

BEFORE THE HEARING EXAMINER FOR THE CITY OF DUPONT

Re: Champions Centre

Site Plan, Design Review, Tree
Modification and Critical Areas Permit

File No. PLNG 2023-010, -011, -013 and -
014

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND FINAL DECISION

SUMMARY

The Applicant has requested approval of Site Plan Review, Design Review, a Tree Modification and a Critical Areas Permit for the construction of a 26,000 square foot church and a separate 3,000 square foot retail eating and drinking establishment for a project site located at the southeast edge of the city at the intersection of DuPont Steilacoom Road and Barksdale Avenue. The applications are approved subject to conditions.

The church project generated at least 39 public comment letters. 20 were in support by church members extolling the virtues of their church. It is of course great to see such a positive asset added to the Dupont community. However, the virtues of a church program have little relevance to the scope of a land use proceeding. Land use review is focused upon land use impacts such as demands upon public infrastructure and impacts to streams and wetlands. 19 letters in opposition to the project addressed land use impacts.

A repeated concern raised by project opponents was the proposed removal of three landmark white oak trees. The City's tree retention standards generally prohibit the removal of landmark white oaks. However, the code authorizes that removal upon a showing of special circumstances coupled with mitigation sufficient to maintain the objectives of the City's tree retention standards. The Applicant has soundly established special circumstances. The project site is so constrained with sensitive environmental resources such as a stream and wetland that only 4.1 acres of the 21.9-acre site is buildable. That is an extraordinarily large set aside for environmental protection. The Applicant's mitigation also compensates for the loss of three white oak trees by (1) planting 75 white oak

1 replacement trees; (2) removal invasive species around an existing grove of four landmark oak trees
2 to improve the health of those trees; and (3) wrapping the church building around that grove instead
3 of building through it.

4 Project opponents also contested the classification of an on-site wetland as a Category I wetland. The
5 wetland had been classified in 2016 as a Category II wetland. However, that 19-year old classification
6 was changed to Category II by the Applicant's qualified wetland scientist. The work of the
7 Applicant's biologist was verified by a professional biologist hired by the City for independent review.
8 Staff testified that the 2016 designation was found to be in error. Tr¹. 7. Wetlands and wetland
9 regulations can change substantially over 19 years. Wetland classifications and delineations are based
upon hundreds of pages of detailed standards outlined in wetland delineation manuals. No qualified
expert or even any member of the public has identified any error in the Applicant's wetland evaluation.
There is no basis to dispute the wetland classification of the Applicant's peer reviewed wetlands
expert.

10 Concern was also raised about traffic. As a preliminary matter churches rarely significantly add to
11 traffic congestion because their services are usually held during off-peak hours. The proposed
12 restaurant does not include that traffic benefit. However, the Applicant has soundly demonstrated that
13 the proposal's traffic generation will conform to the City's intersection delay standards, framed as
14 level of service (LOS) standards. LOS standards are set in a grading system with LOS A involving
15 minimal delay down to LOS F involving the longest delays. The City's adopted LOS is LOS D. The
16 Applicant prepared a traffic study, Ex. 2r, that established that LOS at affected intersections would
17 operate at LOS B or better after construction of the project. The traffic analysis was prepared by
18 traffic engineers using computer modelling meeting standards of the practice for that type of analysis.
19 The results of the Applicant's traffic analysis were reviewed by the City Engineer. No traffic engineer
20 or any member of the public identified any error in the Applicant's traffic report. There is no basis to
21 dispute the conclusions of the Applicant's traffic report.

22 One of the adjoining neighbors expressed concern about impacts to their trees along the perimeter of
23 the project site. City staff testified that the wall proposed between the church and adjoining residences
24 has been designed to avoid damage to tree roots. Tr. 8. To ensure that issue has been properly
25 addressed, a condition of approval requires the Applicant to consult with the neighbors on this issue
26 and to attempt to reach agreement to protect trees not already protected by City tree retention
standards, if necessary. Absent any City regulation², the Applicant arguably has no legal duty to
protect the neighbors' trees from harm when removing tree roots encroaching onto its own property.
See Mustoe v. Ma, 193 Wash. App. 161, 371 P.3d 544 (2016). However, some coordination between
Applicant and the neighbors may enable some low cost mutually agreeable accommodation.

