



1. **CALL TO ORDER.** Chair Susan Deeming called the meeting to order at 7:33 p.m.
2. **ROLL CALL.** *Commissioners Present:* Chair Susan Deeming, Vice Chair Brian Goddard, Commissioners Pat Saab, Krista Bailey, Matt Winkler, and David Streicher
Commissioners Absent: Vice Chair Brian Goddard, Cheri Frazell
Staff Present: City Administrator Jordan Parente and Administrative Assistant Becky Morinishi
Public: Max Bondar of David Weekley Homes; Residents Larysa and Derek McMurray of SW Rivendell; Wendy Vander Velde of Fierce Fitness.
3. **APPROVAL OF MEETING MINUTES.** Commissioner Pat Saab moved to approve the minutes from the April 2nd, 2024, meeting. Commissioner Krista Bailey seconded the motion. The motion passed (5-0).

MO 050724-1

4. **PUBLIC FORUM.** None
5. **SIGN PERMIT APPLICATION 471-24 – 17400 SW UPPER BOONES FERRY ROAD, STE 285.** Wendy Vander Velde of Fierce Fitness introduced herself to the Commission and said she has been in business at the location since March, 2022. She said that she went to the property manager of the Woodlands to get approval when her business mentor encouraged her to put up a sign. The sign was installed in April, 2024, by Sylvan Signs. Chair Deeming noted that the sign was installed prior to getting Planning Commission approval. Ms. Vander Velde explained that she did not know that permission was required, but when City Administrator Parente informed her, she came in right away to fill out a Sign Permit Application and pay the permit fee. Chair Deeming asked the Commissioners if they had gone to see the sign in person. The Commissioners responded that they had and that the sign looked appropriate for the business.

Chair Deeming noted that there are several criteria that have to be met for the sign permit to be approved. The Commissioners agreed that the sign meets all the criteria. Commissioner Winkler asked if the lettering is aluminum. Ms. Vander Velde responded that the lettering is acrylic.

Commissioner David Streicher moved to approve Sign Permit Application #471-24 as proposed. Commissioner Matt Winkler seconded the motion. The vote passed (5-0).

MO 050724-2

6. **SIGN PERMIT APPLICATION 472-24 – DURHAM HEIGHTS MONUMENT SIGN.** Max Bondar of David Weekley Homes introduced himself to the Commission. Mr. Bondar presented the proposed monument sign to the Planning Commission. He noted that the sign would be installed on a brick wall and wrap around the corner. He stated that it will be ¼" steel and will be powdered coated black to prevent rusting. It will have 9" gold letters in the Bell MT font, measure 12' x 2.5', and will not be illuminated. He noted that the sign is intended to look similar to the Heron Grove monument sign for continuity in the City. Chair Deeming asked if the painted gold letters would have any reflection or glare. Mr. Bondar answered that they will be a matte finish and not have any glare. Commissioner Winkler asked for clarification on the wall, as the drawing shows a cultured stone instead of brick. Mr. Bondar replied that the drawing is outdated. It will be brick and will measure 8' x 4' x 12'.

City Administrator Parente stated that he was told the sign would be on a removable fence panel to provide access to Clean Water Services. Mr. Bondar said that David Weekley is coordinating with Clean Water Services to see if they are okay with putting a permanent sign there. He said they were hoping to get design approval from the Planning Commission before asking Clean Water Services. Chair Deeming said the Planning Commission would need to know the placement before they could approve the sign permit. Mr. Bondar showed the Planning Commission where the Clean Water Services easement is on the property. Commissioner Streicher asked if the shaded area on the drawing was a sidewalk. Mr. Bondar replied that it is a sidewalk. Commissioner Winkler asked who is responsible for the upkeep of the monument sign. Mr. Bondar replied that the HOA and/or the owners of Lot 34 are responsible for maintaining it. Commissioner Saab noted that City ordinance requires the owners of the lots adjacent to the sidewalk to maintain the sidewalk. Chair Deeming asked if the monument sign is 5 feet back from the sidewalk. Mr. Bondar confirmed that it is.

