

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

regarding application 2111-230 in any other manner (such as hand delivery) on or before February 4, 2022.


5. Mr. Haley did not send his appeal to me until he forwarded an email attaching such appeal on February 18, 2022. A true and correct copy of that email is attached to this declaration as Exhibit A.

6. Mr. Haley did not submit the associated appeal fee for his appeal until February 18, 2022. A true and correct copy of the payment receipt for the appeal fee submitted by Mr. Haley with respect to this appeal is attached to this declaration as Exhibit B.

7. I note that with respect to the payment receipt, the “due date” for appeals fees shown on these types of invoices reflects the date paid, not necessarily the accurate due date for appeals fee. This is because Mr. Haley used the City’s online payment portal to make payment, as opposed to dropping off a check to City Hall, which the City also accepts as a way to make payment for appeals per MICC 19.15.130.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 2nd day of March, 2022 at Mercer Island, Washington.

By: 

Andrea Larson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DECLARATION OF SERVICE

I, Tori Harris, declare and state:

1. I am a citizen of the State of Washington, over the age of eighteen years, not a party to this action, and competent to be a witness herein.

2. On the 4th day of March, 2022, I served a true copy of the foregoing Declaration of Andrea Larson in Support of City of Mercer Island’s Motion to Dismiss to on the following counsel of record using the method of service indicated below:

Jeffery T. Haley 5220 Butterworth Road Mercer Island, WA 98040 <i>Pro Se Petitioner</i>	<input type="checkbox"/> First Class, U.S. Mail, Postage Prepaid <input type="checkbox"/> Legal Messenger <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-Mail: jeff@haley.net <input type="checkbox"/> EService pursuant to LGR
--	--

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 4th day of March, 2022, at Seattle, Washington.



Tori Harris

EXHIBIT – A

From: jeff@haley.net
Sent time: 02/18/2022 01:44:33 PM
To: City Clerk <cityclerk@mercerisland.gov>
Cc: Bill Vandewater <Bill.Vandewater@mercergov.org>; Ruji Ding <Ruji.Ding@mercergov.org>
Subject: FW: Haley/Glass Stormwater Permit 2111-230
Attachments: Letter to Hearing Examiner 2-4-22.pdf

Andrea Larson:

The City Code says that an appeal on a storm water permit denial should be sent to the City Clerk. With the email below, I sent my appeal to Bill Vandewater and Ruji Ding asking that they forward it to you.

Is the appeal now in process? Is there anything more I need to do? Is there an appeal fee to be paid? How much?

Jeff Haley

5220 Butterworth Rd
Mercer Island WA 98040
Cell 206 919 1798

From: jeff@haley.net <jeff@haley.net>
Sent: Friday, February 4, 2022 1:23 PM
To: 'Ruji Ding' <Ruji.Ding@mercergov.org>; 'Bill Vandewater' <Bill.Vandewater@mercergov.org>
Subject: FW: Haley/Glass Stormwater Permit 2111-230

Ms Ding and/or Mr Vandewater:

Please forward the attached appeal letter to the City Clerk to forward to the Hearing Examiner.

Jeff Haley

5220 Butterworth Rd
Mercer Island WA 98040
Cell 206 919 1798

From: Ruji Ding <Ruji.Ding@mercergov.org>
Sent: Friday, January 21, 2022 2:21 PM
To: jeff@haley.net
Cc: Bill Vandewater <Bill.Vandewater@mercergov.org>; Carol Glass <carol.glass@gmail.com>
Subject: RE: Haley/Glass Stormwater Permit 2111-230

Hi, Jeff,

Please see the attached letter regarding your Stormwater Permit application.

Thank you.

