

From: [Sarah Fletcher](#)
To: [Deb Estrada](#); [Ryan Harriman](#)
Subject: Written Testimony for the Public Hearing 1/24/2024 Sub 19-002
Date: Monday, January 22, 2024 6:33:21 PM
Attachments: [Old Boys and Girls Club Comments for 1.24.2024 Hearing dtd 1.22.2024.pdf](#)

I am a Mercer Island resident and I have lived on Mercer Island for over 25 years. I am writing with objections. It says on the Notice of Public Hearing: "The proposed development contains a private easement for open space and a community open space tract. It is confusing. If it is a private easement, then that is not open to the public. All it does is grant easement access only to certain individuals, such as neighbors, a public easement on the other hand grants this right to the general public, so what is the point of offering a private easement? That does not benefit us, the public. And is that in exchange for the demolition of the historic building, the removal of the mature trees, including the Regulated grove of mature Leylandi trees, and the displacement of the ballfield?

One has to ask who exactly this development is supposed to be benefiting - the developer or the citizens?

BROKEN PROMISES

In the Puget Sound Business Journal of 10/10/2007, Mr. O'Brien stated: "**Our plan is to keep the existing gym, improve the current T-ball field, demolish the remainder of the old facility, and build a new Little League baseball field,**" said Michael O'Brien, owner of the O'Brien Auto Group, in a statement about plans for the West Mercer Way property."

So, you do realize that he, well not really him, but his representative, broke every single promise?

I have attached questions for the Hearing Examiner, as well as comments. I hope the Hearing Examiner will go through my comments at the Hearing and respond.

I am against the subdivision of 14 houses which does nothing for the community, for the climate, the City is not even making them have solar energy, this proposal takes away all recreation facilities, and impacts the neighbors.

Someone should be overseeing the City's intake person in that they should have made sure that the application was filled in correctly, I mean, how could they not know that there is a large ballfield/volleyball field on the property?

And as far as the City arborist, when the applicant's arborist explained that because "trees leans against a building," that is no justification for regulated trees to be removed and please ask both arborists where does it state in any code that because a tree leans against a building which is no longer there, they are permitted to be removed?

And there is a statute of limitations. The application from 2019, as well as the City arborist's report from 2019 has expired. There was some mention of covid which you will see in my attachment, but they should have had time to redo the application between March of 2019 and November of 2023. So as there were errors on the application and the Arborist's Report is out-of-date, at a minimum, they should be redone.

Generally, I have questions as to where everyone's yard, garbage and recycle bins will be stored? Will each property owner be looking out at bins? The lighting needs to be dimmed as it is in the path of the migratory birds. What happens should the City approve the development and there are storm water drainage problems leading to the people's homes below to get flooded? Who would be responsible? And what about the traffic and where will guests visiting people be parking?

If Mr. O'Brien wants to meet citizens at the site and talk to us in person, that would be welcomed. Let's see what else he could do with the property apart from just building 14 houses. Thank you for your consideration.

Sarah Fletcher

Sarah Fletcher

My comments and questions for the Hearing Examiner. It is very frustrating for citizens when it comes to the developers and city staff working together against the citizens and citizens not being heard and for the owner sending his lackey to represent him and not appear himself. Citizens would really like to meet with Mr. O'Brien at the site and talk to him about his plans and what the plans of his representative/developer are as there seems to be a conflict in that Mr O'Brien stated in an article in the Puget Sound Business Journal of 10/10/2007: "**Our plan is to keep the existing gym, improve the current T-ball field, demolish the remainder of the old facility, and build a new Little League baseball field,**" said Michael O'Brien, owner of the O'Brien Auto Group, in a statement about plans for the West Mercer Way property." (See "Boys & Girls Club sells Mercer Island property for \$6M," Accessed 09/27/2012.)"

