
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET | MERCER ISLAND, WA 98040
PHONE: 206.275.7605 | www.mercergov.org



Notice of Violation

Pursuant to MICC 6.10.050, this Notice of Violation is issued as follows:

Date of Notice Issuance: December 2, 2021

Location(s): 7270 North Mercer Way, Mercer Island WA 98040

Subject Property: 7270 North Mercer Way, Mercer Island WA 98040

King County Tax Parcel # 5315100062

Mercer Island Compliance Case # CE21-0053

Notification is being given to the following responsible person or persons:

Alpina Haus LLC*

7270 North Mercer Way, MERCER ISLAND, WA, 98040-1639

*Notice to Alpina Haus LLC is also being provided to the registered agent for Alpina Haus LLC, which is ACB Services LLC, 1420 5th Ave, Ste. 3650, Seattle WA 98101

WA State UBI # 604 442 870

Whitney Hamlin

7270 North Mercer Way, MERCER ISLAND, WA, 98040-1639

Charter Construction, Inc.*

980 S. Harney Street, Seattle, WA 98108

*Notice to Charter Construction, Inc. is also being provided to the registered agent for Charter Construction, Inc., which is AB Service Company, LLC, 701 5th Ave STE 4400, Seattle, WA 98104-7031

WA State UBI # 600 479 166

One or more of the responsible persons named above are believed to be responsible for the following violations of the Mercer Island City Code (MICC) that have occurred or are occurring at the location(s) identified above:

1) 19.09.060 Right-of-way use.

A. Permits.

1. It is unlawful for anyone to excavate, alter, tunnel under, obstruct, or place any structure upon any public right-of-way without first obtaining a right-of-way permit from the city, or to fail to comply with any conditions attached to such right-of-way permit.

2. No permit shall be issued unless a written application is submitted to the city engineer. The application shall be accompanied by plans, when applicable, showing the extent of the proposed activity.
3. The city engineer may attach conditions to a right-of-way permit, consistent with the provisions of this section, to ensure the public health, safety and welfare.
4. Fees for permits granted under this section shall be established by the city council and assessed in accordance with the provisions as set forth by resolution.
5. It shall be the duty of any permittee under this section to keep the permit and plans at the site of the permitted activity.

2) Violation of MICC 19.10.020 Applicability and permit required.

A. **Applicability.** The provisions of this chapter shall apply to all property and public rights-of-way in the city.

B. **Permit Required.** A permit approval is required prior to removing any tree, except for trees that are exempt pursuant to MICC 19.10.030.

1. Permit approval to remove one or more nonhazardous trees may take the form of a tree removal permit or other construction permit approval.
2. Permit approval to remove one or more trees that pose an imminent threat to life or property, such as tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines or structures, or are uprooted by flooding, heavy winds or storm events, in which event the permit must be applied for within 14 days of the removal. Permit applications shall be accompanied by documentation of the imminent threat to life or property, ideally in the form of a report by a qualified arborist, but at least in the form of photographs that clearly depict the threat. Prior notice of the impending tree removal should be provided to the city.
3. For the purposes of this section, tree removal includes the cutting or removing directly or indirectly through site grading of any tree, or root destruction that will result in a tree ultimately becoming a hazardous tree.

Facts Supporting Violation(s):

- On November 14, 2021, the City received a complaint that trees and shrubs were being removed in front of 7270 North Mercer Way (the "subject property") without required permission.
- On November 15, 2021, the City Arborist, John Kenney, performed a site investigation at the subject Property and confirmed a tree and a laurel or other type hedge had been removed from the City right-of-way (ROW) without the required ROW permit or tree permit (See Exhibit A, B, C and D depicting ROW tree and hedge and their removal). A ROW permit is required for all work within the ROW including the hedge removal. Further, a tree permit is required to remove any tree within the public ROW. While there is a current building permit active for the subject property, the building permit does not authorize any work in the City right-of-way. The City conditions of permit approval clarify the need for a separate ROW and tree permit (See Exhibit E).

