



City of Durham

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Jordan Parente - City Administrator

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STAFF REPORT: FEBRUARY 24, 2025

APPLICATION FILE: #788-25 and 789-25

REQUEST: Approval to remove two maple trees 19" and 25" diameter breast height (DBH) from the applicant's yard.

OWNER/APPLICANT: Suzanne Tromley
7919 SW Kingfisher Way
Durham, OR 97224

SITE LOCATION: 7919 SW Kingfisher Way

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 February 10th, 2025, the City received tree removal permits #788-25 and 789-25 from applicant Suzanne Tromley for the property located at 7919 SW Kingfisher Way. The applications are to remove two maple trees 20" and 24" (DBH) from the applicant's rear yard. 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 to remove the two maple trees stating they had been dropping branches. Both crowns are reported as medium vigor with several dead branches. One is reported as having a heavy lean but no signs of decay or fungus. The other shows no fungus but some rotten decay as a result of previous trimming.

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' maple trees 20" and 24" DBH are proposed to be removed under Type "B" tree removal permits #788-25 and 789-25.

- Durham’s tree ordinance prescribes multiple tree removals to be heard on appeal by 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 did provide arborist reports.

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 trees are reported as dropping large branches. One is reported as having heavy lean, and the other decay. The arborist recommends removing both trees.

Criteria B:

Not applicable.

Criteria C: The application said the removal will not affect erosion, soil retention or stability of earth.

STAFF COMMENT: The removal of two large maple trees will increase the amount of light.

Criteria D: The applicant states these are the only large maple trees on the property. The others are smaller maples, crape myrtles and dogwoods. She said removal won't hurt property values.

Criteria E:

The applicant wishes to plant Japanese lilac or flowering dogwoods, found on the mitigation list.

STAFF COMMENT: Type "B" permits do not require mitigation. As the decision maker, the Planning Commission may require mitigation and decide if they find these trees acceptable replacements.

Criteria F:

The applicant states the trees are diseased.

STAFF COMMENT: The arborist reports one tree as leaning and the other with decay. It is unclear if either issue is caused by disease.

Criteria G: The applicant states the trees are not dead.

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 #788-25 and 789-25 be denied.

OR

- 2) I move that tree removals #788-25 and 789-25 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.