The Agreement with the City was done in 2004, this interview was done in 2007. You need to ask both Mr. O'Brien's representative/applicant, as well as whoever the intake person was in the City as to whether they were aware of this agreement or not and if not, now that they are both being made aware of it, does that now change things? Or, if the City intake person and Mr. O'Brien's rep were both aware of it, but still allowed the rep/applicant to go ahead with the building of the 14 houses, no retention of the gym, no retention of the ballfield, then, what does that mean? And if Mr. O'Brien is going to be before you in the Hearing, perhaps, you could get from it why he changed his plans, at what point did he decide he didn't want to do anything of the things he promised, and why he wanted to just build houses and not offer citizens anything except for a small corner of the property which is not even big enough to put a few park benches on.

So, is it acceptable for the rep to represent Mr. O'Brien in this Hearing Examination who wanted this for us versus what his rep wants?

And if you say it is, then I have the question to you, the Hearing Examiner. Do you think a rep could do your job on your behalf? What I am trying to get across to you, is the developer should not be allowed to represent Mr. O'Brien. Do you agree?

My question to the Hearing Examiner.

Have you been to the site? Yes or no.

I am going to be talking about the following issues:

- 1) The application form has incorrect information, the City and applicant refuse to correct the information.
- 2) There is a 25-year agreement between O'Brien, the City and the Club on the gymnasium in which both the City and Club were supposed lease the gymnasium for a certain amount of money each year and the Club was supposed to be doing the upkeep, but it seems that no-one was adhering to the agreement.
- 3) The developer, not Mr. O'Brien, thinks that the volleyball players are not going to be displaced as a result of this proposed 14-house development, but they are. Their application form needs to be corrected to state that the volleyball players are going to be displaced as a result of this proposed project.
- 4) For the City staff to offer the developer "access to Secret Park" is meaningless mediation. What has Secret Park access got to do with the displacement of the volleyball players and fitness people? Where in the Code does it say that they can offer access to a park down the road as mediation?

- 4) The previous head of the DSG, Evan Maxim, was under the understanding that the Agreement was that they would build 13 houses and to keep the volleyball field, but they did a switcheroo to 14 houses and no volleyball field, hence why they are having to go through the SEPA process. Would Mr. O'Brien like to sell the ballfield to the City and build a few less houses on the rest of the site?
- 5) There is a grove on the site, both the City arborist and the Owner's arborist are trying to make out that because the Leylandi are not listed as "exceptional trees," they can cut them down or that they are in "poor condition" or "hazardous", but they are anything but in poor condition or hazardous, they might be in the way of their development of 14 houses, but they should not be viable for removal. And the Code defines "grove" as being 8 trees, well there are more than 8 in a row, each with a diameter of over 30 inches. And what's more, there is a list which is entitled "Regulated Trees," for which the Arborist lists the Leylandi, but then, he puts "Not Regulated." If they were "not regulated," then why didn't he create a separate table with the title "Non-Regulated Trees?" Shall I tell you why? It is because the arborist knows full well that those trees are regulated, but is trying to create a loophole to get the developer to be able to remove the grove. Why else do you think the arborist would put "not regulated" trees under "Regulated Trees?" They all have diameters of over 20 inches, they are regulated.
- 6) Statute of Limitations, it has been more than 18 months since the application has been approved, hence it is null and void.
- 7) The applicant is making out that we did not appeal the last Decision, but that is because we were told that an appeal was not necessary. It is not that we did not want to appeal, but when you are told it is not necessary, why then would we appeal?

APPLICATION FORM ERRORS

When the applicant filled out the form, he deliberately left off the fact that there is a volleyball/ ballfield on site. See below:

- a) Why do you think that is and
- b) why do you think the City did not make the applicant correct the Application form and
- c) why did the City, themselves, correct the Application?

REASON FOR THE OMISSIONS

You see, people playing volleyball on that field are going to be "displaced to existing recreational uses". See "12. b" and "c" below in which they state:

"The site currently contains and [sp] abandoned building therefore the proposal will not displace any existing recreation" except neither is truthful or the truth. There is both a gymnasium which at the time of the sale was in operation, and the volleyball field in which every summer, people play volleyball on it.