¹ "Tr." references the Appendix A transcript.

² The Applicant's arborist report acknowledges the presence of off-site significant trees and identifies that those trees will be retained. Presumably this means that impacts to the trespassing roots of the trees will be avoided to the extent necessary to retain those trees. DMC 25.120.030(5) provides that no construction will be allowed within the dripline of retained trees. DMC 25.120.030(5) is construed to apply to off-site trees designated as retained in the Applicant's arborist report.

1
2 Another resident identified that the access point to the project is less than 150 feet from an intersection
3 in violation of Public Works Standard 3.1.2.1. City staff testified that a condition of approval requires
4 a variance to waive the 3.1.2.1 requirement. Tr. 9. No such condition was found in the MDNS³ or
5 staff recommended conditions except for a recommendation in the Applicant's traffic report that the
6 proposal conform to the City's access requirements. The same resident also questioned the queuing
7 capacity along Barksdale Avenue to the project site. The Applicant's traffic report recommends
8 extension of the left turn lane at Barksdale Avenue to Steilacoom-Dupont from 40 feet to 60 feet. The
9 traffic report found that with the extension there would be adequate queuing capacity. The
10 recommendations of the traffic report have been made a condition of approval along with an explicit
11 requirement to acquire a variance to Standard 3.1.2.1. If the proposal doesn't qualify for a variance
12 the project application will have to be amended accordingly.

9 TESTIMONY

10 A computer-generated transcript of the October 15, 2024 hearing has been prepared to provide an
11 overview of the hearing testimony. The transcript is provided for informational purposes only as
12 Appendix A.

13 EXHIBITS

14 Exhibits 1-6p identified at page 21-22 of the November 12, 2025 staff report were entered into the
15 record during the November 18, 2025 hearing along with the staff report. A comment from Margaret
16 Farnsworth submitted on the day of hearing was admitted during the hearing.

17 FINDINGS OF FACT

18 Procedural:

- 19 1. Applicant. The applicant is Wendy Garrison, LeRoy Surveyors & Engineers, Inc., PO Box
20 740, Puyallup, WA 98371.
- 21 2. Hearing. A hearing was held on the subject applications on November 18, 2025 at 2:00 pm at
22 the City Council Chambers of Dupont City Hall. The hearing was left open for a day to give the
23 Applicant an opportunity to respond to the letter added during the hearing from Margaret Farnsworth.
24 The Applicant found no need for further response.
- 25 3. Proposal Description. The Applicant has requested approval of Site Plan Review, Design
26 Review, a Tree Modification and a Critical Areas Permit for the construction of a 26,000 square foot

³ "MDNS" is a mitigated determination of non-significance. An MDNS is a determination that an environmental impact statement is not required under the State Environmental Policy Act.

1 church that is 24 feet in height and a separate 3,000 square foot retail eating and drinking establishment
2 that is 18 feet in height for a project site located at the southeast edge of the city at the intersection of
3 DuPont Steilacoom Road and Barksdale Avenue. The church will accommodate approximately 350
4 people. The proposal includes electric vehicle charging spaces intended for church attendees and general
5 public use.

6 The project site will be composed of three parcels totaling 21.9 acres. Approximately 4.1 acres is
7 proposed for development. One of the parcels, Lot C, is 17.28 acres. A Category 2 wetland (Bell Marsh)
8 and associated buffer are located on Lot C. Lot C will be conveyed to the City upon development of the
9 two other lots.

10 The Applicant's tree modification request seeks authorization to remove three landmark white oak trees.

11 The Applicant's Critical Areas Permit request includes requests to reduce the critical area buffers to a
12 Category II wetland and a Type F stream

13 4. Conformity to Development Standards⁴. The project conforms to applicable development
14 standards as follows:

15 A. Zoning District. The proposal conforms to all applicable zoning district standards as outlined
16 in the staff report.

