



1. **CALL TO ORDER.** Vice Chair Brian Goddard called the meeting to order at 7:30 p.m.
2. **ROLL CALL.** *Commissioners Present:* Vice Chair Brian Goddard, Commissioners Pat Saab, Krista Bailey, Matt Winkler, Cheri Frazell, and David Streicher
Commissioners Absent: Chair Susan Deeming
Staff Present: City Administrator Jordan Parente and Administrative Assistant Becky Morinishi
Public: Dave Cady, representing David Weekley Homes; Residents Lauren Marrone and David Potter of SW Rivendell; Larysa and Derek McMurray of SW Rivendell.
3. **APPROVAL OF MEETING MINUTES.** Commissioner Pat Saab moved to approve the minutes from the June 4th, 2024, meeting. Commissioner Matt Winkler seconded the motion. The motion passed (4-0).

MO 80624-1

4. **PUBLIC FORUM.** None
5. **CHANGE REQUEST FOR APPROVED DURHAM HEIGHTS MONUMENT SIGN, Permit #472-24.** The Planning Commission approved Sign Permit #472-24 on May 7th, 2024. The applicant requested to change the approved building materials from red brick to red and gray ledger stone because they could not find a suitable red brick. Dave Cady of David Weekley Homes stated that only the materials on the wall would change and the sign would still be a matte black with gold lettering. Commissioner Saab moved to approve the materials change. Commissioner Streicher seconded the motion. The vote passed (4,0).

MO 80624-2

6. **TREE REMOVAL PERMIT APPLICATION #747-24, 17398 SW Rivendell Drive.**
Vice Chair Goddard requested information on the history of the recent tree removals on the property. City Administrator Parente stated that he stopped work on an unpermitted tree removal on April 1st, 2024 and that the Planning Commission fined the property owners \$100 for the illegal tree removal. Subsequently, the residents applied to remove four additional trees on the property. Two of the tree applications were administratively approved, as the applications included an arborist's report stating the trees had decay. The applicants emailed the City on July 17th, 2024, stating they did not want to proceed with the removal of the third tree. The fourth tree, permit #747-24, is a big leaf maple on the side of the property that was recently pruned. The applicants applied as a Type B permit. There was not sufficient evidence that the tree meets the criteria for a Type B permit, so Mr. Parente moved the application forward to the Planning Commission as a Type E permit.

Mr. Parente delivered notices about the tree removal hearing to nearby residents on July 26th, 2024. At this time, he was informed by neighbors David Potter and Lauren Marrone that they did not want the tree removed and believed the tree could be on their property instead of the applicant's property. Mr. Potter and Ms. Marrone wrote a letter to the Planning Commission expressing their concerns about the location of the tree. Mr. Parente stated that he had also received emails in opposition to the removal of the tree from two other nearby residents.

Vice Chair Goddard stated that he had visited the property to look at the tree. He asked who took all of the branches off the tree and why the applicants had rescinded the Tree Removal Application for the third tree. Ms. McMurray stated that they rescinded the application for the third tree because it was on the neighbor's property. She said they had the branches trimmed on the fourth tree due to concerns from their homeowners insurance company. Mr. Goddard shared an email he received from Chair Susan Deeming, who was unable to attend the Planning Commission meeting. The email stated that there appeared to be a discrepancy on the application in the distance from the tree to the house. Ms. Deeming said the tree does not look less than 10 ft from the house. She added that not knowing what property the tree is on is grounds for denial.

Vice Chair Goddard agreed and added that the neighbors do not want the tree removed. He said that a property survey is needed to prove the tree is on the applicants' property. Commissioner Streicher asked the applicants

what made them confident that the tree was on their property. Ms. McMurray replied that it is on their fence line, but part of the tree could be on the neighbors' property. The Commissioners discussed how to proceed with the application without knowing if the tree is on the applicants' property. Commissioner Streicher asked the applicants if they were willing to get a property survey done. The applicants stated they would not get a survey done and they would not cut the tree. Commissioner Saab moved to deny the Tree Removal Permit due to not knowing if the tree is on the applicants' property. Commissioner Winkler seconded the motion. The vote passed (4,0).

