



MEMORANDUM
City of Beaverton
Community Development Department

To: Interested Parties
From: City of Beaverton Planning Division
Date: January 10, 2020
Subject: ***Notice of Decision for TP2019-0014 Simpson Tree Plan***

Please find attached the Notice of Decision for **TP2019-0014 Simpson Tree Plan**. Pursuant to Section 50.40.11.E of the Beaverton Development Code, the decision for TP2019-0014 is final, unless appealed within twelve (12) calendar days following the date of the decision. The procedures for appeal of a Type 2 Decision are specified in Section 50.65 of the Beaverton Development Code. The appeal shall include the following in order for it to be accepted by the Director:

- The case file number designated by the City.
- The name and signature of each appellant.
- Reference to the written evidence provided to the decision making authority by the appellant that is contrary to the decision.
- If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.
- The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.
- The appeal fee of \$250.00, as established by resolution of the City Council.

The appeal closing date for TP2019-0014 Simpson Tree Plan is 4:30 p.m., January 22, 2020.

The complete case files including findings, conclusions, and conditions of approval, if any, are available for review. The case files may be reviewed at the Beaverton Planning Division, Community Development Department, 4th Floor, Beaverton Building City Hall; 12725 SW Millikan Way, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. For more information about the case file, please contact Brett Cannon, Assistant Planner, at (503) 350-4038.



