FW: SUB19-002 (SEP19-005/Requirement For No Onsite Open Space/Lack of Tree Regulation

Jeff Thomas <jeff.thomas@mercerisland.gov>

Tue 12/26/2023 1:41 PM

To:Deb Estrada <Deborah.Estrada@mercerisland.gov>
Cc:Ryan Harriman <ryan.harriman@mercerisland.gov>

From: Dan Thompson <danielpthompson@hotmail.com>
Sent: Tuesday, December 26, 2023 11:19 AM
To: Jeff Thomas <jeff.thomas@mercerisland.gov>
Cc: Jessi Bon <jessi.bon@mercergov.org>; Council <council@mercergov.org>
Subject: Re: SUB19-002 (SEP19-005/Requirement For No Onsite Open Space/Lack of Tree Regulation

Here is a site map for the proposed 14 plat long division. 12. pin2174502425-supp-platmap.pdf (mercergov.org) The only "open space easement" listed on the map is the tiny triangle in the upper right-hand corner.

Daniel Thompson

Thompson & Delay
Attorneys at Law
80th Avenue Professional Building
2955 80th Ave SE, Suite 202
Mercer Island, WA 98040
Phone: (206) 622-0670
Fax: (206) 622-3965

From: Dan Thompson <danielpthompson@hotmail.com>
Sent: Tuesday, December 26, 2023 11:01 AM
To: jeff.thomas@mercerisland.gov <jeff.thomas@mercerisland.gov>
Cc: jessi.bon@mercergov.org <jessi.bon@mercergov.org>; council@mercergov.org <council@mercergov.org>
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This is a summary of the objections I plan to make to the hearing examiner on this project and is a reply post on ND.

"James, I think the opposition to any subdivision at all stems from the dishonesty of the owner and his broken promises. MI residents tend to be honest and trusting. Yes, our prior council was naive, and we had a terrible city attorney at that time (on many issues including ST), but unlike New York or LA most folks in this region don't want to always assume someone is lying to them, especially when they are pimping "the kids".

"But you are correct: there is no written agreement or deed restriction on property that the MISD donated to the BGC in 1984 (and the MISD was too trusting too), and nothing that legally prevents the owner from subdividing the property today. The real question is whether the subdivision should be 13 or 14 lots, a difference of 7% of lot area.

"The questions before the hearing examiner are whether the proposed subdivision meets the requirements of state and local laws relating to subdivisions. I don't think they do for three reasons, the same reasons the former planning dir. Evan Maxim felt limited the subdivision to 13 and not 14 lots, which is a difference of 7% of total lot area:

"1. My original objection that the subdivision required an internal access road to reduce direct driveways onto the local streets – very common for subdivisions including The Lakes – has been addressed mostly. But at the expense of providing PUBLIC open space. The city claims that since our local code provision does not set forth a specific "numerical standard" for the amount of open space it can be almost zero, which makes the requirement for open space seem superfluous. It also ignores state law which supersedes local code provisions that do not meet the state minimum requirements. State law requires adequate open space available to the general public. It also ignores precedent with the Coval long plat which the council rejected for failing to provide adequate open space (the city and developer tried to use a ravine and stream bed for open space, and upon remand had to dedicate a lot to open space).

"2. I also think the city planner made a significant mistake. The "open space" is not for the benefit of the subdivision owners – hence the "path" along WMW to the secret park which is really an insult – the open space must be onsite and for the benefit of the entire public, especially the surrounding neighborhood. This is even more important for this property because of the owner's prior promises, and his own comments in 2008 that this part of the Island has little recreational or open space opportunities for kids. A path from the subdivision to secret park (which is quite small) for the benefit of the subdivision owners misses the entire point of the open space provision.

"3. The tree removal is premature. Whether a tree is diseased or needs to be removed for building a house should be reserved until each individual building application is submitted. These are large mature trees that will be replaced with saplings almost one for one, which means there will be a significant loss of tree canopy and privacy. It is ridiculous to allow the owner to remove 36/37 trees in a preliminary application for a subdivision before a single building permit application has been filed.

"So in the end I agree with former planning dir. Evan Maxim that the subdivision should be limited to 13 lots to provide BOTH the internal access road AND meaningful onsite open space available to the general public, which is a little over 7% of total lot area, which is what this debate is really over, and any decision to allow tree removal of a tree with a diameter 10" or greater should be reserved and determined lot by lot when the building applications are submitted, just like any other non-subdivision house building permit. I also think this history should have been part of staff's recommendation to the Hearing Examiner."