17 The project site is located in the Commercial (COM) Zoning District, which is regulated by
18 Chapter 25.25 DMC. The proposed church is authorized as a quasi-public use. DMC
19 25.25.020 (7) authorizes quasi-public uses in the COM district. DMC 25.10.170.005 defines
20 quasi-public uses as those which serve nonprofit social or religious ends. DMC 25.25.020 (2)
21 authorizes restaurants in the COM zone. DMC 25.25.025 authorizes the proposed electrical
22 charging station as an accessory use in the COM zone. Staff have determined that the charging
23 stations meet the design standards of Chapter 25.126 DMC. The two proposed buildings will
24 be under the 50 foot height limit and within 20 feet of street frontage as required by DMC
25 25.25.050.

26 B. Commute Trip Reduction (Chapter 25.75 DMC). The SEPA checklist provided with the
application states that upon completion the church would likely have 15 to 25 employees,
therefore DMC Chapter 25.75 does not apply to this project due to having less than 100
employees.

⁴ Conformity to development standards is usually assessed via conclusions of law. However, site plan review standards are highly detailed and technical. In the absence of any disagreement over the application or any indication in the record of a code compliance issue, the examiner will rely upon determinations made by staff that standards are met, based upon the staff's exercise of professional judgment. Since these determinations of conformity are based upon staff expertise instead of application of law to fact, the determinations regarding conformance to development standards are treated as findings of fact.

1 C. Cultural Resources (Chapter 25.80 DMC). The proposal is not within, nor does it contain any
2 of the City's designated cultural resource sites listed under this section.

3 A cultural resources study was prepared for the subject property by Drayton Archaeology dated
4 August 15, 2023. Background review concluded the project is in an area of moderate probability
5 for cultural resources based primarily on the property's proximity to known archaeological sites,
6 topography, and ecological context. On-site fieldwork included systematic visual
7 reconnaissance and subsurface investigation of areas of proposed impact. No precontact or
8 historic archaeological deposits were encountered within the project area during Drayton's field
9 investigation. Drayton recommends the project proceed with no additional archaeological
10 oversight.

11 A Memorandum of Agreement (MOA) dated August 7, 1989, was executed between
12 Weyerhaeuser Real Estate Company (WRECO) (the previous landowner), the City of DuPont,
13 and the Washington State Historic Preservation Officer regarding the discovery of cultural
14 resources within the City of DuPont, customary professional standards for archaeology, and
15 applicable state and federal laws. Implementation of the MOA requires archaeological
16 monitoring during soil disturbing activities, including extending an invitation to the Nisqually
17 Tribe to be present during such activities, and preparation of a closing report. Accordingly, the
18 SEPA Determination (See Attachment 4d) includes a requirement for a general inadvertent
19 discovery plan (IDP). A condition of approval has been incorporated to implement the IDP
20 found in Cultural Resources Assessment for the project, as a condition for site plan approval
21 (See Condition 9).

22 D. Affordable Housing (Chapter 25.85 DMC). Chapter 25.85 DMC, Affordable Housing, is
23 inapplicable as that chapter only applies to housing projects.

24 E. Landscaping (Chapter 25.90 DMC). The proposal complies with the City's landscaping
25 standards.

26 DMC Chapter 25.90 regulates landscaping. DMC 25.90.020(2) requires 20% landscaping. The
proposed landscaping covers approximately 29% of Lots A and B, over the minimum 20%
landscape coverage required of DMC 25.90.020. This calculation does not include Lot C as
specified in this section because it is occupied by the critical area and associated buffer

DMC 25.90.030(2) requires that the interior of surface parking lots with 10 or more stalls be
landscaped with at least one tree per six stalls. The proposed interior parking areas include a tree
at least every 6 stalls.

DMC 25.90.030(3)(a) requires that a moderate (50% screening) buffer be provided between
parking lots and any adjacent public right-of-way. Screening is proposed in areas where parking
is adjacent to the street and includes 10-foot moderate landscape buffers consisting of trees,
evergreen shrubs, and ground cover between the parking area and right-of-way edge fronting
Barksdale Avenue and Steilacoom DuPont Road.

DMC 25.90.030(3)(b) requires buffering between residential and nonresidential uses. Screening is proposed in areas where parking is adjacent to single family uses along the northern perimeter and includes a 10–15-foot moderate landscape buffer consisting of a variety of native trees, evergreen shrubs, and groundcover in addition to a four-foot-tall concrete block wall and a six-foot-tall solid wood fence. There are no other areas where the proposal adjoins residential use.

