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BEFORE THE HEARING EXAMINER OF THE CITY OF MERCER ISLAND

In Re The Appeal of:

JEFFREY T. HALEY,

Petitioners,

v.

CITY OF MERCER ISLAND,

Respondent,

No. APL22-001

DECLARATION OF RUJI DING IN
SUPPORT OF CITY OF MERCER
ISLAND'S MOTION TO DISMISS

I, Ruji Ding, declare and state:

1. I am over the age of eighteen years, not a party to this action, and competent to testify herein.

2. I serve as a Senior Development Engineer for the City of Mercer Island. I have held this position since May 17, 2004.

3. I am generally familiar with the appeal submitted by Jeffrey T. Haley giving rise to this appeal matter APL 22-001.

4. On November 22, 2021, Mr. Haley submitted a Storm Water Permit application, which was assigned permit application number 2111-230. A true and correct copy of that application is attached to this declaration as Exhibit A.

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5. On January 21, 2022, the City issued a denial letter regarding permit application 2111-230. A true and correct copy of this letter is attached to this declaration as Exhibit B.

6. On February 4, 2022, Mr. Haley emailed to me an appeal regarding the Haley/Glass Stormwater Permit 2111-230. A true and correct copy of that email is attached to this declaration as Exhibit C. In this email, Mr. Haley requests that either myself or Bill Vandewater forward the appeal to the City Clerk.

7. The City Clerk, Andrea Larson, was not included or copied on Mr. Haley's February 4, 2022 email.

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 Mercer Island, Washington.

By: 

Ruji Ding

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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 Ruji Ding 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:

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

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

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercerisland.gov

Inspection Requests: Online: www.mybuildingpermit.com VM: 206.275.7730



PERMIT APPLICATION - REVISION

A	SITE ADDRESS*		PROJECT VALUATION (REQUIRED)*	PERMIT #		
	5220 Butterworth			1909-036		
P	PROPERTY OWNER: *		ADDRESS*	PHONE 206 919 1798		
	TENANT NAME: Jeff Haley		5220 Butterworth	E-MAIL* JEFF@HALEY.NET		
P	APPLICANT CONTACT NAME*		ADDRESS	PHONE		
	Jeff Haley		5220 Butterworth	E-MAIL*		
L	ARCHITECT / DESIGNER (Company/Name)		ADDRESS	PHONE		
	Jeff Haley, engineer			E-MAIL*		
I	STRUCTURAL ENGINEER (Company/Name)		ADDRESS	PHONE		
				E-MAIL*		
C	CONTRACTOR(Company/Name)		ADDRESS	PHONE		
	Contractor or Subcontractor for revision not yet selected			E-MAIL*		
A	STATE CONTRACTOR LICENSE #*:		MI BUSINESS LICENSE #*:			
	ELECTRICAL CONTRACTOR (Company/Name)		ADDRESS	PHONE		
N	STATE CONTRACTOR LICENSE #*:		MI BUSINESS LICENSE #*:			
	PLUMBING CONTRACTOR (Company/Name)		ADDRESS	PHONE		
T	STATE CONTRACTOR LICENSE #*:		MI BUSINESS LICENSE #*:			
	*Required					
PERMIT TYPE	<input type="checkbox"/> Building <input type="checkbox"/> Demolition <input type="checkbox"/> Electrical <input type="checkbox"/> Fire Protection <input type="checkbox"/> Fuel Tank <input type="checkbox"/> Grading	<input type="checkbox"/> Low Voltage <input type="checkbox"/> Mechanical <input type="checkbox"/> Plumbing <input checked="" type="checkbox"/> Stormwater <input type="checkbox"/> Site Development	OCCUPANCY TYPE	<input checked="" type="checkbox"/> SINGLE FAMILY <input type="checkbox"/> MULTI FAMILY <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> MIXED USE <input type="checkbox"/> CHURCH/SCHOOL	WORK TYPE	<input type="checkbox"/> ADDITION <input type="checkbox"/> ALTERATION <input type="checkbox"/> NEW <input checked="" type="checkbox"/> REPAIR

Briefly Describe Proposed Scope of Work (REQUIRED):

When the building permit for my house was issued by the city in 1989, sheet 9 of the approved plans shows the roof and footing drains going north "to storm drain". At that time, the storm drain where the roof and footing drains were directed was a culvert within the first 10 feet in Tract A which is 30 feet wide. My property has had an easement for the purpose of utilities in the first 10 feet of Tract A since 1979 granted by the prior owner of Tract A.

In about 2001, Mr Pugh removed the storm drain culvert where the drains were permitted to be attached and reverted the area to an open stream within my easement area in the first 10 feet in Tract A. When I bought my property in 2005, there was no outlet from my property into the stream. It appears that Mr Pugh cut off and buried the end of my drain outlet pipes during his construction. I wish to replace the severed pipes with a single pipe for my roof and footing drains as permitted by the 1979 easement and permitted by the city when it issued the 1989 building permit for my property.

