

EXPEDITE
 Hearing is set:
Date: April 3, 2026
Time: 9:00 a.m.
Judge/Calendar: Hon. Anne Egeler

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON**

SAVE THE DAVIS-MEEKER GARRY OAK,

Plaintiff,

vs.

DEBBIE SULLIVAN, in her capacity of Mayor
of Tumwater,

Defendant.

NO. 24-2-01895-34

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S MOTION TO AMEND**

This memorandum responds to the motion to amend filed by plaintiffs seeking to revise the caption and add a new claim seeking a declaratory judgment and injunctive relief that “the City of Tumwater must obtain a permit from the Washington Department of Archaeology and Historic Preservation”. Motion at 1:21-22. Amendment of the Compliant is unnecessary as there is no present dispute over whether the City must obtain a permit from the Department of Archeology and Historic Preservation. The City stated its intention to obtain such permits in the Declaration of Alyssa Jones Wood, filed in this matter on December 12, 2025. Decl. of Jones Wood, ¶6. In fact, the City has already obtained the required permit from DAHP on January 8, 2026. Second Decl. of Jones Wood, ¶3, Exhibit 7.

There is no justiciable controversy that compels court intervention and rendering of an advisory opinion in this matter. The Court’s authority is limited to resolving justiciable controversies because, otherwise, it will “step into the prohibited area of advisory opinions.” *Pasado's Safe Haven v. State*, 162

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION TO
AMEND – 1**

Cause No.: 24-2-01895-34

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1 Wn. App. 746, 760, 259 P.3d 280 (2011). To be justiciable under the Declaratory Judgment Act, a claim
2 must an actual, present and existing dispute. *Id.* In this case, the City has agreed to obtain the permit in
3 question and has already obtained the necessary permits to maintain the tree, so the City is not threatening
4 to violate the statute and there is no actual, present existing dispute. Instead the City has fully complied
5 with requirement to obtain the DAHP permit, both during the investigation of the tree's condition and as
6 it implements the Tree Plan approved by the City Historic Commission. Second Decl. of Jones-Wood, ¶4.

7
8 Given the City's compliance with the law, the court should not expend its valuable time
9 adjudicating the need for a permit that has already been obtained by the City of Tumwater. To do so
10 would simply be an advisory opinion. Given the lack of any justiciable issue concerning the need for the
11 permit, the Court should deny the motion and allow the city to spend its scarce resources on saving the
12 Davis Meeker Garry Oak, rather than litigating about the need for a permit it has already obtained.¹

13
14 Dated this 31st day of March 2026.

15 LAW, LYMAN, DANIEL, KAMERRER
16 & BOGDANOVICH, P.S.

17 

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26 ¹ The real party in interest is not a specific city officer, but the City itself. If the Court permits amendment of the caption to substitute a party, it should direct that the proper defendant be the City of Tumwater.

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CERTIFICATE OF FILING AND SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on this date, I caused to be electronically filed the foregoing document, and this Certificate of Filing & Service, and have mailed a copy of this filing to the following parties via email per service agreement:

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DATED this 31st day of March, 2026, at Tumwater, WA.

/s/ Tam Truong
Tam Truong, Legal Assistant