So, do you, as Hearing Examiner,

- a) make the applicant correct the information and by them admitting that the people playing volleyball will be displaced to existing recreational uses?
- b) are you going to allow the applicant to get away with this omission, hence displacement?
- c) and question how the gymnasium became "abandoned" and
- d) wasn't it up to the owner to keep the building in a safe condition and make sure that it did not lead to a state of disrepair?

I don't know if you can see the Google street map, but here is a clear view of the volleyball field. How come no-one else in the City or the applicant noticed it?



- Was that an error or deliberate and now that I am making you aware of that fact, are you
- a) going to make the applicant redo the application?
 - b) who was responsible for checking the application for errors?
 - c) what happens when they have missed that out?
 - d) And how do you propose to make it so that the applicant corrects the information?
 - e) Or are you going to just leave it and let the applicant get away with this omission/error?

HISTORIC BUILDING

It is deemed an historic building whether anyone cares to admit it or not. Do you know if they could have got a grant up to \$500,000 towards the preservation of the historic building? And on the form, when asked, all they had to say was "yes, there is the original school and a gymnasium".

13. Historic and cultural preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

According to King County IMAP, Building 1 was built in 1990 and Building 2 was originally built in 1912 and possibly remodeled and/or built out in 1962.

The small triangle in this design is to replace the historic building, removal of the gymnasium and the displacement of the volleyball field. : I don't know if the developer thinks it is funny, but it is not. It is an insult. Show me where in any Code that an historic building, displacement of recreational facilities can be demolished and replaced with a tiny piece of nothingness?

Well, when the owner deliberately doesn't do any upkeep and keeps the building closed, of course it is going to be deemed an "abandoned building."

You can ask the applicant,

- a) Why did the owner not do any upkeep as he said he would in the narrative?
- b) And did it not seem implausible that the Old Boys and Girls Club would have to do the upkeep, why would they come up with that agreement?

Just because the MI code does not provide a specific numerical standard for open space -- and no local or state law does (and we are talking about 7% of total lot area if one of the 14 lots is turned into open space) doesn't mean a planner has discretion to require NO open space, or ignore the direct precedent in Coval, and court precedent under R.C.W 58.17 et seq. that requires open space set asides as part of a long plat, BECAUSE THAT IS IN THE STATUTE ITSELF.

The original Agreement: The owners of the property got the school district to donate the land for PEAK, and the citizens donated the construction costs, **on the promise the old Boys and Girls Club would be converted to ball fields, and not developed.** You can see what the owner had proposed in this article:

[East Seattle School is sold | Mercer Island Reporter \(mi-reporter.com\)](#)

- A. The City and Club desire to improve the Club's gymnasium ("Gymnasium") and facility located at 2825 W. Mercer Way, Mercer Island, Washington, on the real property legally described in Exhibit I attached to this Agreement and incorporated by this reference (the "Property");
- B. The City and the Club are mutually interested in improving the existing condition of the Gymnasium and the facility in order to expand and enhance its use for both the Club and Mercer Island residents; and
- C. The City has agreed to pay One Million and No/100 Dollars (\$1,000,000.00) toward the Gymnasium improvement project, as set forth in Exhibit II, in exchange for the City's ability to exclusively utilize the entire Gymnasium during prescribed time periods as set forth in Exhibit IV.

NOW, THEREFORE, in consideration of the above recitals, the payment to be made, the mutual promises and covenants contained herein, and for other good and valuable consideration, the parties agree as follows:

1. TERM

This Agreement shall be effective when fully executed by all the parties and shall continue for a period of twenty-five (25) years following completion of the Work described in Section 2 and commencement of the City's use of the Gymnasium ("Term"), unless earlier terminated pursuant to Section 2(B)(1) of this Agreement.