Mr Pugh requested that I redirect any drain currently installed or to be installed on my Property away from MID's Lot C and to the north and to the stream on Tract A.

In reliance on this request from Mr Pugh and the original building permit issued by the city, I have installed new roof and footing drains around my house directing water to the north side of the house and installed a catchment basin to collect the water. What remains to be done is to install a pipe from the catchment basin north to the stream as shown in the attached proposed plans, as requested by Mr Pugh.

Will your project result in (all questions must be answered):

A change of use	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
New Single Family dwelling	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
A reduction in any existing side yard setback	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
An increase in lot coverage by more than 100 square feet	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
An increase in the gross floor area of more than 500 square feet	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
An increase in the maximum building height above the highest point of the building	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

Continued on next page

NOTICE TO APPLICANT

Applications for which no permit is issued within 18 months shall expire. Once issued, building permits shall expire if work is not completed within two years from date of issue. Electrical, mechanical, and plumbing permits shall expire at the same time as the associated building permit except that if no associated building permit is issued, the electrical, mechanical and/or plumbing permit shall expire 180 days from issuance.

All work shall be done in accordance with the approved plans, except where such approval is in conflict with other codes. The approved plans shall not be changed or modified without the prior approval of the Building Official. It is the responsibility of the permittee to obtain the required inspections. Failure to notify this department that work is ready for inspection may necessitate the removal of some of the construction materials at the owner's expense in order to perform such inspections. All provisions of laws and ordinances governing this type of work will be met whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction of the performance of construction.

I hereby certify that I am the owner of the subject property or I have been authorized by the owner(s) of the subject property to represent this application, and that I have read and examined this application and know the same to be true and correct. Also, I have received authorization to utilize all contractor license information provided within this application and have been informed about contractor license laws (RCW 18.27, RCW 18.106, etc.), and the potential risks and monetary liability to the homeowner for using an unregistered contractors (general, plumbing, electrical, etc.). Further information can be obtained at 1-800-647-0982.

Jeff Haley

Digitally signed by Jeff Haley
DN: cn=Jeff Haley, o=OraHealth, ou,
email=haley@oracoat.com, c=US
Date: 2021.11.22 19:41:44 -08'00'

11-22-21

Jeff Haley

Signature of Owner/
Agent

DATE

Printed Name of Owner/Contractor/Authorized Agent

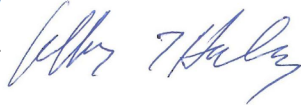


EXHIBIT – B



CITY OF MERCER ISLAND

9611 SE 36th Street • Mercer Island, WA 98040-3732

(206) 275-7605 • FAX (206) 275-7726

www.mercerisland.gov

January 21, 2022

Jeffery Haley
5220 Butterworth Road
Mercer Island, WA 98040
Via Email jeff@Haley.net

RE: Stormwater Permit 2111-230, 5220 Butterworth Road, Mercer Island, WA 98040

Dear Mr. Haley,

This is to inform you that your application for a stormwater permit (2111-230) at 5220 Butterworth Road has been denied pursuant to MICC 15.09.080(A).

The application proposes to tightline and discharge stormwater from the roof and footing drains to a Type F watercourse. The application materials state that there is no current connection of the roof and footing drains to the watercourse and that this stormwater currently infiltrates on the subject property.

The Amos Wood Short Plat created the subject property, which is identified as Lot B, in 1979. Condition of Approval No. 2 of the Amos Wood Short Plat states, "All roof and footing drains shall be tightlined to Lake Washington."

Pursuant to MICC 19.15.270(A)(3), it is a violation of the development code for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the city of Mercer Island in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the development code or previous codes. The proposal to tightline and discharge stormwater from the roof and footing drains to a Type F watercourse does not comply with Condition No. 2 of the Amos Wood Short Plat. Therefore, it has been denied.

Pursuant to MICC 15.09.090, this decision can be appealed to the Hearing Examiner following the process specified in MICC 19.15.130 .

Sincerely,

Ruji Ding, PE

Senior Development Engineer

City of Mercer Island – Public Works/Operations

Ruji.Ding@mercergov.org

206.275.7703 |

EXHIBIT – C

Ruji Ding

From: jeff@haley.net
Sent: Friday, February 4, 2022 1:23 PM
To: Ruji Ding; Bill Vandewater
Subject: FW: Haley/Glass Stormwater Permit 2111-230
Attachments: Letter to Hearing Examiner 2-4-22.pdf

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@mercerisland.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 \(mercerisland.gov\)](#) 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 Requests Next Request - 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 | mercerisland.gov/cpd

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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

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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