents. The Council would like for the group to be formed quickly. Mr. Parente said that a notice will go out to residents in the April newsletter letting them know to contact City Hall if they are interested in serving on the working group. Vice Chair Goddard asked how the working group is being implemented. Mr. Parente said that the particulars have not been ironed out but the City Planner and Arborist would be involved and the working group would most likely look at other local tree codes to see what works and what does not work. Chair Deeming asked if the City Council would be working out the details on how the working group would come together. Mr. Parente replied that the Council directed the Planning Commission to work out the details. Chair Deeming asked if the notice would be on the City's website. Mr. Parente affirmed that it would. Chair Deeming asked if the working group could be going by early May. Mr. Parente answered that the Planning Commission could appoint people as early as the May 7<sup>th</sup>, 2024 meeting.
7. **TREE REMOVAL APPLICATIONS:**
  - **17641 SW 80th Place: PERMITS 717-24 & 718-24.** Request to remove two Douglas Fir trees. Vice Chair Goddard noted that the packet contains a letter from the applicants stating that they had an arborist named Lars Limburg out to look at the trees, but he did

not see an arborist's report from Mr. Limburg. Chair Deeming clarified that there is an estimate from Mr. Limburg in the packet that gives a description of the trees. Vice Chair Goddard asked if the information provided in the letter stating that the soil is instable was just commentary or if it is in a report. Chair Deeming confirmed that it was commentary and that there is no arborist's report from Mr. Limburg. J.R. Tarabocchia, the applicant, said that Mr. Limburg was commenting on the general area where five trees had fallen in the past 14 months, and the area includes the two trees they are requesting to remove. Chair Deeming asked if the arborist was suggesting that the tree in the front also has the potential for root rot. Mr. Tarabocchia replied that the arborist was suggesting that the entire backyard area that abuts six to eight properties has the potential for root rot. Vice Chair Goddard noted that the area has had many trees fall recently and is concerned that something has changed in the area that has disturbed the roots.

Commissioner Frazell asked if there is a reason that the arborists will not provide a report that says that the trees are dangerous and/or have root rot. Commissioner Paul responded that the arborist might not comment on root rot if they cannot see it. Chair Deeming said that she is also concerned by the lack of an arborist's report that says the trees have root rot and/or are dangerous. Mr. Tarabocchia noted that there is a second arborist's report in the packet that indicates that the trees may have root rot. Commissioner Winkler said that the second arborist's report says that the trees "can be infected with root rot" based on a visual inspection, but that the arborist states that he cannot make a determination about the true health of the trees without further investigation and a soil sample. Commissioner Winkler asked why a soil sample was not done. Mr. Tarabocchia replied that the soil sample is more expensive than the \$720 fine for cutting the tree illegally.

Commissioner Paul asked if the applicants have plans for the stumps. Mr. Tarabocchia stated that the stump that is already out of the ground (the tree that fell and is infected with root rot) will be taken away by the tree cutting company and will not be chipped in with the regular grindings since it is infected. He said that they do not have a plan for the other stumps yet but will decide after they are cut to see if they have root rot. Commissioner Saab asked if anyone knows how many of the trees that have fallen in that area actually had root rot. Mr. Tarabocchia answered that they did not live there when the previous trees fell and does not know if they had root rot. Chair Deeming said that it would be easier to understand what is going on in the area if there had been soil sampling done.

The Commissioners went through the staff report to determine their Findings. The Commissioners agreed that this is a Type B permit, as the trees are likely to be affected by root rot. This permit has been processed as a Type 2 Process, as the tree removal application was placed on the Planning Commission agenda and Public Notices were issued as required.