NOTICE OF DECISION

DATE: January 10, 2019

TO: Interested Parties

FROM: Brett Cannon, Assistant Planner

PROPOSAL: **Simpson Tree Removal
TP2019-0014**

LOCATION: 8295 SW 135th Avenue
Map 1S128BA Tax Lot 07800

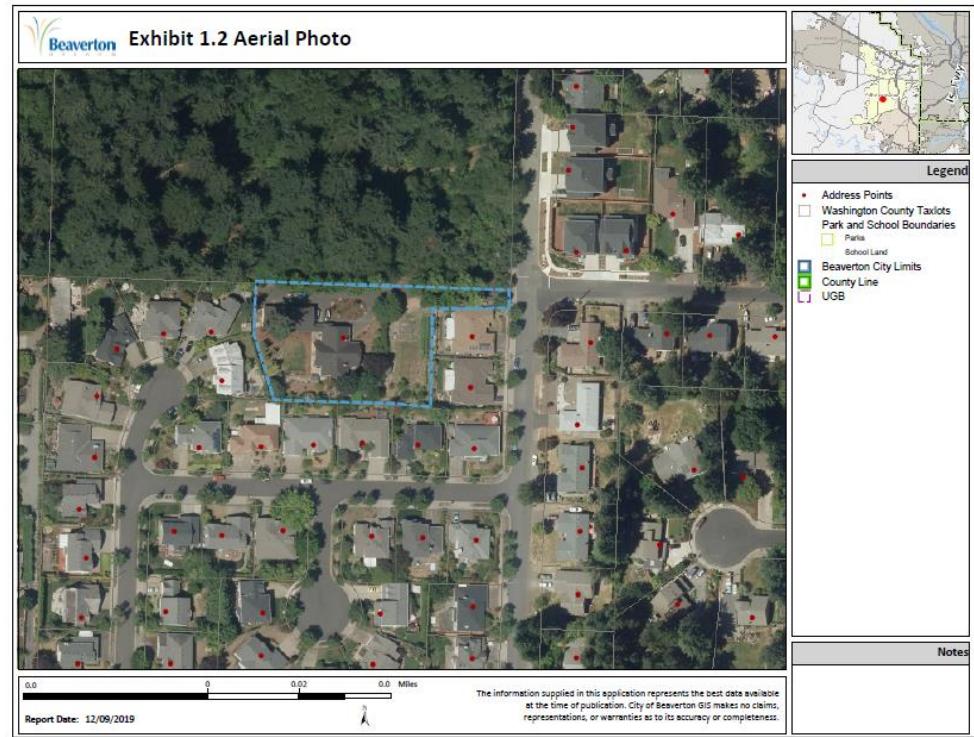
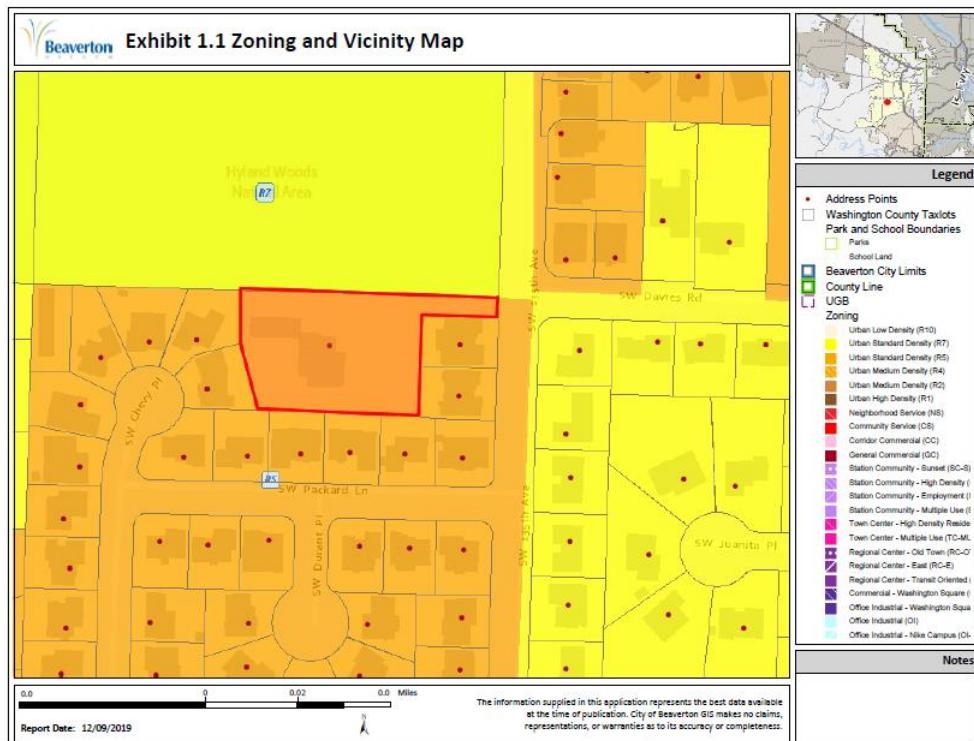
SUMMARY: The applicant requests approval for the removal of fifteen (15) Community Trees in order to accommodate the replacement of an existing driveway and associated landscape improvements.

APPLICANT: Drake's 7 Dees
5645 SW Scholls Ferry Road
Portland, OR 97225

PROPERTY OWNER: John Simpson
8295 SW 135th Avenue
Beaverton, OR 97008

RECOMMENDATION: **APPROVAL of TP2019-0014 Simpson Tree Removal, subject to the conditions herein.**

ZONING/VICINITY/AERIAL MAP



BACKGROUND FACTS

Key Application Dates

Application	Submittal Date	Application Deemed Complete	Day 120	Final Decision Date with 30 day Continuance
TP2019-0014	November 5, 2019	December 4, 2019	April 3, 2020	May 3, 2020

Existing Conditions Table

Zoning	Residential Urban Standard Density 5,000 (R5)		
Current Development	Single-Family Residence		
Site Size	The subject site is approximately 40,500 square-feet.		
NAC	South Beaverton		
Vicinity Zoning and Land Uses	Zoning: <u>North</u> : City of Beaverton R7 <u>South</u> : City of Beaverton R5 <u>East</u> : City of Beaverton R7 <u>West</u> : City of Beaverton R5	Uses: <u>North</u> : Natural Area/Park <u>South</u> : Single-Family Residential <u>East</u> : Single-Family Residential <u>West</u> : Single-Family Residential	