- F. Water Conservation (DMC 25.90.040). The proposed landscaping complies with the City’s water conservation standards.

DMC 25.90.040 requires that landscape plans include a statement of the techniques proposed to conserve water and a projection of the amount of irrigation the proposed landscape will require, in gallons per square foot of landscaping, excluding retained native vegetation, per year. Irrigation projections shall not exceed 11.6 inches, 7.2 gallons per square foot, and 313,632 gallons per acre.

The Applicant’s landscape plans include the required water conservation information. Estimated water use is within required limits, specifically an estimated water usage of 6.13 gallons per square foot. The landscape plans also specify native drought tolerant plants and mulching.

- G. Off-Street Parking (Chapter 25.95 DMC). The proposed parking complies with applicable parking standards.

As detailed in the staff report, DMC 25.95.030 requires that places of public assembly such as churches, are required to provide a minimum of 0.15 and a maximum 0.4 off-street parking spaces per person at maximum capacity. Restaurants require a minimum of 8 and a maximum of 16 parking spaces per 1,000 square feet open to the public.

The proposed church building capacity is 350 requiring a minimum of 53 off-street parking spaces be provided and a maximum of 140 off-street parking spaces allowed. The proposed church parking area includes a total of 136 parking spaces. The proposed restaurant is required to have a minimum of 24 parking spaces and allowed up to 48 parking spaces. The proposal includes a total of 39 parking spaces.

- H. Critical Areas (Chapter 25.105 DMC). As conditioned, the proposal is consistent with the City’s critical area standards. Lot C of the project site is set aside for protection of a Category II wetland and a Type F stream. The wetland and stream are part of a wetlands mosaic that form the headwaters of Sequelitchew Creek. The stream and wetland were classified and delineated in the Applicant’s critical areas report, Ex. 3e. The conclusions of the critical areas report were verified in City peer review.

Impacts to the stream and wetland were avoided to the extent practicable. As noted in the Applicant’s buffer mitigation plan, p. 5, extensive design iteration was completed to develop a proposal that did not result in direct impacts to the wetland or stream on-site. Initial designs

1 included a larger sanctuary building and parking areas, which would have required filling into
2 the wetland and stream. This also would have resulted in the removal of the oak trees within
3 the site. The design was refined to reduce the footprint of the building, reconfigure the parking
4 areas, and reposition the commercial building on the site to avoid direct impacts to the wetland.
Additionally, impacts to the oak stand within the southeast area of the site were avoided by
redesigning the building around the trees.

5 Impacts to the stream and wetland were also minimized. Minimization efforts included
6 repositioning the parking areas to pull as much developed area out of the buffers. Additionally,
7 the current design includes the use of retaining walls along the outer edges of the buffers in
8 several areas to minimize grading disturbances. The proposed concrete outfall access road
9 utilizes a portion of the existing road, with minor improvements limited to the area immediately
adjacent to the drive lane west of the sanctuary building and leading to the south toward the
concrete outfall structure.

10 The Type F stream on Lot C is named PS-1. DMC 25.105.050(2)(g) imposes a one hundred
11 foot buffer for PS-1. A reduced buffer for 55 feet is proposed for a short portion of the stream,
12 with the remainder of the stream having 100-foot buffer. DMC 25.105.050(2)(g)(iv) authorizes
13 a buffer reduction by the director if the project includes buffer enhancement as part of an
14 approved habitat management plan (HMP) or if it is found that the affected property would be
denied reasonable use. An HMP was prepared for the proposed development by Grette
Associates, LLC, dated August 5, 2025. The ELS peer reviews found the HMP to meet the
requirements of the DMC. The HMP concluded that the reduced stream buffer would result in
no net loss of ecological function as follows:

15
16 *Potential impacts related to the reduction in buffer widths will be offset by the*
17 *removal of invasive vegetation and installing native, woody, riparian plants within*
18 *the remaining buffer to ensure no net loss of buffer function will occur as a result of*
19 *the proposed project.*

20 HMP, p. 7.

21 The HMP was subject to peer review by Ecological Land Services. Ex. 6f. The ELS report
22 included some minor recommended revisions implemented by the Applicant but otherwise
found the HMP to be code compliant. The HMP conclusion that the proposed buffer reduction
will result in no net loss of ecological function is otherwise uncontested in the record and found
to be a verity.