The failure to obtain the required right of way permit is a violation(s) of city code as follows:

- **MICC 19.09.060** - The person(s) responsible did not obtain the required right of way permits, which constitutes a code violation.
- **MICC 19.10.020** - The person(s) responsible did not obtain the required tree permits, which constitutes a code violation.

The Responsible Person(s) are Ordered to Complete the Corrective Actions as Follows:

- The responsible person(s) shall proceed to obtain compliance with the following:
 - Required ROW Permits: Apply for the required right of way permit by December 31, 2021.
 - Required Tree Permits: Apply for the required tree permit by December 31, 2021.
 - Right of Way Restoration: Restore ROW (if required) and receive approved final inspection by January 7, 2022.

The compliance date for completion of all Corrective Actions above is January 7, 2022.

If the violation is not corrected on or before the dates shown above, and this notice is not appealed, the determination is final, and daily penalties shall begin to accrue.

Pursuant to MICC 6.10.050, penalties for noncompliance with this Notice and Order shall be as follows:

- Civil penalty in the amount of One Hundred dollars (\$100) per day for each violation listed herein is hereby imposed and shall begin to accrue if the Corrective Actions are not completed and the violations are not abated by the compliance date established above.
- Thirty days after the compliance date, the civil penalty will increase to a rate of Two Hundred Fifty dollars (\$250) per day for each unabated violation.
- Sixty days after the compliance date, the civil penalty will increase to a rate of Five Hundred dollars (\$500) per day for each unabated violation, up to a maximum total penalty of \$50,000 for each violation.
- Hold on Future Permits. The Director of Community Planning and Development may place a hold on the issuance of future permits on a property if:
 - A notice of violation or stop work order has been issued; and
 - The appeal period has passed, or an appeal was brought but it was dismissed; and
 - The violation has not been corrected and/or penalties or fines have not been paid; and
 - The permits relate to the violation.
- A hold on future permits will prevent the issuance of any land use or building permit for the subject property, and for the person responsible on any other property within the City, until the violation is resolved, corrective actions are taken, and penalties are paid. The Director may use their discretion to issue exceptions to this subsection for emergencies or hazardous situations, or other situations they deem reasonable.

Appeal Procedure:

- Pursuant to MICC 6.10.050(B)(5), you have the right to appeal this Notice of Violation & Civil Penalties before a hearing examiner. An appeal must be filed within 14 days of the service of this Notice. Failure to appeal within 14 days shall render this Notice a final determination that the conditions described therein existed and constitute a code violation, that assessed and accrued civil penalties are due, and that the named party is liable as a person responsible. An Appeal form can be found at:
<https://www.mercerisland.gov/cpd/page/appeals>

If you would like to discuss the resolution of this code case or schedule a compliance inspection, please contact me by email at David.Henderson@mercergov.org. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'DH', written in a cursive style.

David Henderson
Code Compliance Officer
City of Mercer Island

Exhibit A:
(Aerial photo of ROW Tree and Hedge)