Durham Tree Protection Ordinance 228-05, Section 4, provides seven criteria for consideration for issuance of a Tree Cutting Permit. The Commissioners agreed that Criterion A is applicable, as the trees are likely to be affected by root rot, which makes them potentially dangerous. The Commissioners agreed that Criterion B is not applicable. The Commissioners agreed that Criterion C is applicable because removing the Douglas Fir in the front of the house negatively impacts the neighboring maple tree. The owner of the maple tree has already submitted an application to remove the maple tree due to the loss of windbreak when the Douglas Fir is removed. The Commissioners agreed that Criterion D is applicable because the trees to be removed are the tallest on the property and the removal will affect neighborhood characteristics and beauty. The Commissioners agreed that Criterion E is applicable, noting that the removal of these two trees, plus the tree that fell, greatly reduces the tree canopy on the property. The applicants indicated that

they do not have a mitigation plan, but would “be planful and measured in determining which type of tree would be best suited to thrive” if compelled by the Commission to plant mitigation trees. Chair Deeming suggested planting trees that are not susceptible to root rot. The Commissioners agreed that mitigation is required and two trees must be planted. The Commissioners agreed that Criterion F is applicable as the trees are likely to have root rot, but noted that they would have preferred to have an arborist’s report that definitively stated that the trees have root rot. The Commissioners agreed that Criterion G is not applicable. Vice Chair Goddard moved to approve Tree Removal Permits 717-24 and 718-24 subject to the applicants planting two mitigation trees with the conditions listed in the staff report and the City Tree Code. Commissioner Saab seconded the motion. The vote passed (6-0).

**MO 030524-2**

- **8026 SW Kingfisher Way: PERMIT 725-24.** Request to remove one large maple tree from the front of the property. The applicant states that this maple will be negatively impacted by the removal of the Douglas Fir that stands next to it. A large maple tree was approved to be removed from the back yard due to damage from previous tree fall, and two large Douglas Fir trees from this property fell in January of 2024. Commissioner Winkler asked if there is an arborist’s report. Chair Deeming answered that there is not an arborist’s report. Resident Teresa Braun asked how close the maple tree is to the Douglas Fir that is being removed. Chair Deeming responded that it is maybe a couple of feet. Mr. Tarabocchia, who was representing the homeowner, stated that the homeowner’s insurance provider has said they will drop her if she has one more claim and she is worried that if something were to happen with this tree, she would not be able to be insured. The Commissioners discussed the possibility of having it pruned.

Commissioner Frazell asked if there is any chance they could get an arborist’s report. Mr. Tarabocchia responded that they could most likely get one eventually. Commissioner Winkler expressed concern at not having an arborist’s report because the Commissioners are not experts on trees and do not know if a maple would behave differently than a Douglas Fir when it comes to wind throw and root rot. Mr. Tarabocchia asked if an arborist’s report is required for a Type E permit. Chair Deeming responded that it is not a requirement, but a request, because the Planning Commissioners are regular citizens and not arborists and if the information an arborist can provide helps them make a more informed decision. Mr. Tarabocchia asked what information the Commission would like to see in an arborist’s report. Commissioner Winkler answered that he would like to know the difference between the root system of a Douglas Fir and a tap root tree as far as wind throw and susceptibility to root rot, and if the Douglas Fir the Commission just approved to be taken down has root rot. Mr. Tarabocchia stated that the homeowner is a retired person on a fixed income and may not be able to financially afford an arborist’s report with the requested information, especially with the cost of having to remove the tree. Vice Chair Goddard stated that the Commission should take into consideration the hardship situation on the homeowner, emphasizing that she had already had a tree fall and damage her house and fence in the past 18 months and has other tree stumps she has to have removed. Commissioner Winkler said he would like to know if the maple is on the list of invasive species. Vice Chair Goddard said that the ground will be quite disturbed once the stump from the Douglas Fir is removed.

The Commissioners went through the staff report to determine their Findings. The Commissioners agreed that this is a Type E permit, as it does not qualify under any other permit type. The Commission agreed that the permit has been processed as a Type 2 Process.

Durham Tree Protection Ordinance 228-05, Section 4, provides seven criteria for consideration for issuance of a Tree Cutting Permit. The Commissioners agreed that Criterion A is applicable, as the removal of the nearby Douglas Fir may cause instability in the soil, making the tree more likely to fall. Additionally, the homeowner has a history of damage to her home in 2022 and trees from her property falling on her neighbor's home in 2023. The homeowner is a senior citizen and has been informed that her homeowner's insurance will cancel her coverage if there are additional tree-related claims at the property given the history in the neighborhood over the last year. Commissioner Frazell said that she is inclined to give more leeway without the arborist's report because of the hardship and history of the property. Chair Deeming said that making decisions based on hardship and history of the property should be added to the tree removal process if the Commission will be using those as criteria going forward. Commissioner Winkler questioned if the Commission has the right to consider those criteria if they are not in the current rules. Commissioner Paul responded that the Commission is the governing body, so they have the right to make that determination. Vice Chair Goddard said that this will most likely be part of the discussions in the Tree Ordinance Working Group.