23 DMC 25.105.050(1)(b)(i) imposes a 100-foot buffer for Category II wetlands. The Applicant
24 proposes a buffer reductions down to 36 feet along the wetland edge. Per DMC
25 25.105.050(1)(b)(iv) authorizes buffer reductions with enhancement when an applicant can
26 prove the buffer fits the following criteria: (A) The existing condition of the buffer is degraded;
and (B) Additional protection to the wetland is provided through the implementation of a buffer
enhancement plan. Accordingly, a buffer mitigation plan was prepared for the project by Grette

Associates dated November 22, 2024 and revised on August 5, 2025. The enhancement plan was peer reviewed by Ecological Land Services (ELS) on January 25, 2025, August 2, 2025, and October 30, 2025. The peer review concluded the buffer mitigation/enhancement plan meets the DMC requirements and adequately improve the function of the buffer and provide additional protection to the wetland through removal of invasive plants and installation of native trees and shrubs. The wetland buffer was found to result in no net loss of ecological function for the same reasons as the stream buffer reduction. This conclusion was also subject to ELS peer review.

- I. Street Corner Setbacks (Chapter 25.110 DMC). Chapter 25.110 DMC imposes height limits on structures and landscaping that can be placed within the sight triangle of street corners. The subject property is on the corner of Barksdale Avenue and DuPont-Steilacoom Road. The plans submitted indicated a sight distance triangle extending 30 feet in either direction from the point of intersection depicting clear unobstructed sight lines that meet the requirements of this section.
- J. Transportation Concurrency Review (Chapter 25.115 DMC). Chapter 25.115 requires transportation concurrency review for nonexempt development. The project is in full compliance with the Transportation Concurrency requirements, as documented in a June 17, 2025 memorandum by the City's Transportation Engineer.
- K. Sign Code (Chapter 25.116 DMC). The applicant has not proposed any signs for this stage of review. Signs are regulated by Chapter 25.116 DMC and sign code compliance shall be assessed upon the submission of a sign permit application, as required by DMC 25.116.140.
- L. Tree Retention (Chapter 25.120). As modified by the Applicant's approved tree modification request (approved by this decision), the proposal conforms to the City's tree retention standards as governed by Chapter 25.120 DMC.

These standards include detailed requirements for the retention and protection of trees based upon tree species and maturity. Special emphasis is placed upon the protection of oak trees.

DMC 25.120.030 (2), requires all landmark Oregon white oak trees to be retained, along with any native understory within a protection zone one and one-half times the radius of the oak's canopy.

Per DMC 25.10.120.005, landmark trees include Oregon white oak, pacific yew, or madrona with a DBH of 24 inches for single trunk and 30 inches for multi-trunk and doug fir, western red cedar, western hemlock, or big leaf maple with DBH of 30 inches for single trunk and 45 inches for multi-trunk.

DMC 25.120.030 (3) requires a minimum of three trees per acre be retained in the commercial district. This number does not include street trees and is expressed as an average over the entire site plan, however no more than half of the existing trees, other than oak, require retention.

1 An arborist report prepared by Greenforest dated January 29, 2025, and a tree retention plan
2 prepared by LeRoy Surveyors & Engineers dated January 28, 2025 was submitted with the
3 application and included the following existing tree inventory and proposed retention and
removal:

4 Total trees on site: 84
5 Total trees on site, in ROW, and off-site: 109
6 Total landmark trees on site: 22
7 Total landmark oak trees: 7
8 Total landmark oak trees to remain: 4 (57%)
9 Total landmark non-oak trees: 15
10 Total landmark non-oak trees to remain: 9 (60%)
11 Total specimen trees on site (including oak trees): 49
12 Total specimen trees to remain: 19 (60%)
13 Total trees in ROW and off-site: 25
14 Total trees in the ROW and off-site to be retained: 19
15 Total trees in the ROW and off-site to be removed: 6
16 Total landmark and specimen hazard trees to be removed: 13
17 Total trees to be retained on site: $32/84 = 38\%$

18 The subject property is approximately 4.12 acres and therefore a minimum of 12 trees are
19 required for retention. The proposal includes retention of 32 trees total, meeting this
20 requirement. Some proposed construction is within the retained trees drip lines; however, tree
21 protection fencing is indicated on the plans.