2. GYMNASIUM IMPROVEMENT PROJECT

A. Scope of Work. The Club agrees to complete certain work to the Property as more fully described in Exhibit II, and as further depicted in the drawing attached as Exhibit III (the "Work"). The Club shall have the right to exclude the multi-purpose room phase from the Work by so notifying the City of such deletion on or before December 31, 2004 in which event the term "Work" shall be deemed to no longer include the multi-purpose room phase. The Club has advised the City that the estimated MACC for the Work is presently \$7,900,000 of which the multi-purpose room phase represents approximately \$2,900,000. The City shall have no responsibility to perform the Work.

RECREATION

And as for the gymnasium, it was in use at the time of the sale. And if you look at the response to "b." below, they are misleading the City intake staff member when asked: **"Would the proposed project displace any recreational uses?** And their response is: "The site currently contains and [sp] abandoned building **therefore the proposal will not displace any existing recreation**", but what they **FAIL TO MENTION is THE FACT that there is NOT ONLY "an abandoned building" (the gymnasium, BUT that there is a volleyball/recreational field which is HARD TO MISS.** This is key in that that was open to the community until they put a sign up saying "Private Property," and they do not have any plans to accommodate those volleyball players and the fact that they mention the Secret Park down the road is not a mediation for the displacement of the volleyball players as there is not a volleyball field in The Secret Park. In fact, I don't actually know where the closest volleyball field is. I don't think there is another one on the island.

And their lie on the application form leads to their response below "c." in which they are making out that the proposal will not displace any existing recreation, but back in 2019, at the time the application was submitted, this proposal not only displaced the gym users, but also the volleyball players. I personally liked watching the Blue Angels from their field. That was my favourite spot to watch from. So tell me, if people will not be able to play volleyball on that ball field, what would you call that? I call it displacement. You can call it whatever you want, but Secret Park down the road doesn't offer volleyball.

B.

Applicability.

1.

The provisions of this chapter shall apply to all development proposals in the R-8.4, R-9.6, R-12, and R-15 zoning designations.

Unless otherwise indicated in this chapter, the applicant shall be responsible for the initiation, preparation, and submission of all required plans or other documents prepared in support of or necessary to obtain a permit and to determine compliance with this chapter.

This is where I found the information: [Chapter 17.12 - UNIFORM HOUSING CODE | City Code | Mercer Island, WA | Municode Library](#)

They were in violation of not filling out the form properly.

STATUTE OF LIMITATIONS

The excuse for the dormancy is unforeseen circumstances and covid, except there is a time limitation of application of 18 months and more than 18 months passed. It has in the Report: "Since the application was submitted in 2019, the proposed development went into a period of dormancy due to unforeseen circumstances related to the COVID-19 Pandemic, a lengthy environmental impact statement process, easement elimination negotiations, and other project interruptions."

EXCEPT THAT IT HAS 18 MONTHS from the time of the date of the application, it shall expire. It is expired and needs to be redone and at the same time, they can correct the application:

105.3.2 Time limitation of application.

1. Applications for which **no permit is issued within 18 months following the date of application shall expire** by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with state law. Applications may be canceled for inactivity, if an applicant fails to respond to the department's written request for revisions, corrections, actions or additional information within 90 days of request. The building official may extend the response period beyond 90 days if within the original 90 day time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the department.

3. The building official may extend the life of an application if any of the following conditions exist:

a. Compliance with the State Environmental Policy Act is in progress; or

b. Any other city review is in progress; provided the applicant has submitted a complete response to city requests or the building official determines that unique or unusual circumstances exist that warrant additional time for such response, and the building official determines that the review is proceeding in a timely manner toward final city decision; or

c. Litigation against the city or applicant is in progress, the outcome of which may affect the validity or the provisions of any permit issued pursuant to such application.

And the Arborist's Report is outdated/expired because I am sure now that the trees that were close to being 24 inches, probably are now 24 inches and John Kenney should make sure that what the arborist has down is factual. and there is no longer a building in which supposedly the trees were leaning against and that was the reason for them to be removed - for leaning. It is from 2019. The one city councilmember says that "they should follow the Code", but as I am trying to point out, they are not even close to following the Code. And there is a change of use. It is going from a recreational use, such as the gym and people playing volleyball to 14 houses. Do you realize that the representative is ignoring the fact that there was a gymnasium and a ballfield and a historical building to be replaced with 14 houses.