Ruji Ding, PE - Working Remotely

Senior Development Engineer
City of Mercer Island – Public Works/Operations
206.275.7703 | mercerisland.gov/cpd

*Notice: Emails and attachments may be subject to disclosure pursuant to the Public Records Act (chapter 42.56 RCW).
Due to the COVID-19 outbreak, Community Planning and Development has modified our operations. City Hall and the Permit Center are closed to the public.
There is no "walk in" permit service; staff are working remotely and services are being continued via remote operations.
More information is available on the City's website: mercerisland.gov/cpd. Please contact us by phone for general customer support at 206-275-7626.*

From: jeff@haley.net <jeff@haley.net>
Sent: Monday, November 22, 2021 7:56 PM
To: Ruji Ding <Ruji.Ding@mercergov.org>
Cc: Tim McHarg <tim.mcharg@mercerisland.gov>; Bill Vandewater <Bill.Vandewater@mercergov.org>; Carol Glass <carol.glass@gmail.com>
Subject: RE: Haley/Glass remodel 1909-036 Plan to replace severed tightline

Thank you, Ruji.

The application form and supporting documents are attached. I hope you will accept the documents by this method. I searched your web site and could not find a page for uploading an application.

On your website, I found a stated fee of \$290 minimum for "Storm Drainage Review and Inspection". Is this the amount I should send? Should I instruct my bank to send a check for this amount to City Hall with reference number 1909-036?

Jeff Haley

5220 Butterworth Rd
Mercer Island WA 98040
Cell 206 919 1798

From: Ruji Ding <Ruji.Ding@mercergov.org>
Sent: Monday, November 22, 2021 6:33 PM
To: jeff@haley.net
Cc: spayne@watershedco.com; Tim McHarg <tim.mcharg@mercerialand.gov>; Bill Vandewater <Bill.Vandewater@mercergov.org>
Subject: RE: Haley/Glass remodel 1909-036 Plan to replace severed tightline

Hi, Jeff,

Thank you for reaching out to us! The City Site Utility Inspector (Bill Vandewater) has informed your contractor that a storm water permit is required for the proposed drainage work of your project. Please submit all required documents for a Storm Water permit, then the city will review your permit application.

Here is the permit application [permitappbldg.pdf \(mercerialand.gov\)](#) and the process for the application [Building Permits | Mercer Island, Washington](#).

For the copies of the communications between Mr. Pugh and the city, please request the information through the City Public Records Request [Public Records RequestsNextRequest - Modern FOIA & Public Records Request Software](#)

Thank you.

Ruji Ding, PE - Working Remotely

Senior Development Engineer
City of Mercer Island – Public Works/Operations
206.275.7703 | mercerialand.gov/cpd

*Notice: Emails and attachments may be subject to disclosure pursuant to the Public Records Act (chapter 42.56 RCW).
Due to the COVID-19 outbreak, Community Planning and Development has modified our operations. City Hall and the Permit Center are closed to the public. There is no "walk in" permit service; staff are working remotely and services are being continued via remote operations.
More information is available on the City's website: mercerialand.gov/cpd. Please contact us by phone for general customer support at 206-275-7626.*

Ruji and Tim:

On September 28, you requested that we provide:

- an addendum from Watershed Company that addresses the tightline repair and discharge and affirms the finding of no net loss
- a revision for the new storm work including an updated site plan showing the detail design of the new drainage system (plan and profile),
- recorded easement documentation.

The Watershed Company has revised its Critical Areas Study and Mitigation Plan memo to address the tightline repair and discharge, copy attached. The revised plan, including plan and profile, is attached to the memo.

The new discharge pipe is allowed by our easement for utilities within Tract A, a copy of which is attached.

Please approve this revision.

Jeff Haley

5220 Butterworth Rd
Mercer Island WA 98040
Cell 206 919 1798

From: Ruji Ding <Ruji.Ding@mercergov.org>
Sent: Tuesday, September 28, 2021 4:20 PM
To: Bill Vandewater <Bill.Vandewater@mercergov.org>
Subject: FW: Haley/Glass remodel 1909-036 Plan to replace tightline to stream

Bill,

Based on Mr. Haley's description, there is no existing stormwater discharge to the watercourse, since it was cut off at

some undetermined point. So this tightline repair could be considered a new discharge to the Type F watercourse. Permit 1909-036 included a Critical Area Report that provided a no net loss analysis of the buffer function based on the project impacts. The tightline repair will occur in the native enhancement area that provided mitigation for impacts. The tightline repair was not included in the Critical Area Report or the no net loss analysis, and the new discharge to the Type F watercourse was not considered. At a minimum, we need an addendum from Watershed Company that addresses the tightline repair and discharge and affirms the finding of no net loss. The applicant will need to submit a revision for the new storm work including an updated site plan showing the detail design of the new drainage system (plan and profile), the memo from the Watershed Company, the recorded easement documentation and the revision form. The revision needs to be approved by the City prior to any work related to the new drainage system.