22 The proposal includes removal of three landmark oak trees, which requires a tree modification
23 request. It appears that the Applicant's mitigation efforts for this removal will provide a net
24 environmental benefit for the provision and protection of white oak habitat. As mitigation the
25 Applicant will plant 75 white oak replacement trees. It will also remove invasive species that
26 the Applicant's arborist report has significantly impaired the health of the existing white oaks.
Finally, the Applicant will be wrapping its church building around the remaining oak knoll to
reduce the need for any further white oak removal.

One of the neighbors expressed concern about damage to the roots of their trees. As outlined in
the Summary above, a condition of approval has been added to address that issue.

M. Wireless Communication Facilities. No wireless communication facilities are proposed, so
Chapter 25.125 DMC, Wireless Communication Facilities, does not apply.

5. Special Circumstances for tree modification. Special circumstances necessitate the Applicant's
tree modification. The project site is 21.9 acres in size but only 4.1 acres are proposed for development
due to the presence of critical areas, topographical constraints and easements. The Applicant has taken
the added measure of wrapping its church building around the most concentrated grove of white oak
trees on the project site. The limited and highly constrained development potential of the project site

1 qualify as special circumstances. The Applicant has done all it reasonably can to accommodate those
2 circumstances.

3 CONCLUSIONS OF LAW

4 1. Authority. The Examiner has jurisdiction to hold public hearings and issue final decisions on the
5 consolidated permits addressed by this decision.

6 DMC 25.70.010 requires Type I design review for all development projects in the commercial districts.
7 DMC 25.150.020 requires Type II site plan review for the proposed church and restaurant buildings.
8 DMC 25.120.050 and 25.105.080 require Type III review for tree modification and critical area permits.
9 As required by DMC 25.175.010(2)(b), all applications have been consolidated “under the highest
numbered procedure,” which is Type III review. DMC 25.175.010(2)(b) provides that the hearing
examiner shall hold a hearing and issue a final decision for Type III permit applications.

10 2. Zoning. All subject lots are zoned Commercial (COM).

11 3. Design Review. The findings and conclusions of Section B4 of the staff report are adopted by
12 reference to conclude that, with the staff recommended conditions of approval, the proposal meets the
13 design standards imposed by Chapter 25.70 DMC. All staff recommended conditions of approval related
to the City’s design standards are adopted by this Decision.

14 The staff’s design review is independently assessed by the hearing examiner. However, as a practical
15 matter design review is not addressed in any detail in examiner decisions unless an issue has drawn
16 public concern or involves a variance request. Design review typically involves an exercise of significant
17 technical staff expertise that is directed at details creating little public interest with only a moderate
impact on surrounding properties. For these reasons, to maintain focus and clarity on the issues that are
of greater public concern and to reduce permit review costs, design review analysis is usually adopted
by reference.

18 4. Review Criteria. DMC 25.150.030 governs the criteria for site plan review, DMC 25.160.050,
19 DMC 25.120.050 governs the criteria for tree modification and DMC 25.105.080 (4)(a) governs the
20 criteria for critical area permits. Applicable criteria⁵ are quoted below in italics and applied through
associated conclusions of law.

21 _____
22 ⁵ In addition to applying site plan and buffer reduction criteria, the staff report does an analysis of consistency with the City’s
23 comprehensive plan. The review criteria applicable to the applications under review do not require consistency with the
24 comprehensive plan. However, RCW 36.70A.120 requires the City to perform its activities in conformity with its
25 comprehensive plan. Arguably, since the City’s review criteria are consistent with the City’s comprehensive, any permitting
decision made pursuant to those criteria would also be consistent. To the extent that a separate finding of consistency is
required by RCW 36.70A.120, it is concluded that the proposal is consistent with the City’s comprehensive plan for the
reasons outlined in the staff report.