Chair Deeming asked if this will be the only monument sign. Mr. Bondar affirmed that it will be the only monument sign. The Commissioners agreed that the sign design meets the required criteria, but they are uncomfortable approving the permit because the permit application and the drawings provided are not consistent. Commissioner Winkler said he would like to see the wording updated on the sign permit to say brick instead of stone. Commissioner Bailey agreed that she wants to know that what she is approving is consistent with the drawings. Commissioner Winkler asked about the timeline for building the sign. Mr. Bondar responded that it will be several weeks before they build the monument sign and that they are not planning to build anything different from what is pictured.

Commissioner Matt Winkler moved to approve Sign Permit Application #472-24 with the conditions that the original permit will be updated to match the materials, drawing, and schematics in the presentation documents and David Weekley Homes receives permission from Clean Water Services on the placement of the sign. Commissioner Pat Saab seconded the motion. The motion passed (5-0).

MO 050724-3

7. **ILLEGAL TREE REMOVALS AT 17398 SW RIVENDELL:** Larysa and Derek McMurray introduced themselves as the owners of 17398 SW Rivendell Drive. Ms. McMurray stated that they purchased the property on February 20, 2024. After purchasing the home, they reached out to their home insurance company to add the property to their portfolio. The insurance company completed a property condition report and informed the owners that they are in neglect of many items that needed remedy, including trees that were overgrown and hazardous. The owners hired the company, Azteca Tree Service, to remove the trees via Thumbtack, a home services website, and the trees were scheduled to be removed on April 1, 2024. Ms. McMurray said that she received a phone call from the tree company that day saying that they had been instructed by City Administrator Parente to stop removing the trees. That is when the owners discovered the residence they purchased was in the City of Durham. Ms. McMurray stated that she was able to connect with Mr. Parente via phone on April 20, 2024. She stated that the conversation did not go well and she felt Mr. Parente was accusatory and disrespectful. She stated that, at this point, she and Mr. McMurray want to rectify the situation. She said they had no intention of violating City of Durham ordinances and requested that fines be waived as they were not aware their house was in the City of Durham. Ms. McMurray stressed that her insurance company is concerned about the liability of the trees, as they believe them to be hazardous. She stated that her insurance company recommended they sue the City of Durham for a higher insurance policy, as the insurance company will not cover tree damage if they know the tree is rotten or dead. Ms. McMurray said that their intention is to improve the property, which has been run down and neglected for many years.

Chair Deeming asked Ms. McMurray how many trees had been cut. Ms. McMurray responded that she did not know, but said that some of them were overgrown bushes and the bigger one that was cut was dead

and hollowed out inside. Commissioner Winkler suggested that the two smaller trees looked like vine maples. Commissioner Bailey noted that the Staff Report indicates that there were three trees that were removed. She asked Ms. McMurray if she had already submitted additional tree removal permits for the trees she still wanted to take out. Ms. McMurray said she had not, but had the permits with her. Commissioner Bailey asked how many more trees she wants to remove. Ms. McMurray answered that she would like to remove four additional trees.

Mr. Parente said he received two phone calls from residents stating that there were trees being cut down and they did not see active tree removal permits on the website. He said that when he arrived at the home he found workers clearing brush and noticed a large wedge had been cut out of a tree in the front of the property. Mr. Parente said he told the workers that permits are needed to cut trees in the City. He told them that the tree had been cut illegally, but they needed to take it the rest of the way down because it had been compromised and was now a safety hazard. He said he spoke on the phone with a person in the office named Nicole and made it clear that they should stop work on the cutting of trees on the property as they were not permitted. Mr. Parente indicated that there were more trees on the property that were marked for removal and a few smaller trees in the front had already been cut, as well. He said he sent a letter to the homeowner on April 2nd and was under the impression the homeowner had received the letter when she called on April 19th, 2024. Mr. Parente said he attempted to explain the tree ordinance to Ms. McMurray but there was a misunderstanding because he thought that she had read the letter he sent with the information about the tree removal process. He asked Ms. McMurray how many trees had already been cut and she responded that she did not know.