I have requested that they do all what they can to retain the significant trees and build around them. And if they would like to retain the volleyball field as it is really popular in summer. O'Brien should never have been allowed to purchase the property in the first place.

CLIMATE ACTION PLAN

And how does adding 14 houses on a 2-acre property help with Climate Action Plan exactly? Please list how it helps versus a volleyball field. Perhaps, if they offered to put solar on the roofs, provide solar lights and be mindful of the that might help, but there is no mention of that. And I believe the stormwater leads directly to the lake. That is not thinking of the environment.

The minimum lot size for the zone is 84,000 sf. Originally the applicant submitted a plan for 13 houses and a public green space where the old boys and girls building was. At the public meeting the applicant submitted a plan for 14 houses and no green space except we were blindsided in that we thought the building was going to be kept as it was a historical site, and that the ballfield which has been there for years was going to still remain.

TREES TO BE RETAINED

For example, how many significant trees do you count over 20 inches in diameter? There are more than 8 which by the City's definition is "a grove." Except, the Arborist the developer hired, has said that none of them are viable, all have to be removed, not viable. And do you want to know what it states: "hedge against existing building" except not only is there no building there anymore, but show me where it states that a tree has to be removed because "it is leaning against a non-existent building?" If you are going to allow the developer to remove the trees because they are "leaning against a non-existent building", then I am sorry, you are going to permit any tree to be removed for no reason, why bother then having a Code?

And if you look at the Arborist's Report, he mentions at least 9 trees (grove) which have a diameter of over 24 inches, but if you look at the plan, the applicant mentions "1."



TREE INVENTORY & REPLACEMENT SUBMITTAL INFORMATION

EXCEPTIONAL TREES

Exceptional Trees- means a tree or group of trees that because of its unique historical, ecological or aesthetic value constitutes an important community resource. A tree that is rare or exceptional by virtue of its size, species, condition, cultural/historical importance, age, and/or contribution as part of a tree grove. Trees with a diameter of more than 36 inches, or with a diameter that is equal to or greater than the diameter listed in the Exceptional Tree Table shown in MICC 19.16 under Tree, Exceptional.

List the total number of trees for each category and the tree identification numbers from the arborist report.

Number of trees 36" or greater 0

List tree numbers: _____

Number of trees 24" or greater (including 36" or greater) 1

List tree numbers: 2

Number of trees from Exceptional Tree Table (MICC 19.16) 0

List tree numbers: _____

LARGE REGULATED TREES

Large Regulated Trees- means any tree with a diameter of 10 inches or more, and any tree that meets the definition of an Exceptional Tree.

Number of Large Regulated Trees on site 1 (A)

List tree numbers: _____

Number of Large Regulated Trees on site proposed for removal 0 (B)

List tree numbers: _____

Percentage of trees to be retained ((A-B)/Ax100) note: must be at least 30% 100 %

RIGHT OF WAY TREES

Right of Way Trees- means a tree that is located in the street right of way adjacent to the project property.

Number of Large Regulated Trees in right of way 0

List tree numbers: _____

Number of Large Regulated Trees in right of way proposed for removal 0

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Attachment No. 3 – Regulated Tree Inventory (Boldface tree to be retained)