26 The staff report also identifies that for all project permit applications, DMC 25.75.040 requires that “*during project permit
application review, the director shall determine whether the development regulations applicable to the proposed project, or*

1
2 **Site Plan**

3 **DMC 25.150.030:** *In order to obtain site plan approval, all of the development regulations and criteria*
4 *specified in the district applicable to the property must be satisfied in addition to any general*
5 *development requirements in Chapters 25.75 through 25.95 and 25.105 through 25.125 DMC.*

6 5. Proposal complies with site plan criteria. Finding of Fact No. 4 assesses compliance with the
7 DMC chapters referenced in the DMC 25.150.030 criterion above and finds the project conforms to each
8 of those chapters.

9 **Tree Modification**

10 **DMC 25.120.050 Modifications:** *Anyone with an ownership interest in land may request a*
11 *modification from the provisions of this chapter based on special circumstances pertaining to that land*
12 *or the trees on it. Such requests shall be addressed, in writing, with full documentation and justification,*
13 *to the administrator, who shall grant or deny based on DMC 25.120.010. Such request shall be*
14 *processed with a Type III procedure per DMC 25.175.010(4).*

15 **DMC 25.120.010 Purpose:**

16 *(1) The purpose of this chapter is to:*

17 *(a) Protect natural habitats, air quality, and ground water recharge;*

18 *(b) Improve the appearance of the community;*

19 *(c) Provide shade and wind protection;*

20 *(d) Reduce stormwater discharge; and*

21 *(e) Conserve water supplies.*

22 *(2) This chapter is intended to help achieve these purposes by:*

23 *(a) Retaining trees, without reducing developmental densities from those indicated in the comprehensive*
24 *plan.*

25 6. The criterion is met. The purposes of the chapter are met by the Applicant's extensive tree
26 replacement and protection of existing white oak habitat as detailed in Finding of Fact No. 4L. Special
circumstances necessitate the modification request as determined in Finding of Fact No. 5.

Critical Areas Permit

in the absence of applicable development regulations, the City's comprehensive plan, address the type and density of the use,
adequacy of infrastructure, and the character of the proposed development, as authorized by the development standards."
The detailed review criteria applicable to site plan review addresses all of the issues identified in DMC25.75.040 and no
additional analysis is necessary.

DMC 25.105.080(4): Permit Review Criteria.

(a) An application for a critical areas permit may be approved, approved with conditions, or denied based on the proposal's ability to comply with all the following criteria:

(i) The proposal minimizes the impact on critical areas in accordance with mitigation as defined in the chapter;

(ii) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

(iii) The proposal is consistent with the general purposes of this chapter and the public interest;

(iv) Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements and standards of this chapter;

(v) The proposal protects the critical area functions and values consistent with the best available science; and

(vi) The proposal is consistent with other applicable regulations and standards. The granting of a critical areas permit should not be construed as approval of any other required underlying permit or approval for the development proposal.

7. Criteria met. The criteria for a critical areas permit are met by the proposal.

Impacts to the stream and wetland have been minimized as required by DMC 25.105.080(4)ai. Impacts to the stream have been avoided and minimized as detailed in Finding of Fact No. 4h. The proposal. The proposal poses no threat to public health, safety and welfare as required by DMC 25.105.080(4)aii and is consistent with the purpose of the City's critical area regulations and in the public interest as required by DMC 25.105.080(4)aiii because the proposed stream and wetland buffer reductions result in no net loss of ecological function as determined in Finding of Fact No. 4H and the proposal otherwise conforms to the City's critical area regulation as documented in the Applicant's critical area reports and verified by the City's peer review. The proposed buffer reductions are consistent with the mitigation requirements of the critical areas ordinance as required by DMC 25.105.080(4)aiv for the reasons identified in Finding of Fact No. 4H. As required by DMC 25.105.080(4)av, the proposal is based upon best available science as documented in the critical area reports prepared by the Applicant, which cite to numerous articles and guidance documents that qualify as best available science. The City's critical area regulations themselves and associated mitigation standards are also based upon best available science. Finally, the proposal is consistent with other applicable regulations and standards as shown in the analysis of the other three permits subject to this review. Further code compliance will also have to be demonstrated during building permit and other construction permit review.

