

## Nicole Gaudette

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**From:** Gerry Kaelin <gerry\_kaelin@hotmail.com>  
**Sent:** Wednesday, April 18, 2018 9:26 AM  
**To:** Nicole Gaudette  
**Cc:** Timothy B. Fitzgerald; Jessica Leonard; kbeck3inwa@comcast.net; Peter Hundrieser (fulaniman@comcast.net)  
**Subject:** Re: New information from neighbors

Good morning Nicole,

We live adjacent to the empty lot with the protected eagle tree, wetlands, steep grade and year-round stream.

I work from home frequently, such as this week, and this year I have heard and seen eagles in and around the tree numerous times on a regular basis. I took photos yesterday.

I am happy to let you know when I see them next. They are loud and make a very distinct sound.

Also, the stream between our properties is at a very high level this year due to all the rain. And the surrounding wetlands are extremely wet this year as well. This is very concerning to us due to the potential for landslides and the trees falling during possible construction. Our house is definitely one of several homes that is within striking distance should the tree fall during potential development. As I am sure you can appreciate, we are very concerned for our safety. Could you please notify the proper contacts within the city government of our reasonable concerns.

Thank you for your attention to this matter. We appreciate it.

Gerry Kaelin  
206-947-3159

Sent from my iPhone

On Apr 17, 2018, at 5:29 PM, Nicole Gaudette <[nicole.gaudette@mercergov.org](mailto:nicole.gaudette@mercergov.org)> wrote:

I really appreciate the pictures. Thank you for sending. If anyone sees an eagle in the tree during office hours (M-F 8:00 to 5:00), please give me a call so I can come out and verify it. My direct line is 206-275-7719.

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**From:** Timothy B. Fitzgerald <[TFitzgerald@mcnaul.com](mailto:TFitzgerald@mcnaul.com)>  
**Sent:** Tuesday, April 17, 2018 1:20 PM  
**To:** Nicole Gaudette <[nicole.gaudette@mercergov.org](mailto:nicole.gaudette@mercergov.org)>  
**Cc:** Jessica Leonard <[JLeonard@mcnaul.com](mailto:JLeonard@mcnaul.com)>; [kbeck3inwa@comcast.net](mailto:kbeck3inwa@comcast.net); Peter Hundrieser ([fulaniman@comcast.net](mailto:fulaniman@comcast.net)) <[fulaniman@comcast.net](mailto:fulaniman@comcast.net)>; Gerry Kaelin ([gerry\\_kaelin@hotmail.com](mailto:gerry_kaelin@hotmail.com)) <[gerry\\_kaelin@hotmail.com](mailto:gerry_kaelin@hotmail.com)>  
**Subject:** RE: New information from neighbors

Nicole:

As per our exchange of emails below, the following link will take you to a folder containing numerous recent photographs and a video of eagles in the tree located at 4825 E. Mercer Way: <https://mcnaul.sharefile.com/d-s5c352dbb39c461ea>. There is also one photograph of a partially eaten fish resting near the base of the tree, which we suspect was dropped in that location by an eagle. As noted, some of these photos were taken as recently as this morning. The people who took these photographs / video – Gerry Kaelin, Karen Beck, and Peter Hundrieser – will be submitting supplemental declarations, in which each of them will identify the specific photographs / video they

took and the date(s) on which those images were captured. Assuming we can make our schedules align, I am hoping to get you the supplemental declarations later today or tomorrow.

Please confirm receipt of this email, and let me know if you have any problem accessing the files.

Regards,

-Tim

**Timothy B. Fitzgerald | Attorney**

<image001.png>

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**From:** Timothy B. Fitzgerald  
**Sent:** Tuesday, April 17, 2018 10:22 AM  
**To:** 'Nicole Gaudette'  
**Cc:** Jessica Leonard  
**Subject:** RE: New information from neighbors

Nicole:

Thank you. I have already made the request of my neighbors, and have already received at least some of the information. I am in the process of assembling the documents and information and my assistant will be sending it to you shortly. As we discussed yesterday, however, I am planning to ask my neighbors to submit sworn declarations (supplemental declarations, actually) attesting to the authenticity of their observations and documents, consistent in form with the numerous other declarations we previously submitted. It might take another day to get the declarations pulled together, but there's no reason I cannot get you the underlying documents and information in the meantime.

Separately, when you make reference below to "information in the file" the City intends to review, I assume the file includes the numerous sworn declarations we previously submitted regarding the presence of eagles in the tree, along with the other materials we previously submitted. I also assume the City will be considering all of those materials, together with the supplemental information I will be providing shortly, in considering whether eagles continue to use the tree. If that is not the case, please let me know. Also, if you or anyone considering the pending application has questions for me or any of the people who submitted sworn declarations, we would be happy to make ourselves available.

As the various previously-submitted declarations make clear, the report recently submitted by Jennifer Marriott on behalf of the developer is predicated upon the incorrect premise that "[t]he last verified [eagle] activity in this tree was in 2005." As you will see in the supplemental materials I will be providing shortly, the last verified eagle activity in the tree (and by that I mean observed and photographed by someone who will testify under oath about his observations) was 8:17 this morning. Before issuing her report on March 9, 2018, Ms. Marriott did not contact me or anyone in the neighborhood who previously submitted sworn declarations to the City regarding the continuing presence of eagles in the tree, and instead based her conclusions upon two cite visits conducted eleven years apart. I encourage the City to take these facts into consideration during its deliberations.

Kind regards,

-Tim

**Timothy B. Fitzgerald | Attorney**

<image001.png>

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**From:** Nicole Gaudette [<mailto:nicole.gaudette@mercergov.org>]  
**Sent:** Tuesday, April 17, 2018 9:51 AM  
**To:** Timothy B. Fitzgerald  
**Subject:** New information from neighbors

Tim,

Good morning. Yesterday you mentioned that some neighbors have collected some new information about eagle use of the large fir tree at 4825 E Mercer Way. The city is going to be determining soon if the tree is a wildlife habitat conservation area based on information in the file. This determination will have an effect on how the fir tree is managed. Will you please ask whoever has the new information to submit it ASAP so it can be considered?

Thank you,  
Nicole

*Nicole Gaudette, Senior Planner  
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