



City of Durham

17160 SW Upper Boones Ferry Road
Durham, Oregon 97224

Jordan Parente - City Administrator

website: durham-oregon.us
e-mail: cityofdurham@comcast.net
phone: 503.639.6851

Wyatt Bean - Administrative Assistant

STAFF REPORT: NOVEMBER 14, 2025

APPLICATION FILES #: 826-25

REQUEST: To obtain approval to remove eight (8) Douglas fir, *Pseudotsuga menziesii*, trees, 5" Diameter Breast Height (DBH) or greater, to construct new single-family dwelling on newly created Parcel 1 of 7870 SW Ellman Lane.

OWNERS/APPLICANTS: Michael & Diana Marsden
7872 SW Ellman Lane
Durham, OR 97224

SITE LOCATION: 7872 SW Ellman Lane

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

The applicant is proposing to remove eight (8) Douglas fir, *Pseudotsuga menziesii*, trees to construct a new single-family dwelling on 7870 SW Ellman Lane. This 11,033 square foot lot is parcel one of the minor partition of 7870 SW Ellman Lane. The arborist report recommends removal of trees #23 (37" DBH), #24 (38" DBH), #26 (27" DBH), #27 (27" DBH), #28 (50" DBH), #29 (13" DBH), #30 (20" DBH), and #34 (30" DBH). The proposal is preserve three Douglas fir trees on-site: trees #31 (37" DBH), 32 (30" DBH), and 35 (34" DBH). This application proposes to remove 10,048 square feet of real tree canopy, leaving 3,768 square feet of actual tree canopy on this lot. Under Durham tree code, the applicant must leave 35% canopy (3,861 square feet) but receives 200% credit for preserving trees. This means the applicant receives credit of 7,536 square feet of canopy for not cutting down 3 of lot's 11 trees. No trees are proposed to be planted as mitigation, according to the arborist report.

FACTS, ANALYSIS & FINDINGS

1. DDC Chapter 5 Tree Protection, Section 5.7

Type "G" Permit is for previously undeveloped property.

FACTS AND ANALYSIS

- This parcel was created as part of a three-lot partition. The proposed tree removals are associated with the construction of one new single-family home.

FINDINGS: The Planning Commission finds that (this tree removal permit is/is not a Type G permit).

2. DDC Chapter 5 Tree Protection, Section 5.10

Permit types “A” through “D” shall be reviewed by a Type 1 process. All other permits for the removal of a tree or trees shall be by a Type 2 process.

FINDINGS: The Planning Commission finds that (this tree removal permit application should/should not be by a Type 2 process).

3. DDC Chapter 9 Procedures, Section 9.6 Type 2 Process

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 AND ANALYSIS:

- The tree removal application is on the agenda for the December 2nd, 2025, meeting of the Planning Commission.
- The city has published and delivered Public Notice to affected persons as of November 20, 2025.

FINDINGS: The Planning Commission finds that (this permit application has/has not been processed as a Type 2 Process).

4. DDC Chapter 5 Tree Protection, section 5.7.1 Tree Preservation Plan

Separate Type “G” permit applications shall be submitted for a land division and installation of required infrastructure as well as for installation of utilities and structural building permits on each lot at the time the lot applies for a building permit.

The applicant shall submit with the initial application a tree preservation plan prepared by a certified arborist with a narrative as to how the plan will affect tree preservation.

FACTS AND ANALYSIS:

- The submitted report documents Tree Protection Zone (TPZ) calculations based on DBH, identifies fencing placement, states stump grinding requirements, and prescribes arborist oversight during excavation.

FINDINGS: The Planning Commission finds that (the applicant has/has not provided a tree preservation plan).

5. DDC Chapter 5 Tree Protection, section 5.7.2

An applicant shall attempt to preserve existing trees on a site by varying the site design, as provided for elsewhere in this Code, and by the following means, whichever are applicable:

5.7.2.1 Specific measures for tree preservation and protection during all phases of construction, including excavation, grading and filling, repair and removal of trees, pruning and structural support, fertilization and aeration;

