



City of Durham

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Durham, Oregon 97224

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STAFF REPORT: FEBRUARY 24, 2025

APPLICATION FILES #: 802-25, 803-25 & 804-25

REQUEST: Approval to remove two Douglas fir trees, one 32" DBH and one 34" DBH and one 21" DBH Maple tree and from the applicants' backyard.

OWNERS/APPLICANTS: Ryan Locicero
8037 SW Kingfisher Way
Durham, OR 97224

SITE LOCATION: 8037 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 June 4, 2025, the City of Durham received three Type E tree removal permit applications from Ryan Locicero for the removal of two Douglas-fir trees (32" and 34" DBH) and one maple (21" DBH) located on his residential property. According to the applicant, both Douglas-firs (#802-25 and #804-25) are approximately 120–125 feet tall and the trees are close enough to overhang the main living and sleeping areas of the home. They state the 21" maple (#803-25) shares a root base with the 32" Douglas-fir and they expect it to decline or fail if that tree is removed. The applicant states that the trees' proximity to the house, their size, recent tree failures across the street, and storm vulnerability create a safety hazard. Their two young children sleep beneath the canopy of these trees, and the family regularly evacuates portions of their home during storms due to fear of tree failure. The applicant proposes to replant three small-stature trees in the backyard using species from the City's approved mitigation list. The trees appear healthy and are not leaning. No arborist report has been submitted. Public notice was posted at City Hall and on the City's website on June 18, 2025, and delivered to all properties within at least 300' of the applicant's property. The application is scheduled to be heard at the Planning Commission meeting on July 8, 2025.

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 three trees exceed 10” DBH and are not dead, diseased, or confirmed as imminently hazardous.
- The applicant seeks removal due to cumulative site risk, proximity, and emotional burden associated with nearby tree failures.

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 a non-emergency tree removal.

FACTS & ANALYSIS

- The tree removal application is on the agenda for the July 8, 2025, meeting of the Planning Commission.
- The City has published, posted, and delivered Public Notice to affected persons as of June 18, 2025.

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 trees are located within feet of the home, overhanging bedrooms and living spaces. The family cites a pattern of evacuating areas of the home during storms due to fear of failure. Recent neighborhood damage from similar trees is documented.

STAFF COMMENT: No arborist report on the health of the applicants' trees to be removed has been provided and staff are unable to comment on the true condition of the trees without this information, however, the trees appear to be healthy. It is possible they could strike the home of the applicant or a neighbor should the trees fail.

Criteria B: Not applicable

Criteria C: The applicants state the trees are not in a streamside or upland corridor. Removal is not anticipated to increase erosion or runoff. Removal would increase sunlight but the applicants state there are other trees on the property that will continue to provide shade. Applicants propose mitigation to maintain canopy balance but are suggesting significantly smaller trees.

STAFF COMMENT: The trees likely act as a windbreak to neighboring trees to the north.

Criteria D: The applicants state the property retains other mature trees. Applicant states removal will not significantly change neighborhood character and may improve perceived safety and property value.

Criteria E: The applicants propose three small-stature replacement trees (Serviceberry, Kousa Dogwood, and Prairiefire Crabapple), all from the City's approved mitigation list.

STAFF COMMENT: Type E permit does require mitigation. The Planning Commission can decide if they feel these would be sufficient for the replacement of two large Douglas firs and a large maple tree.

Criteria F: Not applicable

Criteria G: Not applicable

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 removal #802-25, 803-25, and #804-25 be denied.
- OR
- 2) I move that tree removal #802-25, 803-25, and #804-25 be approved with the condition(s) that _____ (please at least add the following conditions if you vote to approve and require mitigation):

A. _____ tree(s) will be planted as mitigation. This tree 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 date of approval or a request submitted for an additional 60-day extension. The property owner must inform City Hall when the tree has been planted.

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

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