Ruji Ding, PE - Working Remotely

Senior Development Engineer

City of Mercer Island – Public Works/Operations

206.275.7703 |

ruji.ding@mercerisland.gov

Notice: Emails and attachments may be subject to disclosure pursuant to the Public Records Act (chapter 42.56 RCW).

Due to the COVID-19 outbreak, Community Planning and Development has modified our operations. City Hall and the Permit Center are closed to the public. There is no "walk in" permit service; staff are working remotely and services are being continued via remote operations.

More information is available on the City's website: mercerisland.gov/cpd. Please contact us by phone for general customer support at 206-275-7626.

From: Bill Vandewater <Bill.Vandewater@mercergov.org>

Sent: Wednesday, September 22, 2021 11:14 AM

To: Ruji Ding <Ruji.Ding@mercergov.org>

Subject: FW: Haley/Glass remodel 1909-036 Plan to replace tightline to stream

Hi Ruji,

I received this email from Jeff Haley requesting approval.

Bill Vandewater

Site & Utility Inspector

City of Mercer Island – Public Works

206.715.9654 | mercerisland.gov/publicworks, mercerisland.gov/cpd

Schedule an inspection: [Inspection Scheduling](#)

Notice: Emails and attachments may be subject to disclosure pursuant to the Public Records Act (chapter 42.56 RCW).

Due to the COVID-19 outbreak, Community Planning and Development has modified our operations. City Hall and the Permit Center are closed to the public. There is no "walk in" permit service; staff are working remotely and services are being continued via remote operations. More information is available on the City's website: mercerisland.gov/cpd. Please contact us by phone for general customer support at 206-275-7626.

From: jeff@haley.net <jeff@haley.net>

Sent: Wednesday, September 22, 2021 7:55 AM

To: Bill Vandewater <Bill.Vandewater@mercergov.org>

Cc: 'Justin Davis' <justin@islandcrestbuilders.com>; 'Gabe Fertman' <gabe@islandcrestbuilders.com>

Subject: Haley/Glass remodel 1909-036 Plan to replace tightline to stream

Mr. Vandewater:

In the course of inspecting my downspout drain lines, I found leaks and found that I have no tightline emerging at the edge of the stream where it was supposed to emerge. To replace the tightline requires doing work outside the boundary of my property and therefore outside the scope of the present permit. I have an easement to do the work in that location.

I therefore prepared the attached plan to replace the tightline to the stream and, in the process, add a cleanable catch basin with sump to receive water from the gutters and footing drains. Please review this plan and tell me what more I should do before proceeding. I want to get this done asap before the rains come. We have a sub-contractor with appropriate expertise on site this week fixing drain lines and want to do the work all in one go.

For background, I have attached a copy of the 1989 Drainage Plan showing that the tightline was to go to what was then a culvert and is now an open stream. Because there is no pipe emerging at the stream, it appears that my tightline was cut off during construction to remove the culvert.

For the new pipe to emerge at the stream, there is a large enough gap between the boulders that bound the stream to slip in a 4 inch pipe. Attached are two photos showing where I placed a 6 inch piece of 4" pipe to show where the outlet would emerge.

Please call with any questions and call or email with permission to proceed.

