



City of Durham

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Jordan Parente - City Administrator

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STAFF REPORT: FEBRUARY 24, 2025

APPLICATION FILE: #785-25, 786-25, 787-25

REQUEST: Approval to remove one pear tree 13" diameter breast height (DBH) and two Douglas-fir trees 34" and 40" (DBH) from the applicant's yard.

OWNER/APPLICANT: Rick Martin and Cynthia Yoshimura
17719 SW 81st Place
Durham, OR 97224

SITE LOCATION: 17719 SW 81st Place

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 January 31st, 2025, the City received tree removal permits 785-25, 786-25 and 787-25 from the applicants Rick Martin and Cynthia Yoshimura for the property located at 17719 SW 81st Place. The applications are to remove one Bartlett pear tree with 13" DBH (785-25) from the applicant's front yard and two Douglas-fir trees 34" and 40" (DBH) from the applicant's rear yard (786-25 and 787-25). The applications are Type "B" permits, requiring the condition of the trees to be dangerous or potentially destructive to public or private property. The applicant provided support from an arborist who stated the two Douglas-fir trees are incorrectly cabled. One is dying and the other irreparably damaged. No report was given regarding the pear tree. This tree, however, was planted in an extremely poor location, less than a foot from five public utility accesses and an electrical transformer and will ultimately cause damage.

On February 18th, 2025, the City posted a public notice of land use action at City Hall and on the City's website. The same day, notices were delivered to all properties within at least 300' of the applicant's property. The tree removal applications are scheduled to be heard at the regular meeting of the City of Durham Planning Commission on March 4th, 2025.

FACTS, ANALYSIS & FINDINGS

1. DDC Chapter 5 Tree Protection, Section 5.4.2

Type "B" Permit. Trees that are dangerous or potentially destructive to public or private property may be approved by a Type 1 process. When it cannot be determined readily that a tree poses a potential for being dangerous or destructive, approval may be conditioned upon evaluation by a certified arborist or appealed to the Planning Commission upon a payment of the appeal fee. For an approved Type "B" permit no mitigation is required.

FINDINGS

- The applicants' 13" DBH pear tree and two Douglas-fir trees (34" and 40" DBH) are proposed to be removed under Type "B" tree removal permits #785-25, 786-25 and 787-25, respectively.
- Durham's tree ordinance prescribes multiple tree removals to be heard on appeal to the Planning Commission. No additional fee was required.
- Type "B" permits do not require mitigation, but the Planning Commission, as the decision maker, can require mitigation.
- The applicant provided an arborist report pertaining to the two Douglas-firs.

FINDINGS: The Planning Commission finds that (these tree removal permits are/are not a Type B permit type).

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 March 4, 2025, meeting of the Planning Commission.
- The City has published, posted, and delivered Public Notices to affected people as of February 18, 2025.

FINDINGS

FINDINGS: The Planning Commission finds that (this (these) permit application(s) has/has not been processed as 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 pear tree was planted in an extremely poor location and will damage public utilities. The Douglas-fir trees are dying and irreparably damaged and pose a potential hazard to life or property when they fail.

STAFF COMMENT: The Douglas-fir trees were cabled together by drilling through the trees by the previous homeowner. The applicants' home is within the target zone of these trees.

Criteria B:

Not applicable.

Criteria C: The application did not address this section.

STAFF COMMENT: The removal of two large Douglas-firs would increase the amount of light. They are a neighboring grove of trees to the west. It is unknown if, or how, they will be impacted.

Criteria D: The application did not address this section.

Criteria E:

The applicant does not mention mitigation in his tree removal application. Type "B" permits do not require it, but the Planning Commission, as the decision maker, may ask for mitigation.

Criteria F:

The pear tree is not diseased. The Douglas-fir trees are not reported as diseased but one is reported as dying due to improper cabling and the other is reported as unlikely to survive because of improper cabling.

Criteria G: The pear tree is not dead. One of the Douglas-fir trees is dying.

FINDINGS

Based upon the category of a Type "B" 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 785-25, 786-25 and 787-25 be denied.

OR

- 2) I move that tree removals 785-25, 786-25 and 787-25 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.