Previous Land Use Approvals

In 1994 the subject site was subdivided as part of the Carr Estates Subdivision, Land Use Case File SB940007 (Exhibit 3.1). At the time, the entirety of the site was designated a significant natural resource (currently Significant Grove 100), as referenced in the City's prior Natural Resource and Significant Tree Inventory. Due to the designation, a significant natural resource report was prepared by Martin Schott Ph.D. on behalf of Westlake Consultants Inc. for the Carr Estates Subdivision land use review. A copy of the resource report was provided by the applicant (Exhibit 4). Dr. Schott concluded that the project site was included on the City's Important Natural Resource and Significant Tree Inventory map due to its location abutting Hyland Forest Park, not for containing any significant natural resources. Ultimately, the report determined that there weren't any significant natural resources, but did identify ten (10) Douglas Firs as significant trees and advised they be retained in a Tree Preservation Plan. The significant trees, identified by Dr. Schott to be protected, were memorialized in the subdivision approval (Exhibit 3.2).

In order to retain the Douglas Firs the Planning Commission adopted Condition of Approval Number Three of case file SB940007 (Exhibit 3.3) to establish modified building setbacks for five of the lots, including the project site (Lot 37) of the Carr Estates Subdivision. As illustrated in Exhibit 3.4, the modified building setback is limited to the rear (west) property line to preserve the Douglas Firs located on Lot 37 and Lot 27. Based on the information from the Carr Estates Subdivision, the rear (west) area of the property, as shown in Exhibit 3.3 is part of Significant Grove 100, and not the entirety of the lot. Based on the information provided by Land Use Case File SB940007, staff has determined the fifteen (15) Sweetgums are considered Community Trees.

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Background Facts	SR 2
Attachment A: Tree Plan Two Approval Criteria	TP1 – TP6
Attachment B: Conditions of Approval	COA1
Exhibit 1.1 & 1.2 : Zoning, Vicinity and Aerial Maps	
Exhibit 2: Public Comments No comments received	
Exhibit 3: Applicant Materials (On file at City Hall) Exhibit 3.1: Carr Estates Subdivision Plat Exhibit 3.2: Carr Estates Protected Trees Exhibit 3.3: SB940007 Condition of Approval Number Three Exhibit 3.4: Modified Building Setbacks for Lot 37 Exhibit 3.5: Approved Site Plan Exhibit 3.6: Tree Removal/Root Pruning Trench Plan	
Exhibit 4: Carr Estates Subdivision Resource Report (On file at City Hall)	

**TP2019-0014 SIMPSON TREE REMOVAL
ANALYSIS AND FINDINGS FOR TREE PLAN TWO**

Section 40.90.05 Tree Plan Applications; Purpose

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. Primary among those benefits is the aesthetic contribution to the increasingly urban landscape. Tree resource protection focuses on the aesthetic benefits of the resource. The purpose of a Tree Plan application is to provide a mechanism to regulate pruning, removal, replacement, and mitigation for removal of Protected Trees (Significant Individual Trees, Historic Trees, trees within Significant Groves and Significant Natural Resource Areas (SNRAs)), and Community Trees thus helping to preserve and enhance the sustainability of the City's urban forest. This Section is carried out by the approval criteria listed herein and implements the SNRA, Significant Grove, Significant Individual Tree, and Historic Tree designations as noted or mapped in Comprehensive Plan Volume III.

Section 40.90.15.2.C Approval Criteria

In order to approve a Tree Plan Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Tree Plan Two application.

The applicant's proposal is to remove 15 Sweetgums along the northern portion of the subject property. While the subject site is part of a significant grove, the prior approvals (SB940007) determined the significant trees are located along the western portion of the subject site and did not include the Sweetgums. Since the size of the Sweetgums are more than 10-inches diameter at breast height (dbh), these trees are considered Community Trees. The applicant's proposal to remove 15 (fifteen) Community Trees on site triggers Threshold 1 for a Tree Plan Two application which reads:

Removal of five (5) or more Community Trees, or more than 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period, except as allowed in Section 40.90.10.1

Therefore, staff find that the proposal meets the criterion for approval.

- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.**

The applicant has paid the required application fee for a Tree Plan Two application.

Therefore, staff find that the proposal meets the criterion for approval.

- 3. If applicable, removal of any tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.**

The applicant proposes tree removal for the purposes of developing a portion of the property. However, the applicant acknowledges the prescriptive of good forestry practices. Bartlett Tree Experts have been retained for the removal of the Community Trees and ensure ANSI standards will be satisfied during the removal phase of the project.

Therefore, staff find that the proposal meets the criterion for approval.

- 4. If applicable, removal of any tree is necessary to accommodate physical development where no reasonable alternative exists.**

The applicant has proposed to remove fifteen (15) trees in order to replace the existing driveway. The applicant states if the Sweetgums were to remain, further damage to the driveway would occur after any repairs.

Therefore, staff find that the proposal meets the criterion for approval.

- 5. If applicable, removal of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.**

The applicant states that tree removal is intended to repair damage to the existing driveway and ensure the repaired driveway will not be damaged in the future.

Therefore, staff find that the proposal meets the criterion for approval.

- 6. If applicable, removal is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.**

The applicant states this criterion is not applicable because the proposed tree removal is not necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs.

Therefore, staff find that the criterion for approval does not apply.

- 7. If applicable, removal of any tree is necessary to enhance the health of the tree, grove, SNRA, or adjacent trees, or to eliminate conflicts with structures or vehicles.**

The applicant states the removal of the Community Trees is necessary to eliminate conflict with structures, specifically damages associated with XXXXX. Staff concurs.

Therefore, staff find that the proposal meets the criterion for approval.

- 8. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in a reversal of the original determination that the SNRA or Significant Grove is significant based on criteria used in making the original significance determination.**

As cited by staff in the background section of this report, the Significant Trees on the site are outside the scope of work of this project.

Therefore, staff find that the criterion for approval does not apply.

- 9. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of wind throw.**

As cited by staff in the background section of this staff report, the Significant Trees on the site are outside the scope of work of this project.

Therefore, staff find that the criterion for approval does not apply.

- 10. The proposal is consistent with all applicable provisions of Section 60.60. (Trees and Vegetation) and Section 60.67. (Significant Natural Resources).**

Staff cites the Code Conformance Analysis chart at the end of this section, which evaluates the project as it relates to applicable code requirements of Sections 60.60 through 60.67, as applicable to the aforementioned criterion. As conditioned the proposal will meet the applicable requirements in Chapter 60.

Therefore, staff find by meeting the Conditions of Approval, the proposal meets the criterion for approval.

- 11. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effects on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.**

The applicant states no grading or contouring will take place on site as part of the tree removal plan. The raised areas of the driveway will be “grinded”, but earth shall not be broken for purposes of contour or grade. Staff cites that the applicant has received approval of FC2019-0281 for erosion control and grading of the site; however, the scope of work is for landscaping improvements un-associated with the findings required of the Tree Removal Plan.

Therefore, staff find by meeting the Conditions of Approval, the proposal meets the criterion for approval.

- 12. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1. of the Development Code.**

The submitted tree plan proposal contained all applicable submittal requirements necessary to be deemed complete.

Therefore, staff find that the proposal meets the criterion for approval.

- 13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.**

No additional applications or documents are needed at this time with the Type 2 Tree Plan application.

Therefore, staff find that the proposal meets the criterion for approval.