5.7.2.2 Use of tree protection zone or construction zone tape with tree fencing;

- 5.7.2.3 All tree related decisions and activity to be approved by the City's arborist;
- 5.7.2.4 All preserved tree health determinations, other than construction damage, to require core samples or other non-harmful procedures;
- 5.7.2.5 Authorize the City to stop work for any violation of the approved plan;
- 5.7.2.6 Require the contractor to acknowledge the approved tree protection plan in writing prior to any on-site tree removal, with a copy of same provided to the City.
- 5.7.2.7 Repair any damage to a preserved tree in a timely manner.
- 5.7.2.8 Employ an Arborist to prevent harm from construction activity to a tree to be preserved on the site;
- 5.7.2.9 Coordinate the project grading with the City's Arborist to identify possible preservation of additional trees not shown on the application;

FACTS AND ANALYSIS:

- The arborist states trees numbered 23, 24, 26, 27, 28, 29, 30 and 34 need to be removed to accommodate the construction of a new home.
- The City of Durham highly values tree canopy and tree preservation.

STAFF COMMENT: Tree #23, (37" DBH Douglas fir) is 5'6" outside of the proposed building footprint. Planning Commission may want to explore if tree #23 may be preserved with arborist oversight and/or minimal design modification.

- The site plan in the arborist report shows the removal of tree #22 on neighboring lot 2 of the minor partition. Planning Commission may want to confirm there is no associated tree removal permit.

FINDINGS: The Planning Commission finds that (the applicant has/has not addressed the requirements for preserving existing trees).

6. DDC Chapter 5 Tree Protection, section 5.8 Mitigation Required

Removed trees shall be replaced with mitigation trees to the extent that at maturity they equal the canopy being removed or mature canopy coverage equivalent to 35% of the square footage of the lot, whichever is less. Mature canopy coverage shall be as set forth on the City's tree list based on the tree species, or as otherwise determined by the City Administrator.

Preservation of existing trees in good condition, suitable for preservation and of appropriate species, shall receive a 200% credit based on their existing canopy area. Planting of native species shall receive a credit of 125% of mature canopy.

(Example: A 10,000 s.f. lot would require 3,500 s.f. of canopy. An existing Black Hawthorne has 314 s.f. of existing canopy. This property would receive a credit of 628 s.f., leaving 2,872 s.f. that will need to be mitigated for with new plantings.)

FACTS AND ANALYSIS:

- The lot is 11,033 square feet. Thirty-five percent canopy coverage is 3,861 square feet.
- This application proposes to remove 10,048 square feet of real tree canopy. This leaves 3,768 square feet of actual tree canopy on this lot.

- Under Durham tree code, the applicant must leave 35% canopy (3,861 square feet) and receives 200% credit for preserving trees. This means the applicant receives credit of 7,536 square feet of canopy by preserving 3 of lot's 11 trees.
- No trees are proposed to be planted as mitigation per the arborist report.

STAFF COMMENT: City tree code allows the decision maker to determine mitigation.

FINDINGS: The Planning Commission finds that (mitigation/no mitigation should be required).

7. 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.

- 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.*
- The necessity to remove trees to construct proposed improvements or to otherwise utilize the applicant's property in an economically beneficial manner.*
- 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.*
- 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.*
- 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.*
- The tree is diseased.*
- The tree is dead.*

FACTS AND ANALYSIS:

Criteria A: The Arborist report does not indicate tree condition. Trees in poor condition were removed under tree removal permit 75-24 when the lot was subdivided. All trees remaining on site are presumed to be in good condition.

Criteria B: Trees numbered 24, 26, 27, 28, 29, 30 and 34 are within the proposed footprint of the new home.

STAFF COMMENT: Tree #23 is not in the proposed building footprint and may be preserved with arborist oversight and/or minimal design modification.

Criteria C: The application does not speak to the topography of the property, nor, adverse effects of soil retention, stability of earth, flow of surface water, protection of nearby trees, windbreak and a desirable balance between shade and open space.

STAFF COMMENT: The topography of the lot is flat and soil retention and earth stability is unlikely to be affected. However, the removal of these trees will increase surface water and light. This removal will also reduce the windbreak for trees on neighboring properties, potentially negatively impacting their stability.

Criteria D: The applicant does not reference the neighborhood trees, nor the effect of tree removal on neighborhood characteristics, beauty or property values.

Criteria E: The applicant does not propose any mitigation.

Criteria F: N/A

Criteria G: N/A

FINDINGS: Based upon the category of a Type G removal permit the City finds that the following criteria are applicable:

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

POTENTIAL MOTION:

I move that tree removal permit #826-25 (*be approved/not approved*) with the condition(s) that _____ (suggestion would be to include the City Arborist recommendation in Criteria)