The Commissioners agreed that Criteria B and C are not applicable. The Commissioners agreed that Criterion D applies because the removal of a medium deciduous tree that provides foliage for color and shade will impact the neighborhood characteristics and beauty. The Commissioners agreed that Criteria E is applicable and mitigation is necessary. The homeowner intends to work with the neighbors to plant an appropriate mitigation tree. The Commissioners agreed that Criteria F and G are not applicable.

Commissioner Paul moved to approve the tree removal permit subject to the applicant planting one mitigation tree with the conditions listed in the staff report. Commissioner Winkler seconded the motion. The vote passed (6-0).

**MO 030524-3**

- **7980 SW Kingfisher Way: PERMITS 721-24 & 722-24.** Request to remove two large Douglas Fir trees. The applicants are concerned that the trees could fall and would cause extensive damage and possible loss of life in the target zones. Chair Deeming noted that there is no arborist's report for the trees, but the applicants say there is a history of root rot in the area. Co-applicant Teresa Braun stated that, when they built their house in 1995, there was a large fir tree in the front of the house that had to come down because it had significant root rot. That tree was within 15 feet of the trees that they are now requesting to remove. Ms. Braun added that there have been several fir trees that have fallen within 50 meters of the trees in the past, causing significant damage to nearby homes. She said that root rot can live in the soil for up to 50 years. Ms. Braun added that they took pictures with a drone that show the tree on the south side curves out toward the road. Additionally, the drone pictures indicate that it is possible the tree to the north has lost its top and they are concerned that water might be getting inside the tree and causing damage. She said that two large branches have fallen recently, damaging their fence and gazebo. Ms. Braun stated that they walked the lot with the builder when they first purchased the property and had the opportunity to take out all the existing trees. They decided to save as many as they could because they loved the trees, but now feel like that was a mistake.

Co-applicant Mark Schrimp said that they are trying to protect their neighbors by having the trees removed. Vice Chair Goddard noted that the applicants have a history of hardship, as their home was already damaged by one of the falling trees. Mr. Schrimp added that all trees are potentially dangerous. Commissioner Winkler agreed, but added that he does not think the residents want to see every tree cut down that has potential. He added that it is a slippery slope to say every tree has potential so it should be cut down, and expressed concern about the trees of neighbors that will now be exposed when these trees are removed. Commissioner Winkler asked if there has been any comment from other residents on the removal of the trees. City Administrator Parente responded that he

has heard some concern from a couple of residents about the removal of trees in the area, but that no one has gone on record in opposition to removing these trees. He added that there are a couple of letters of support from neighbors for removing the trees. Residents Braun, Schrimp, and Skaug expressed concern over the Commission's reliance on arborist's reports when deciding on tree removals, noting that there have been trees that have fallen after receiving a clean bill of health from an arborist. Mr. Parente replied that City staff and Planning Commissioners are not tree experts and rely on the professional opinions of the arborists.

Ms. Braun wondered if there is a program or grant that could help the City determine the issue with the Heron Grove trees. Commissioner Paul answered that it is a homeowner's responsibility to take care of the trees on their property. Mr. Tarabocchia asked if there is FEMA funding or some other help available because it is expensive for homeowners to assess and take down trees. He added that the argument of wanting to take down all the trees does not apply, as the neighbors only want to remove the ones they see as the most dangerous. Commissioner Winkler disagreed and noted the maple tree they just approved to be cut, saying that he does not believe that tree is dangerous. Mr. Parente responded that he had applied for FEMA funds after the storm, but the County did not meet the threshold to receive funding, adding that the funding was meant to repair damages to public property, not private property. He agreed that it is important for the City to manage the tree canopy and noted that, in the past, the City has used Oregon State University Forestry interns to do canopy studies and forestry reports. He said he has reached out and let them know that Durham would be interested if there are future opportunities for similar studies.