DECISION

All applicable review criteria for the four permit applications identified in Finding of Fact No. 3 are met for the reasons identified in the Conclusions of Law of this Decision and therefore all four applications should be approved, subject to the following conditions⁶:

1. The proposal shall be consistent with the Findings and comply with the Mitigation Measures provided in the SEPA Mitigated Determination of Nonsignificance dated October 20, 2025.
2. Prior to issuance of building or grading permits, a Boundary Line Adjustment shall be approved and recorded, including perfection and recording of easements shown thereon, consistent with the conceptual lot lines shown on the project site plan.
3. The refuse enclosures shall be constructed and painted to match the walls of the proposed buildings, and shall include solid, closeable gates.
4. Lighting plan details meeting the requirements of Section 25.70.070(12) shall be submitted for review and approval prior to issuance of building permits.
5. Calculations shall be provided on the landscape plan construction drawings demonstrating compliance with Section 205.70.30 (2).
6. Prior to issuance of grading and building permits, the project plans shall be revised to indicate all street trees to be planted no greater than 30 feet on center, in accordance with DMC 25.07.060. Additionally, the existing dead tree shown to be removed along Barksdale Avenue shall be replaced with a new tree in order to maintain the required 30 feet on center spacing.
7. The irrigation plans as part of the landscape plans, Sheet IR1.1 present lateral lines and Hunter MP rotator spray heads being installed within the protection areas of the landmark and significant trees. No trenching or underground installation of lateral lines, spray heads or any other irrigation hardware should be allowed within those areas. All trenching and/or digging shall be prohibited within identified tree protection areas. Additionally, no equipment should be allowed within these areas. Irrigation lines or heads can be placed above ground and all spray heads shall be installed so that they do not spray any water against the trunks of any retained oaks. The irrigation notes on Sheet IR1.3 must clearly state these guidelines.
8. The project shall adhere to the inadvertent discovery plan protocols included in the project cultural resource assessment (Drayton Archaeology, August 15, 2023.) In addition, in accordance with the Memorandum of Agreement (MOA) dated August 7, 1989, executed between Weyerhaeuser Real Estate Company (WRECO) (the previous landowner), the City of DuPont, and the Washington State Historic Preservation Officer regarding the discovery of cultural resources within the City of DuPont, archaeological monitoring during soil disturbing activities, shall be required, including extending an invitation to the Nisqually Tribe to be present during such activities, and preparation of a closing report.
9. Tree protection measures shall be implemented as specified on the landscape plans prepared by ARW Landscape Design dated August 1, 2025.

⁶ Changes to the staff recommended conditions of approval are designated in track change.

10. Per DMC 25.120.030 (7) all trees retained by means of this chapter shall remain protected for their life. The plat or site plan on which the tree is located shall contain the following note: "This plat is also subject to an approved tree retention plan which requires that certain trees be preserved. That plan, which is binding on all owners, is on file with the City Planning Department." To further inform future lot owners, a copy of the approved tree retention plan shall be provided each owner at closing on each lot.

10.

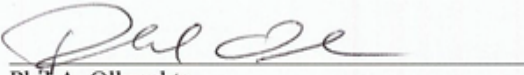
11. The Wetland Buffer Mitigation Plan prepared by Grette Associates dated August 2025 shall be implemented.

12. The Habitat Management Plan prepared by Grette Associates dated August 2025 shall be implemented.

13. The Applicant shall consult with the Trotters to ascertain if any of the proposed construction will adversely affect the trees on their property and try to reach a mutual agreement on any measures necessary to protect Trotter trees beyond what is already required by City regulations (if any such accommodation is necessary). Trotter trees designated for retention in the Applicant's arborist report shall be subject to DMC 25.120.030(5), which provides that no construction will be allowed within the dripline of retained trees.

14. The proposal shall conform to the recommendations of the Applicant's traffic report. The Applicant shall acquire approval of an variance to Section 3.1.2.1 of the City's public works standards. If the variance is denied the Applicant shall acquire approval of the resulting necessary amendments to its project design.

Decision issued December 19, 2025.


Phil A. Olbrechts

Hearing Examiner

Appeal Right and Valuation Notices

DMC 25.175.010 provides that this decision, as a Type III decision, is final, subject to appeal to Pierce County Superior Court. Appeals are governed by Chapter 36.70C RCW.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.