Regulated Threshold	Regulated Category	> 24" DBH	Tree No. *	DBH (in.)	QMD	Common name/Latin name	Drip-line Radius	Health	Structure	Comments on Condition	Tree Type	Visible Tree?
36"	Significant		1	9,16"	18"	Empress tree, Paulownia tomentosa	20'	1	2	Asymmetric canopy	D	No
6"	Exceptional	Yes	2	27"		Madrone, Arbutus menziesii	16'	1	1		BE	Yes
16"	Significant		3	7,7,8,9"	15"	English hawthorn, Crataegus monogyna	12'	2	3	Diseased, stumpshoot	D	No
16"	Exceptional		4	16"		English hawthorn, Crataegus monogyna	15'	2	3	Topped, double leader, over mature	D	No
21"	Exceptional		5	16,16"	23"	Bilrelana flowering plum, Prunus bilrelana	16'	2	3	Double leader, over mature	D	No
21"	Significant		6	20"		Bilrelana flowering plum, Prunus bilrelana	16'	2	3	Over mature	D	No
21"	Significant		7	8"		Bilrelana flowering plum, Prunus bilrelana	15'	2	3	Over mature	D	No
21"	Significant		8	14"		Bilrelana flowering plum, Prunus bilrelana	14'	3	3	Suckers, over mature, fungal conks on trunk	D	No
16"	Significant		9	8,8,10"	15"	English hawthorn, Crataegus monogyna	18'	2	3	Diseased, topped, stumpshoot	D	No
21"	Significant		10	12"		Bilrelana flowering plum, Prunus bilrelana	14'	3	3		D	No
21"	Significant		11	12"		Bilrelana flowering plum, Prunus bilrelana	7'	3	3	Diseased, branch decline, decay	D	No
21"	Significant		12	20"		Bilrelana flowering plum, Prunus bilrelana	16'	3	3		D	No
21"	Significant		13	11"		Bilrelana flowering plum, Prunus bilrelana	12'	1	3	Root failure	D	No
21"	Significant		14	11"		Bilrelana flowering plum, Prunus bilrelana	16'	2	2	Over mature, roots at soil surface	D	No
NR			16	21"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR			17	12,14"	18"	Leyland cypress, Cupressus xLeylandii	13'	1	2	Asymmetric (hedge against existing building)	C	No
NR		Yes	18	24"		Leyland cypress, Cupressus xLeylandii	15'	1	2		C	No

EXHIBIT 33.01a - Fletcher Email

Regulated Threshold	Regulated Category	≥ 24" DBH	Tree No. *	DBH (in.)	QMD	Common name/Latin name	Drip-line Radius	Health	Structure	Comments on Condition	Tree Type	Visible Tree?
NR		Yes	19	12"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR		Yes	20	28"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR		Yes	21	27"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR		Yes	22	34"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR			23	21"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR		Yes	24	26"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR		Yes	25	18,21"	27"	Leyland cypress, Cupressus xLeylandii	16'	1	1		C	Yes
NR		Yes	26	25"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR		Yes	27	24"		Leyland cypress, Cupressus xLeylandii	16'	1	2	Asymmetric (hedge against existing building)	C	No
NR		Yes	28	31"		Leyland cypress, Cupressus xLeylandii	16'	1	2		C	No
NR			29	11"		Portugal laurel, Prunus lusitanica	10'	1	1		BE	Yes
36*	Significant		30	8,8"	11"	Plum (seedling), Prunus domestica	15'	3	3	Diseased, topped, decay, lean	D	No
36*	Significant		31	14"		Pear, common, Pyrus communis	16'	2	3	Topped, covered in ivy	D	No
16*	Significant		32	8,8,8"	13"	English hawthorn, Crataegus monogyna	15'	2	3	Multiple ldrs, lean, ivy	D	No
NR			33	7,9"	11"	Portugal laurel, Prunus lusitanica	12'	1	2	Double leader	BE	Yes

IR = Not Regulated
 tree numbers are non-sequential because 3 small trees included in the previous inventory are removed from this report.

But their maths does not add up. They are making out that there is only one regulated tree on site, it is like all those Leylandi mysteriously vanished. It is up to the Hearing Examiner to determine whether the Leylandi trees which have diamaters of over 24 inches are deemed regulated or not and whether "leaning against a building" which I will have you know the building is no longer even there, is that an excuse to allow for that grove of Leylandi trees to be removed or not and what their classification is as "regulated/non-regulated", what is the status and reason that the Hearing Examiner is giving to allow them to be removed.

LARGE REGULATED TREES

Large Regulated Trees- means any tree with a diameter of 10 inches or more, and any tree that meets the definition of an Exceptional Tree.