Commissioner Paul expressed concern about setting precedent on tree removals, noting that it is hard to say yes to some residents and no to others. Vice Chair Goddard responded that tree removals should be considered on a case-by-case basis, and that what is going on with the Heron Grove trees is a different situation because homes have been destroyed and people have been in danger. He added that they are walking a fine line and it is a tough situation, but they have never had this kind of trauma and damage to consider. Resident Jim Shelman of Heron Grove expressed that he is not concerned about everyone wanting to cut down trees. He suggested that, if there were others who wanted to cut trees, they would have come forward. He said that they are the passionate ones because they had it happen next door. Mr. Parente noted that the City has processed a large volume of tree removal permits since the storm and most of them were able to be administratively approved because they met the test of the Type 1 conditions. Commissioner Winkler said that his concern is if the Commission is following the rules, and if the rules need to change. He said he is fine with changing the rules if that is what is needed, and also expressed that he wants to make sure that all residents opinions on the tree removals are being considered. Vice Chair Goddard said that the situation with the Heron Grove trees is unprecedented and he believes that the rules need to be revised. He added that this is a geographical area that has been adversely affected by disease, wind, and tree fall, and there is enough compelling data and evidence to make a decision.

Resident Martha Rainey said that she does not believe that there is going to be a large number of people who want to cut trees down. When they had the Heron Grove neighborhood meeting, they identified the trees they felt were the most dangerous, and those are the ones they are asking to remove. She added that cutting trees is very expensive and not something a homeowner would want to pay for without a good reason. Commissioner Winkler responded that he is not concerned about people wanting to cut trees, but about neighbors having to cut a tree because the neighboring trees were removed. Mr. Skaug said that he believes the Douglas Firs are reaching the end of their

lives and this is a good opportunity to “reset” the canopy by planting mitigation trees that are not as dangerous.

The Commissioners went through the staff report to determine their Findings. The Commissioners agreed that this is a Type E permit, as it does not qualify under any other permit type. The Commission agreed that the permit has been processed as a Type 2 Process. Durham Tree Protection Ordinance 228-05, Section 4, provides seven criteria for consideration for issuance of a Tree Cutting Permit. The Commissioners agreed that Criterion A is applicable, as the homeowners are requesting to remove the trees because they believe they have the potential to fall and hit nearby homes and put their neighbors’ lives at risk. There is no arborist report confirming that the trees have a condition that makes them likely to fall, but there is a history of root rot in the immediate area and they have already had one tree fall and damage their home. The applicants included letters from neighbors expressing support for the removal of these trees that could impact the safety of their homes.

The Commissioners agreed that Criteria B and C are not applicable. The Commissioners agreed that Criterion D applies because the removal of two tall trees will impact the neighborhood characteristics and beauty, but that mitigation will address this. The Commissioners agreed that Criteria E is applicable and mitigation is necessary. The Commissioners agreed that Criteria F and G are not applicable. Commissioner Winkler moved to approve the tree removal permit subject to the applicant planting two mitigation trees with the conditions listed in the staff report. Vice Chair Goddard seconded the motion. The vote passed (6-0).

**MO 030524-4**

8. **COMMISSIONER COMMENTS/REPORTS/STAFF UPDATES.** Commissioner Frazell asked about the PGE work on Rivendell and if PGE would be putting the road back together. City Administrator Parente replied that PGE just had the compaction test done and would be paving within the next few weeks. Vice Chair Goddard noted that the power pole on Ellman was recently replaced.
9. **NEXT REGULARLY SCHEDULED MEETING OF THE PLANNING COMMISSION.**
  - April 2<sup>nd</sup>, 2024, Regular Meeting of the Planning Commission at 7:30 pm.
10. **ADJOURN.** Chair Deeming adjourned the meeting at 10:10 pm.

Approved: \_\_\_\_\_

**Susan Deeming, Chair**

Attest: \_\_\_\_\_

**Jordan Parente, City Administrator**