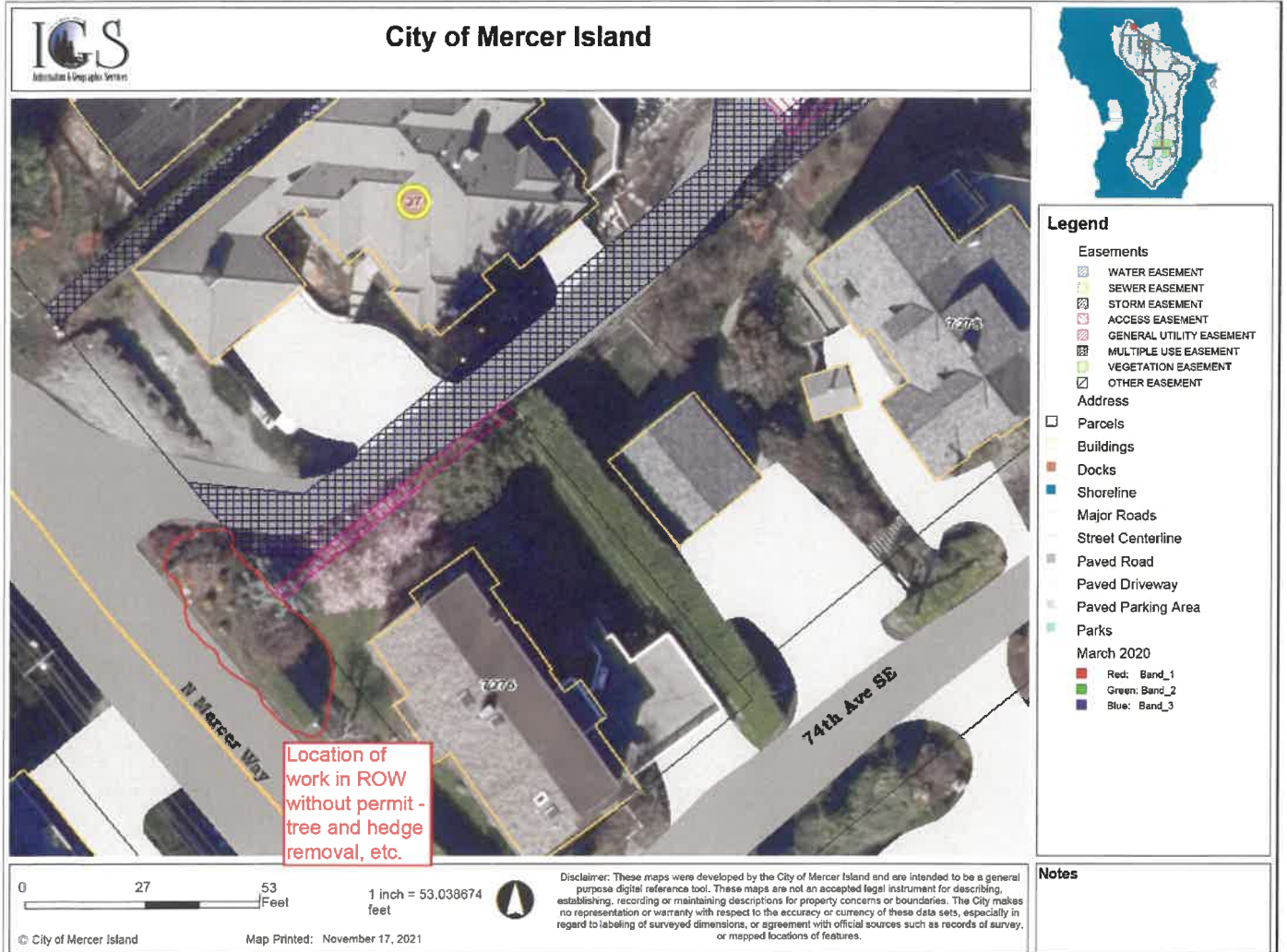


Exhibit B:
(Image showing location of Hedge and Tree in City ROW)