MO 80624-3

- 7. COMMISSIONER COMMENTS/REPORTS/STAFF UPDATES.** Commissioner Winkler asked City Administrator Parente for an update on the flood light in the park. Mr. Parente said that PGE replaced the bulb with a 4,000 lumen light and that a resident was concerned that it was too bright. Vice Chair Goddard asked if the light was too bright in the resident's windows. Mr. Parente said no, but it might be when the leaves fall off the trees in a couple of months. He added that there were concerns the lights could be disruptive to wildlife in the park at night. He said that he spoke with PGE to have the bulb changed to something less bright, but PGE would charge \$1,000 per light to switch them out. He said he would continue to work on finding a solution.

Mr. Parente updated the Planning Commission on the treed lot located on Upper Boones Ferry Road between SW Willowbottom and SW Rivendell. The City arborist performed work between June 24th and June 26th, 2024. He said the tree work came from the recommendation of the City Arborist who was concerned about the condition of some of the trees. He stated that the area was left messy and received negative feedback from Durham residents regarding the removals. Some of the dead or dying trees failed during removal and he had the arborist send a crew to clean up the mess on July 31st and August 1st, 2024. Mr. Parente said that in future he would proceed differently with tree removals on City property. Commissioner Winkler asked what changes Mr. Parente would make. Mr. Parente responded he acted on the advice of a trusted arborist and that some trees had fungus, while others were dead. He acted out of concern about the danger the trees posed to people and property considering the recent storm. He stated that it was a lot of work at once and suggested messaging in the newsletter. He said that the Tree Committee may recommend to Council that the City obtain a permit or go to the Planning Commission in non-emergency situations. He said that the City also needs to adopt Recreational Immunity by resolution to cover the treed lot so it is not liable if someone were to get hurt. Commissioner Winkler recommended notifying residents within 300'. Mr. Parente acknowledged messaging is difficult as other Durham residents also have a strong connection to the treed lot.

Commissioner Saab added that residents are sensitive about the trees in the treed lot and did not know that the trees were going to be cut. Commissioner Streicher said that the topic of maintaining trees on City property would be addressed in the Tree Committee work group. He stated that Recreational Immunity covers access trails. Mr. Parente responded that he communicated with the City Attorney and still has concerns about whether Recreational Immunity would apply if an arborist recommended removing the trees due to the potential of failure. If someone could get hurt, he prefers to err on the side of caution. Commissioner Streicher said that he thinks the trees would have been there for a long time and the possibility of them coming down on someone was very small. He added that it does not make sense for the City to cut down trees that are unhealthy, as it is expensive and the area could be maintained as a nature preserve. Commissioner Streicher noted that he would like to present the idea of maintaining certain City-owned property as natural areas to the City Council.

Mr. Parente said that the City had received a large number of requests for tree removals since the storm in January. Commissioner Winkler asked how many Tree Removal Applications are denied. Mr. Parente responded that he sends any Tree Removal Application he cannot administratively approve to the Planning Commission.

Commissioner Streicher updated the Planning Commission on the Tree Committee work group. He said that the Committee has drafted a new “Statement of Purpose,” and they are working on fixes for different areas. He said the final product will be a restated Chapter 162, and that Chapter 5 of the Development Code will be merged into it along with the Committee’s changes. Commissioner Streicher added that, when the Tree Committee is done, the City Council will decide on the changes and, if approved, the City Attorney will review the work.

8. NEXT REGULARLY SCHEDULED MEETING OF THE PLANNING COMMISSION.

➤ Tuesday, September 3rd, 2024, Regular Meeting of the Planning Commission at 7:30 pm.

9. ADJOURN. Vice Chair Goddard adjourned the meeting at 8:45 pm.

Approved: _____

Brian Goddard, Vice Chair

Attest: _____

Jordan Parente, City Administrator