I hope all had a wonderful holiday.

Daniel Thompson
Thompson & Delay
Attorneys at Law
80th Avenue Professional Building
2955 80th Ave SE, Suite 202
Mercer Island, WA 98040
Phone: (206) 622-0670
Fax: (206) 622-3965

From: Dan Thompson <danielpthompson@hotmail.com>
Sent: Friday, December 22, 2023 2:58 PM
To: jeff.thomas@mercerisland.gov <jeff.thomas@mercerisland.gov>
Cc: jessi.bon@mercergov.org <jessi.bon@mercergov.org>; council@mercergov.org <council@mercergov.org>
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This is the application for a long plat on the old Boys and Girls Property the MI school dist. donated to the BGC in 1984 for recreation. I have a post on ND addressing this. https://nextdoor.com/p/mSBjhfBt7hsB?utm_source=share&extras=NDE0NTk4OQ%3D%3D&utm_campaign=1703284690389

Here is a good 2008 article from The Reporter in which the owner claimed he would convert the property into ballfields. East Seattle School is sold | Mercer Island Reporter (mi-reporter.com)

But what I really want to address in this email is the blatant deceit in Ryan Harriman's recommendation to the hearing examiner which is addressed in my recent reply post.

Specifically his claim that a long plat that is regulated by both MICC 19.08 et seq and R.C.W. 58.17.020 does not require any onsite open space:

"Staff Finding: The proposed development makes a provision for open spaces in the form of a private easement for passive open space (Exhibit 5). The MICC does not provide a numerical standard with respect to the level of appropriateness as to the provision of open space".

"Staff Finding: By providing walking access along the West Mercer Way frontage to the Secret Park, the Applicant provides access to existing open space and recreation facilities sufficient to serve the proposed subdivision".

(exhibit 01 - sub19-002 staff report, dated december 13, 2023.pdf (mercergov.org) Pages 9-10).

I have never heard of something so absurd. The applicant's "open space" is based on an existing city park accessed by the required setback. Because the planner claims that, *"The MICC does not provide a numerical standard with respect to the level of appropriateness as to the provision of open space"* the planner interprets this to mean zero open space without addressing the requirements under R.C.W. 58.17.020. **Is Jeff Thomas really rewriting state law and the MICC to hold a 14-lot long plat requires no onsite open space, or this is the intent of 19.08? Is Jeff unaware of the Coval long plat?**

As noted in my post my two original objections to the old plan were:

A. There was no internal access road so all 14 lots had access drives directly onto the street.

B. There was no meaningful open space available to the public, especially for a parcel that was originally donated to the BGC by the MI School Dist. to remain open and recreational space, and by the purchaser who claimed that was his intent but lied.

The KEY is the internal access road is lot area that is deducted from the total lot area available for lots, AND so is the open space. Under the original plan Evan Maxim demanded there could only be 13 lots because there would be an internal access road, AND meaningful open space for the public. The way the applicant in the most recent design adds an access road and still can achieve 14 lots is by eliminating one of the most important requirements of

the MI code and state statute: open space available to the public, on a parcel that was designed to be entirely open space in perpetuity.

I also address in my recent reply post Harriman's approval to remove 36/37 trees, 17 the applicant claims are regulated when most are over 20" in diameter, are suddenly diseased, when the applicant's 2019 arborist report never mentions any disease.

Some of us, including Mark Coen and Carolyn Boatsman, spent years fighting for a tree ordinance against a planning commission that was adamantly opposed to any tree protection, that in the end Wendy Weiker, Debbie Bertlin and Dan Grausz watered down before adoption in 2017. But it did contain one key thing: a developer when building a house could not remove every tree on the lot because it was easier or cheaper, and each tree would be "regulated", which meant subject to permitting and inspection before removal during development. Now, instead, even BEFORE any building applications are received for the houses on each lot, the city and this planner are giving the developer a green light to remove 36/37 trees from the entire site without any city review, exactly what we fought to prevent, and what the code prohibits.

The current CPD is beginning to remind me a lot of the DSG under Scott Greenberg, and I am seeing way too much dishonesty from planners and way too little transparency, notice and participation by the citizens, and Thomas was suppose to correct that.

Daniel Thompson
Thompson & Delay
Attorneys at Law
80th Avenue Professional Building
2955 80th Ave SE, Suite 202
Mercer Island, WA 98040
Phone: (206) 622-0670
Fax: (206) 622-3965