Google Maps

7275 N Mercer Way

Laurel Hedge in NMW ROW in front of 7276 NMW

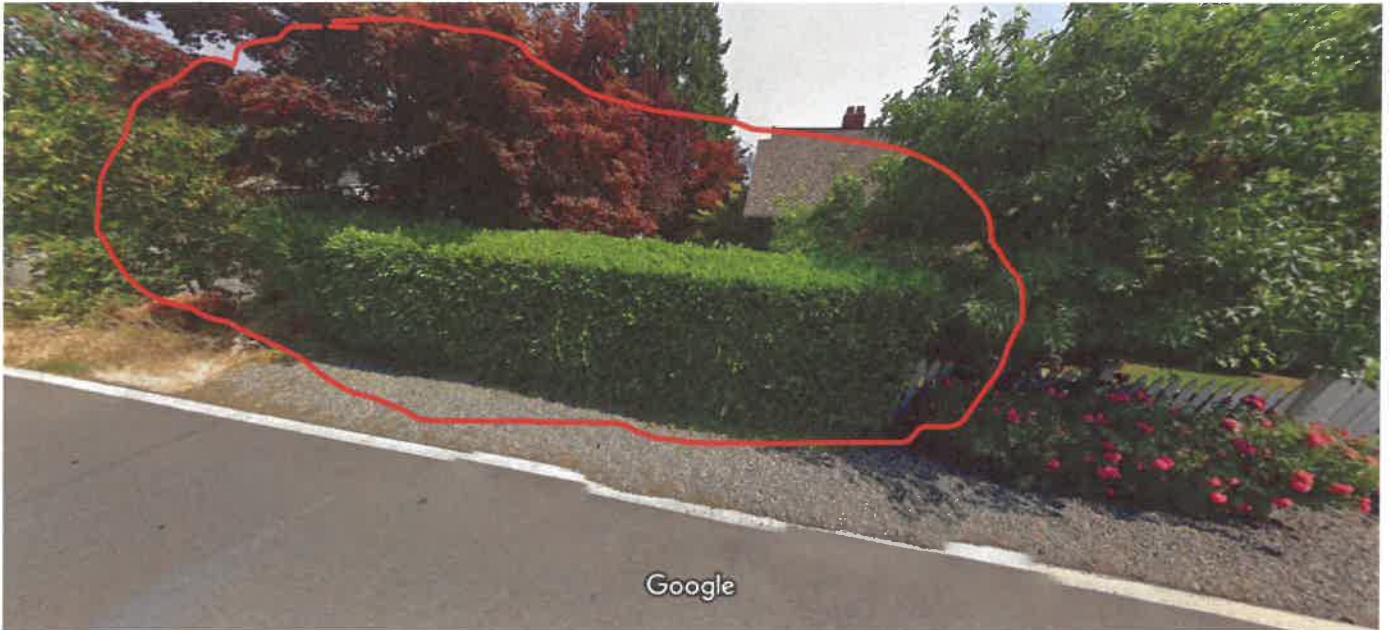


Image capture: Aug 2021 © 2021 Google

Mercer Island, Washington

Google

Street View - Aug 2021

Exhibit C:
(Photo showing location of Hedge removal)



Exhibit D:
(Photo showing location of Tree removal; cut tree stump circled)



Exhibit E:

(Conditions of Permit Approval signed by Applicant – Separate ROW Permit Required)

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PHONE: 206.275.7605 | www.mercer.gov.org

INSPECTION REQUESTS: Online: www.mybuildingpermit.com VM: 206.275.7730



OTC CONDITIONS OF PERMIT APPROVAL

Date: September 16, 2019

Permit Number: 1909-118

Name: Hamlin / Alpina Haus

Address: 7270 N Mercer Way

These conditions are part of your plan approval. Failure to comply could result in a stop work order and/or fine. This document must be read and signed by the owner/representative prior to construction.

GENERAL

- A. These conditions are part of your plan approval. Failure to comply could result in a stop work order and/or fine. This document must be read and signed by the owner/representative prior to construction.
- B.** A separate permit is required for mechanical, plumbing, electrical, demolition, side sewer, water meter, right-of-way, rockery, retaining wall, grading, tree, fire protection, and irrigation work.
- C. The approved plans and building permit are to be at the building site at all times. Place in a protected, but available location.
- D. Build from the permitted set of plans *only*. Do not remove any attachments to the plans. Additional copies of the permit plan sets may be purchased through the City if needed for sub-contractors, etc.
- E. The City requires a three-day advanced notification for all final inspections. All other permits including tree, fire, site restoration, double check valve assemblies, right-of-way use, etc. must be complete before final building inspection can be scheduled.
- F. This permit is issued based upon the assumption and certification that the owner controls all rights to develop this property as proposed, including the air-rights to accommodate the height of the structure(s).
- G. Concrete mixers and concrete pumbers are not to be washed out into any catch basin or onto public property.
- H. Business Licenses are required. A business license from the City of Mercer Island is required for all subcontractors that will be conducting, maintaining, operating or engaging in business within the City limits during any tax year; this includes all subcontractor work at job sites on Mercer Island. This general license is issued annually and grants the business owner the right to conduct business within the City of Mercer Island. The fee for the Business License is \$30.00 per year and must be obtained prior to starting work. A business license application can be obtained by visiting the Finance Department at City Hall, by downloading the application from the City website at www.mercer.gov.org/businesslicenses, or by calling the Business License Division of the Finance Department at (206) 275-7783.
- I. Subcontractor List required. As a condition of this permit approval, the permit holder (building owner or general contractor) is responsible for the completion of the List of Subcontractors. The completed List shall be returned to the Finance Department at least thirty days prior to Final Inspection. If you have questions, please call (206) 275-7783.