Code Conformance Analysis

Chapter 20 Use and Site Development Requirements Residential Urban Standard Density 5,000 (R5) Zoning District

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 20.05.20 (R5)			
Use	Detached Dwelling	Tree removal to repair and replace a damaged driveway.	Yes
Development Code Section 20.05.15 (R5)			
Minimum Lot Area	5,000 square feet	The lot is approximately 40,483 square feet. No change in lot area proposed.	Yes
Minimum Interior Lot Dimensions Width Depth	0' 0'	No changes proposed. Approximately 140' Approximately 348'	Yes
Yard Setbacks Front Side Rear Garage	15' 5' 20' 20'	The applicant has provided a site plan showing the existing home in compliance with the standard setbacks.	Yes
Maximum Building Height	35'	The existing home is approximately 25' in height.	Yes

Chapter 60 Trees and Vegetation & Significant Natural Resources Standards Code Conformance Analysis

CODE SECTION	CODE REQUIREMENT	PROJECT PROPOSAL	MEET STANDARD
60.60.15 Pruning, Removal, and Preservation Standards			
60.60.15.1.A-B	Pruning standards for Protected and Landscape Trees.	No pruning of a Protected Tree is proposed for this project.	N/A
60.60.15.2.	Removal and Preservation Standards for Protected Trees	The applicant is proposing to remove fifteen (15) community trees which are abutting Significant Grove 100, no mitigation is required. Protection measures have been conditioned with this proposal to ensure trees within Significant Grove 100 are protected during development activities.	Yes, with Conditions of Approval
60.60.20 Tree Protection Standards During Development			
60.60.20.1.A-B	Trees shall be protected during construction and activity within the protected root zone shall be limited.	The applicant has submitted a tree protection plan created by a certified arborist. None of the activities in subsection B shall be allowed without additional approval.	Yes, with Conditions of Approval
60.60.25 Mitigation Requirements			
60.60.25.	Mitigation Standards	The applicant is proposing to remove community trees, therefore mitigation is not required.	N/A

DECISION

Based on the facts and findings presented, staff issues an **APPROVAL** of **TP2019-0014 Simpson Tree Removal**, subject to the applicable conditions identified in Attachment B.

CONDITIONS OF APPROVAL

1. In accordance with Section 50.90.1 of the Development Code, a Tree Plan Two approval shall expire after two years from the date of approval unless prior to that time a construction permit has been issued and substantial construction pursuant thereto has taken place, or an application for extension is filed pursuant to Section 50.93, or that authorized development has otherwise commenced in accordance with Section 50.90.3.B. (Planning Division/BC)
2. All activity shall be carried out in accordance with the site plan on file at City Hall, as approved by the Director. (Planning Division/BC)
3. Prior to any on-site excavation or concrete installation, a 48-hour minimum notice to the One Call Utility Locating Center (Ph. (503) 246-6699) shall be given. The applicant shall resolve any utility conflicts prior to work commencing as proposed. (Site Development Division/CR)
4. Provide erosion control using best management practices needed per Clean Water Services standard drawing no.945. (Site Development /CR)
5. Make provisions for installation of all mandated erosion control measures prior to site disturbance. These shall be maintained and replaced as necessary during the duration of the project to prevent sediment laden run-off from leaving the site. Erosion control fencing shall be installed outside of the tree protection fencing. (Site Development /CR)
6. Tree protection fencing shall be installed prior to tree removal and construction. (Planning Division/BC)
7. Within the protected root zone the following shall not be permitted: construction or placement of new buildings, grade change cut or fill except where hand excavation is approved, new impervious surfaces, trenching, staging, storing, and vehicle maneuvering or parking. (Operations/TC)
8. Install or replace, to City specifications, all sidewalks, curb ramps and driveway aprons which are missing, damaged, deteriorated, or removed by construction along the new house frontage and any existing house frontage effected by the project. (Site Development Div./CR)
9. Obtain a facilities permit from the City for work within, and/or construction access to the West Point Avenue right of way. (Site Development Div./CR)
10. The driveway must meet City of Beaverton residential driveway detail #211. (Site Development Div./CR)
11. Storm water system development charges for water detention and treatment for any new impervious area is proposed are required. (Site Development Div./CR)