Mr. Parente said it is unfortunate that it is not clear how many trees were cut without a permit, but he felt confident that at least three were greater than 5" dbh. Commissioner Streicher said that if Ms. McMurray had applied for a permit, it probably would have been approved because it was clear that the larger tree was rotten. Chair Deeming agreed, saying that the smaller trees would also probably have been approved because they are so close to the house. Commissioner Bailey asked Ms. McMurray when they closed on the house. Ms. McMurray responded that they closed on February 20, 2024. Commissioner Bailey asked if the homeowners are living there. Ms. McMurray responded "technically, no, but publicly, yes." Commissioner Bailey asked when the insurance inspection was completed. Ms. McMurray answered that it was completed prior to closing on February 16th and was part of the loan package. Commissioner Bailey asked if they used a realtor. Ms. McMurray said that it was an off-market transaction. Ms. McMurray asked the Commissioners how she would know that the home is in Durham. Commissioner Bailey answered that it is listed on the property tax records. The Commissioners agreed that it can be confusing. Commissioner Bailey noted that surrounding cities also require homeowners to do due diligence when removing trees.

Mr. Parente asked Ms. McMurray if she will be getting arborist's reports for the additional trees she would like to have removed. She responded that she has tried, but has not been able to find anyone who can do it right now. She added that the Property Inspection Report from her insurance company says that the trees are dangerous and that she has photos showing that they are leaning and rotten. Commissioner Bailey said that if the trees are obviously dead or diseased the City Administrator has the authority to approve them administratively, but if the disease cannot be seen, the Planning Commission needs a professional to assess whether or not they are dangerous or dying. Ms. McMurray said they would like to avoid the cost of getting an arborist's report, if possible, and asked if the arborist's report is needed for other reasons like improving a deck. Commissioner Bailey reiterated that the Commissioners are not professionals when it comes to diagnosing and treating trees and cannot determine whether a tree should be treated and/or trimmed versus being removed. Ms. McMurray explained that they have had arborists come out and give them verbal information about the trees and an estimate for removing them, but the arborists have been unwilling to provide a written report stating why the trees need to be removed.

The Commissioners agreed that the removal of the large tree in the front yard was unpermitted and illegal. The Commissioners discussed the two smaller trees that were also cut and determined that they did not have enough information to confidently determine that the trees were over 5" dbh. The Commissioners

agreed that imposing a fine for the illegally removed tree is consistent with the City's tree ordinance and what has been done in the past. The Commissioners discussed the amount of the fine and agreed on a \$100 fine plus the \$25 Tree Removal Permit application fee. The Commissioners agreed that no mitigation is required because the tree was dead.

Commissioner Bailey moved to fine the owners of 17398 SW Rivendell \$100 for the illegal tree removal plus a \$25 Tree Removal Application fee. Commissioner Winkler seconded the motion. The motion passed (5-0).

MO 050724-3

8. **TREE COMMITTEE MEMBER RECOMMENDATIONS FOR CITY COUNCIL.** The Commissioners reviewed five applications from residents who applied to serve on the Tree Committee. The Commissioners agreed that chair Deeming, Commissioner Streicher, and Commissioner Winkler would serve on the Tree Committee. The Commissioners discussed the methodology they would use to choose the four residents to serve on the Committee. They agreed they would like to have a balanced committee that represents all of the neighborhoods in Durham. Commissioner Streicher suggested recommending to the City Council that the number of residents on the Tree Committee be increased to five to include all of the applicants. The Commissioners agreed to recommend to the City Council to increase the number of residents on the Tree Committee to five and appoint all five applicants. If increasing the number of residents on the Committee to five is not amenable to the Council, the Commissioners recommend appointing Chris Van Vleet, Forrest Boleyn, Lauren Marrone, and JR Tarabocchia to the Tree Committee and appointing Craig Lockwood as an alternate.
9. **COMMISSIONER COMMENTS/REPORTS/STAFF UPDATES.** City Administrator Jordan Parente shared that Durham Heights plats were officially signed and recorded. He updated the Planning Commission on a middle-housing proposal by the developer of Durham Estates. Mr. Parente shared that Governor Kotek signed SB1576, which keeps Recreational Immunity in effect. He also shared that Metro wants to gain access for a trail over Tract B of the Durham Heights development and is in discussions with the developer.
10. **NEXT REGULARLY SCHEDULED MEETING OF THE PLANNING COMMISSION.**
 - Tuesday, June 4th, 2024, Regular Meeting of the Planning Commission at 7:30 pm.
11. **ADJOURN.** Chair Deeming adjourned the meeting at 9:55 pm.

Approved: _____

Susan Deeming, Chair

Attest: _____

Jordan Parente, City Administrator