



City of Durham

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Jordan Parente - City Administrator

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STAFF REPORT: OCTOBER 29th, 2024

APPLICATION FILE: #760-24 and 761-24

REQUEST: Approval to one 43.6” diameter breast height (DBH) Beech tree from the applicant’s front yard and one 26” DBH Douglas fir from the applicant’s side yard.

OWNER/APPLICANT: Lonny and Ai Winn
17014 SW Rivendell Drive
Durham, OR 97224

SITE LOCATION: 17014 SW Rivendell Drive

AUTHORIZATION: The review and approval criteria for the proposal are provided in the Durham Development Code (DDC) under Chapter 5 Tree Protection; Chapter 9 Procedures, Section 9.6 Type 2 Process & Criteria; Tree Protection Ordinance 228-05 as amended by Ordinance 246-08; and the Durham Comprehensive Land Use Plan as revised 6.23.95.

SUMMARY OF EVENTS

On September 12th, 2024, two tree removal permit applications were received from Lonny and Ai Winn for the property located at 17014 SW Rivendell Drive. The request is to remove one 43.6” DBH Beech tree from the applicant’s front yard and one 26” DBH Douglas fir from the applicant’s side yard as Type E permits. The applications were assigned tree removal permit numbers 760-24 for the Beech tree and 761-24 for the Douglas fir tree. The applicants report that the Beech tree is “damaging plumbing, affecting the root structure which could cause it to fall”. They also state that the “roots are pushing against the foundation... with diameters up to 12” which means (they) cannot cut the roots without killing the tree”. They also claim the tree is a danger because the canopy weight is towards the house. The applicants state that the Douglas fir is located by the hot tub and is damaging the plumbing. They say that it will eventually break the plumbing line and loosen the soil, which will eventually cause it to fall in a storm. The trees appear healthy. Supporting proof of damage, or arborist report, has not been provided. On October 17th, 2024, the City Administrator posted a public notice of land use action at City Hall and on the City’s website. The same day, notices were delivered or mailed to all property within at least 300’ of the applicant’s property. The tree removal is scheduled to be heard at the regular meeting of the City of Durham Planning Commission on November 5th, 2024.

FACTS, ANALYSIS & FINDINGS

1. **DDC Chapter 5 Tree Protection, Section 5.4.1**

Type “E” Permit. Trees measuring 10” DBH or greater and are not eligible for any other permit type, including Type “D,” shall be subject to permitting with Planning Commission approval under a Type 2 process.

For an approved Type “E” Permit mitigation shall be provided as set forth in Section 5.5. Under certain circumstances, the Planning Commission may require mitigation exceeding that required in Section 5.5, but not less.

FINDINGS

- The applicants’ Beech 43.6” DBH and 26” DBH Douglas fir trees are proposed to be removed under Type “E” tree removal permits #760-24 and 761-24.
- The applicants state the trees are damaging plumbing and eventually could fail, however, no supporting evidence was provided.
- No arborist report has been received regarding these tree removal applications.

2. **DDC Chapter 9 Procedures, Section 9.6 Type 2 Process & Criteria**

Type 2 is a process for review and decision by the Planning Commission with prior notice to affected persons but without a public hearing.

Section 9.6.1: A Type 2 process applies to non-emergency tree removal.

FACTS & ANALYSIS

- The tree removal applications are on the agenda for the November 5th, 2024, meeting of the Planning Commission.
- The City has published, posted, and delivered Public Notices to affected people as of October 17th, 2024.

FINDINGS

- The City finds that Type “E” application appeals are a Type 2 process.

3. **Tree Protection Ordinance 228-05, Section 4 Criteria for Issuance of Tree Cutting Permits**

The burden is on the applicant to show that granting a permit will be consistent with the stated purpose of this ordinance. The ordinance provides seven criteria for consideration.

- a) The condition of the trees with respect to danger of falling, proximity to existing or proposed structures, interference with utility services or traffic safety, and hazards to life or property.
- b) The necessity to remove trees to construct proposed improvements or to otherwise utilize the applicant’s property in an economically beneficial manner.
- c) The topography of the land and the effect of tree removal on erosion, soil retention, stability of earth, flow of surface water, protection of nearby trees, windbreaks and a desirable balance between shade and open space.