Number of Large Regulated Trees on site	1	(A)
List tree numbers:	_____	
Number of Large Regulated Trees on site proposed for removal	0	(B)
List tree numbers:	_____	
Percentage of trees to be retained ((A-B)/Ax100) note: must be at least 30%	100	%

- (a) Exceptional trees:
- (b) Trees with a diameter of **more than 24 inches;**
- (c) Trees that have a **greater likelihood of longevity;** and
- (d) **Trees that are part of a healthy grove.**

If the Leylandi are not a healthy grove, what would you call them? "Unhealthy grove?"

"Exceptional Tree

A tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource. An exceptional tree is a tree that is rare or exceptional by virtue of its size, species, condition, cultural/historic importance, age, **and/or contribution as part of a tree grove."**

They would not need to replace the trees if they did not remove them.

And this is the replacement:

TREE REPLACEMENT

Tree replacement- removed trees must be replaced based on the ratio in the table below. Replacement trees shall be conifers at least six feet tall and or deciduous at least one and one-half inches in diameter at base.

Diameter of Removed Tree (measured 4.5' above ground)	Tree replacement Ratio	Number of Trees Proposed for Removal	Number of Tree Required for Replacement Based on Size/Type
Less than 10" and non-viable trees	1	13	13
10" up to 24"	2	0	0
Greater than 24" up to 36"	3	0	0
Greater than 36" and any Exceptional Tree	6	2	12
TOTAL TREE REPLACEMENTS			25 required

37 provided

They are not even planning on replacing the correct number of trees. It is an insult.

[19.10.060 - Tree removal—Associated with a development proposal. | City Code | Mercer Island, WA | Municode Library](#)

- b. In addition to the retention required in subsection (A)(2)(a) of this section, the development proposal shall be designed to further minimize the removal of large trees and maximize on-site tree retention as follows:
- i. Site improvements, including but not limited to new single-family homes, additions to a single-family home, appurtenances, accessory structures, utilities, and driveways, shall be designed and located to minimize tree removal during and following construction.

And see page 9 of the plans which is where I got the information from about the trees being removed and replaced:

[plans.pdf \(mercergov.org\)](#)

And I was told by Alison Van Gorp, the ombudsman, that the retention is per Code MICC 19.10.06(A) and this is what it has:

Retention of exceptional trees. Development proposals specified under subsection (a)(1) of this section shall retain exceptional trees with a diameter of 24 inches or more. Exceptional trees with a diameter of 24 inches or more that are retained shall be credited towards compliance with the retention requirements of subsection (A)(2) of this section. Removal of exceptional trees with a diameter of 24 inches or more, **shall be limited** to the following circumstances:

- a) Retention of an exceptional tree(s) with a diameter of 24 inches or more will result in an unavoidable hazardous situation; or
- b. Retention of an exceptional tree(s) with a diameter of 24 inches or more will limit the constructable gross floor area to less than 85 percent of the maximum gross floor area allowed under [chapter 19.02](#) MICC; or,
- c. Retention of an exceptional tree(s) with a diameter of 24 inches or more will prevent creation of a residential lot through a subdivision or short subdivision that is otherwise allowed by this title.

When all is said and done, you would not be hearing a peep from me if Mr. O'Brien, not the developer/rep said that we will keep the Leylandi grove, keep the ballfield and build 10 to 11 homes and kept the open space/green space, but I am just not fine with the representative, not Mr. O'Brien, from wanting to change the neighborhood and to not offer one community recreational facility or feature. This went from a community resource to a private owner getting a special deal in which he or the developer is proposing building 14 houses, removing mature trees, and offering no recreational facility or even any open space.

I would like the developer to be offered two options:

- 1) That he build 13 houses and retain the ballfield and clean up the Secret Park path, OR
- 2) He build 10-11 houses, keeps the Leylandi trees and the ballfield and builds around the mature trees and that each house is not allowed to go higher than 30 ft tall including appurtenances.

Thank you for your consideration.