CONSTRUCTION PARAMETERS

- A. Hours of work are 7:00 a.m. to 7:00 p.m. Monday through Friday (except holidays) and 9:00 a.m. to 6:00 p.m. Saturday. No work may be performed on Sunday and holidays. Holidays include the following: New Years' Day; Martin Luther King, Jr.'s Birthday; Presidents' Day; Memorial Day; Independence Day; Labor Day; Veterans' Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Day.
- B. All public access roadways are to be restored to the existing condition prior to the project (pictures before start of work recommended). All access roads are to remain clean.
- C. The City is to be provided with the name and license numbers (state contractor's and City business license) of the contractor and sub-contractors prior to any inspection (MICC 5.01.040).
- D. Any changes to the siting or construction of this building require prior approval by City Staff.

CONSTRUCTION VEHICLE PARKING

- A. On-site parking shall be established within 7 days from the start of construction activity. The provided parking capacity shall be sufficient for all anticipated construction vehicles. If sufficient on-site parking cannot be provided, the contractor shall find alternative off-site parking locations not on City of Mercer Island Streets and shuttle workers onto the site.
- B. The Owner or Contractor shall apprise all subcontractors of these parking requirements upon their arrival on the job site.
- C. Construction vehicles shall be parked in a manner that minimizes their impact on the neighborhood. A limitation on construction vehicle parking within the City right of way may result if it is determined that construction parking adversely impacts normal neighborhood activity.
- D. Vehicles shall not be parked along any City street or right-of-way for more than a 72-hour period (MICC 10.36.225).
- E. Do not park any vehicle along a City street within eight feet of the centerline of a two-lane roadway (MICC 10.36.226).
- F. Do not stop or park a vehicle in such a position as to block the driveway entrance to any abutting property. Do not use any neighborhood driveway for vehicle turnaround purposes without the prior written permission of the property owner(s). Do not park within an alley or private road in such a manner as to leave available less than eight feet of the width of the roadway for the free movement of vehicular traffic (MICC 10.36.227).
- G. The City of Mercer Island Fire Department may perform site visits to verify emergency vehicle access is maintained.
- H. Additional parking restrictions may be required if it is determined that construction parking adversely impacts normal neighborhood activities or on projects extending beyond a one-year duration.

PLANNING REQUIREMENTS

- A. Additional rockeries, gravel or concrete paths, patio or similar hardscape require a formal revision to be submitted to the City to review for code conformance.

CIVIL ENGINEERING / UTILITY REQUIREMENTS

- A. All staging and storage shall occur on site.

- B. Do not backfill with native material on public right of way. All material must be imported.
- C. No ADS flexible pipe shall be allowed.
- D. Sand Collars are required for grouting PVC pipe to concrete structures. This also applies to ADS N-12 pipes and HDPE pipes.
- E. Owner shall control discharge of surface drainage runoff from existing and new impervious areas in a responsible manner. Construction of new gutters and downspouts, dry wells, level spreaders or downstream conveyance pipe may be necessary to minimize drainage impact to your neighbors. Construction of minimum drainage improvements shown or called out on the plan does not imply relief from civil liability for your downstream drainage.

By signing this, I acknowledge that I have read all of the above conditions and will follow them to the best of my abilities. If I have any questions on these conditions or any other part of the permit documents I will call and get clarifications prior to performing any work:

Owner/Representative Whit Hamlin Date 2019-10-21
Printed Name Whit Hamlin