- d) The number of trees existing in the neighborhood, the character and property uses in the neighborhood, and the effect of tree removal on neighborhood characteristics, beauty and property values.
- e) The adequacy of the applicant's proposals to plant new trees as a substitute for the trees to be Cut in accord with Section 7 and Section 8 of this ordinance.
- f) The tree is diseased.
- g) The tree is dead.

FACTS AND ANALYSIS

Criteria A: The applicants state:

The Beech tree: Last year I was trying to find a blockage in the drainage lines from our property to the storm drain. As I dug around the foundation of the north side of our home, I found two large roots running into the foundation. One was small enough that I could cut it off. The second was too large and considered an anchor root. This root travels directly under the foundation in the direction of the sewer lines. Eventually this root will penetrate the foundation and sewer line. This tree also has two large arms midway up the trunk that angle towards and over the roof. If there is a problem with that arm, it will crush the house.

The Douglas fir tree: This tree has grown into the support of the pool and hot tub . The distance between the spa structure is less than 4". The roots have damaged the plumbing beneath the concrete patio and are causing leaks in the return lines. This tree is also the closest to the east side of our home with a slight lean towards that side of the house, which is where our children's bedrooms and main living area are located. Our fear is that the roots will damage the water lines enough to loosen the soil beneath the tree, causing a failure, similar to the tree that fell across Boones Ferry during last years windstorm.

STAFF COMMENT: No evidence of property damage has been provided by the time of this report. The City Arborist recently informed the Tree Committee that roots typically grow horizontally and that damage from canopy, or root growth, can be managed by tree care professionals.

Criteria B: The applicants state: No improvements are planned.

Criteria C: The applicants state:

The Beech tree: No known effect. Removal of this tree will create more open space to plant smaller trees.

The Douglas fir tree: No known effect.

Criteria D: The applicants state: Currently have 3 large pine trees and 4 other trees. Removal of these two trees will not create a noticeable difference.

a) The Beech tree: Older tree with character although its height is lower than other trees in the area.

The Douglas fir tree: No change

b) The Beech tree: Removal would open visibility of the street. This tree does create a very dark area on Rivendell.

The Douglas fir tree: No change.

c) Neither tree is a visual screen.

d) Neither tree is part of a stand.

STAFF COMMENT: The City Administrator believes the other trees on the applicants property to be Douglas firs. The City received a letter from a neighbor opposing the removal of the Beech tree due to its beauty, size and prominent position in the neighborhood.

Criteria E: The applicants state:

We will be planting a Japanese Snowbell tree in the same spot the Beech tree is located. It is a flowering tree with a lower height than the Beech. This tree is recommended by our arborist.

STAFF COMMENT: Type “E” permits require mitigation. The Japanese Snowbell is an approved tree variety.

Criteria F: That applicants state: No known diseases on either tree.

Criteria G: That applicants state: Neither tree is dead.

FINDINGS

Based upon the category of a Type “E” removal permit the City finds that the following criteria are applicable: _____.

The Planning Commission finds that the following applicable criteria have been met: _____.

POTENTIAL MOTIONS

1) I move that tree removals 760-24 and 761-24 be denied.

OR

2) I move that tree removals 760-24 and 761-24 be approved with the condition(s) that: _____
(please add the following conditions if you vote to approve and require mitigation):

A. _____ tree(s) will be planted as mitigation. This (these) tree(s) will be _____, (or from the list of approved mitigation trees) and be of a size that complies with the requirements set forth in Chapter 5, Section 5.5.1, i.e. 2” in diameter when measured from the top of the root ball for deciduous trees or 6’ tall when measured from the top of the root ball, excluding the leader, for evergreens.

B. Mitigation tree(s) must be planted within six months of the permit approval. An additional 60-day extension may be requested. Property owner(s) must inform City Hall when the tree(s) is (are) planted.

C. Any mitigation planting(s) that fail within two years of the date of planting(s) requires that property owner(s) notify City Hall and that the failing tree(s) be replaced.

D. Within 60 days of the second anniversary of planting property owner(s) must request a final inspection of the mitigation planting(s). The permit will not be finalized until all the conditions are complied with and the final inspection requested.