Jeff Haley

5220 Butterworth Rd
Mercer Island WA 98040
Cell 206 919 1798

Jeffrey T Haley
5220 Butterworth Rd
Mercer Island, WA, 98040
206 919 1798
e-mail: Jeff@Haley.net

February 4, 2022

To: Mercer Island City Clerk, to forward to the Hearing Examiner

Re: **Appeal of 2111-230 Storm water permit application**

1. The decision being appealed: Dated January 21, 2022 by Ruji Ding
2. The development code interpretation, if any, associated with the proposed appeal:
Interpretation of the meaning of language on the 1980 Short Plat document
3. The name and address of the appellant and his/her interest in the matter:
Above, the applicant.
4. The specific reasons why the appellant believes the decision to be wrong.

The words "to Lake Washington" on the 1980 Sort Plat document were never intended to mean "terminating in or over still waters of the lake". Those words were intended to encompass the possibility of terminating in a storm drainage watercourse that flows into the lake. The purpose was to not allow erection of a new building with footing drains or roof drains directing storm water to infiltrate into the ground or to flow over the surface of the ground.

The short plat created 4 lots out of one, two of the created lots, C and D, being shoreline lots and two of the lots, A and B, being upland lots. The upland lots were provided with no easement to run storm drain utility pipes across the lower lots to the lake. However, they were provided with a utility easement to run storm drain utility pipes into a storm drainage watercourse on adjoining property to the north called "Tract A" which includes a storm drainage easement extending to the lake.

Thus, it is clear that the words "to Lake Washington" meant either into the lake itself (possible for Lots C and D) or, for Lots A, B, and D, into the storm drainage watercourse on Tract A that flows into the lake. For Lots A and B, this is the only practical alternative to surface discharge or infiltration discharge.

To run a storm drain pipe from Lot A to the lake without using the utility easement on Tract A would require traversing both Lot B and Lot C. Lot A was not provided with an easement to do so and the house on Lot A was never provided with such a drainage pipe. Storm water on Lot A drains into the storm drainage watercourse.

To run a storm drainage pipe from Lot B to the lake without using the utility easement on Tract A would require traversing Lot C. Lot B was not provided with an easement to do so and the house on Lot B was never provided with such a drainage pipe.

Sheet 9 of the 1989 construction plans for the house on Lot B, which were provided to the City and were the basis on which the City issued a building permit, specified that the footing drains and roof drains would be connected to "to storm drain" with arrows showing them extending north toward the storm drainage watercourse and easement in Tract A. The architect/planner who created Sheet 9 and the then owner of Lot B evidently believed that such disposition of storm water satisfied the requirement of the short plat.

Because the City issued a building permit based on the 1989 proposed drawing and the house was built, it is evident that, in 1990, the City accepted that the words "to Lake Washington" on the 1980 Sort Plat document encompassed the possibility of directing the roof and footing drains to the storm drainage watercourse that flows into the lake. The owners of Lot B have relied on this permitted storm drainage for 31 years. The City should be estopped from changing its position.

The neighbor that objected to Haley's storm water permit application is John Pugh, the owner of Lot D. John Pugh asked the City to require, based on the original words on the plat document, that Haley's footing and roof drains be tightlined to the lake. However, when he built his house in 2002, Mr. Pugh did not tightline his storm drainage to the lake but rather, as then permitted by the City, directed the storm drainage to the same watercourse in Tract A. What is good enough for the goose should be good enough for the gander. Because the City permitted Mr. Pugh to direct storm water from his property into the Tract A watercourse rather than into the lake, the City should now permit Haley to do so as well.

5. The desired outcome or changes to the decision:

Reverse the decision by Ruji Ding and direct her to issue the permit.

Sincerely,



Jeffrey T Haley

EXHIBIT – B



Customer: Jeffrey T Haley
5220 Butterworth Rd, Jeff Haley
Mercer Island, WA 98040

Invoice #: INV2022218204017860
Date: 2/18/2022

Contact Name Jeff T Haley
Contact Phone Number 2069191798
Contact Email Address jeff@haley.net
Permit Number APPEAL of 2111-230
Total Payment Amount 1500.00

Total Amount: \$1,500.00
Due Date: 2/18/2022
Balance Due: **\$0.00**

City of Mercer Island
9611 SE 36th Street
Mercer Island , WA 98040
(206) 275-7783