

Ryan Harriman

From: Sarah Fletcher <fletchsa1@gmail.com>
Sent: Saturday, March 11, 2023 6:46 AM
To: Bio Park; Craig Reynolds; Jeff Thomas
Cc: Carolyn Boatsman; Ryan Harriman; Deb Estrada; Council; Jessi Bon; Dan Thompson
Subject: Re: SEP19-005 ODNS Parties of Record Email

I am copying Bio. Perhaps, he can enlighten everyone on whether the Code has been followed. This is where I found the information: [Chapter 17.12 - UNIFORM HOUSING CODE | City Code | Mercer Island, WA | Municode Library](#)

The issuance of a permit based on construction documents and other data shall not prevent the building official from **requiring the correction of errors** in the construction documents and other data. **The building official is also authorized to prevent occupancy or use of a structure where in violation of the construction codes and the Construction Administrative Code or of any other ordinances of this jurisdiction .**" They were in violation of not filling out the form properly. I don't know if that comes under "construction documents." I will copy Jeff as I assume he is the building official.

Sarah Fletcher

On Sat, Mar 11, 2023 at 6:37 AM Sarah Fletcher <fletchsa1@gmail.com> wrote:

And there is a statute of limitations of 18 months in which no permit has been issued, so they need to reapply. Like I said, the Arborist's Report is outdated because I am sure now that the trees that were close to being 24 inches, probably are now 24 inches and John Kenney should make sure that what the arborist has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. So Craig, you mention 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. 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.

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.

2.

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 the date 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.

On Fri, Mar 10, 2023 at 9:42 PM Sarah Fletcher <fletcha1@gmail.com> wrote:

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

PHONE: 206.275.7605 | www.mercergov.org



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

\\chfs1\share\CPD\FORMS\1Current Forms\Engineering Forms\TreeInventoryReplacementSubmittalInformation.docx 1/2019

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

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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 \(mercergov.org\)](#)

Sarah

On Fri, Mar 10, 2023 at 9:26 PM Sarah Fletcher <fletchsa1@gmail.com> wrote:

This is what it has on the tree retention:

ii.

The following trees shall be prioritized for retention:

(a)

Exceptional trees;

(b)

Trees with a diameter of more than 24 inches;

Trees that have a greater likelihood of longevity; and

Trees that are part of a healthy grove.

All those trees are to be retained except they are not. So, you say they are to follow the Code, then they should follow the Code. It is not complicated.

On Fri, Mar 10, 2023 at 9:20 PM Sarah Fletcher <fletchsa1@gmail.com> wrote:

Hello Craig, exactly, They decide what the code means and apply it as appropriate to any given site. "They should be following the Code" like you say, except they are NOT. And you say: "we cannot reject a permit that complies with the code" except it doesn't follow the Code, not when the applicant deliberately lies on the application form. Whose job is it to go over the form to make sure it is correct?

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 "an orchard." Except, the Arborist the developer hired, has said that none of them are viable, all have to be removed. There is an orchard by the City's definition on the site with diameters over 20 inches.

21"	Significant	10	12"	Blireiana flowering plum, Prunus blireiana	14'	3	3				D	No
21"	Significant	11	12"	Blireiana flowering plum, Prunus blireiana	7"	3	3	Diseased, branch decline, decay			D	No
21"	Significant	12	20"	Blireiana flowering plum, Prunus blireiana	16'	3	3				D	No
21"	Significant	13	11"	Blireiana flowering plum, Prunus blireiana	12'	1	3	Root failure			D	No
21"	Significant	14	11"	Blireiana flowering plum, Prunus blireiana	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

Greenforest  Registered Consulting Arborist

Mike O'Brien, OB Mercer Island Properties
RE: Arborist Report, 2825 West Mercer Way, Mercer Island WA
February 21, 2019
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Regulated Threshold	Regulated Category	Regulated Category	≥24" DBH	Tree No. #	DBH (in)	QMD	Common name/Latin name	Trunk Diameter	Health	Structure	Comments on Condition	Tree Type	Value 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

And there was a gym on the site, they let it become abandoned. And there was a volleyball field at the time of the application and there still is a volleyball field as of yesterday. Except, once again, I am trying to point out that the applicant lied on the form and whoever accepted the application should have pointed out the error. So, now, here we are, I am trying to find out whether the City is going to make the applicant correct the information or what? There is a deadline to appeal. If the City intake person is not going to have the applicant correct the information, then I and my friend are going to file a formal appeal which we should not have to do had the applicant put the correct information down on the form in the first place or had the City intake person gone to the site, he would have realized that what was on the form did not match up to the actual. Will you please have a word with the intake person and ask them for an explanation and let me know how things stand. Are they going to make the applicant redo the application and update the Arborist Report? Thank you.

Sarah

On Fri, Mar 10, 2023 at 8:59 PM Craig Reynolds <craig.reynolds@mercergov.org> wrote:

Sarah:

The planning commission does VERY important policy work. Their work helps determine the code the city has. (After Council approval of course.). Far from being nothing of importance, I think the work the PC does is CRITICAL to the future of the city.

But the application of that code to any given development or building project is a matter for staff. They decide what the code means and apply it as appropriate to any given site. That is not a role for the Council or the planning commission.

And irrespective of what Ross, or I, or you, or Carolyn, or the rest of the Council or Planning Commission think about the sustainability attributes of a particular development, we cannot reject a permit that complies with the code. This is not a case of people not talking to each other. This is a case of staff following the law.

Craig W. Reynolds

Mercer Island City Councilmember

craig.reynolds@mercergov.org

(206)-356-9429

From: Sarah Fletcher <fletchsa1@gmail.com>

Date: Friday, March 10, 2023 at 5:45 PM

To: Carolyn Boatsman <carolyn.boatsman@mercergov.org>

Cc: Ryan Harriman <ryan.harriman@mercercisland.gov>, Deb Estrada <Deborah.Estrada@mercercisland.gov>, Council <council@mercergov.org>, Jessi Bon <jessi.bon@mercergov.org>

Subject: Re: SEP19-005 ODNS Parties of Record Email

Hello Carolyn, thank you for responding. It is like nothing of importance goes before the Planning Commission. And the departments don't talk to each other. Ross of the Sustainability Department should have discussed with the intake personnel that the City is concerned about sustainability and that he doesn't think this development is good for the environment. And I have a question which I hope Jessi can answer, what happens when the applicant fills in the wrong information? Are citizens to appeal and pay the \$850 fee or will the City make the applicant correct the information and then come out with an updated Record of Decision? Time is of the essence, so I sincerely hope that Jessi responds as soon as possible. And I hope everyone realizes that why the applicant deliberately left off the volleyball field is because they plan on replacing the volleyball field with a small triangle which will fit one beach chair according to another MI citizen. And why the building was deemed "abandoned," is because the owner was responsible for it becoming "abandoned" and did absolutely nothing to maintain the building.

And the original plan was for 13 houses, not 14.

It is a terrible state of affairs. My friend is planning on appealing, but she needs answers very quickly as to where things stand. And does anyone know if there is a statute of limitations as far as when the applicant filed the application which was in 2019 to now? And the Arborist Report needs to be redone as the trees have to have grown by now. And I need to know from John Kenney why he left the kind of significant trees off the list of significant trees. I looked at Bellevue's code and they don't give any definition of any trees, just the measurements. And I could bet you that those trees have a circumference of 24 inches. There again, John Kenney needs to do his own measurements and confirm that the measurements the Arborist documented are correct. You see, if the circumference is 24 inch for each, that gives even more reason why those trees (orchard of trees) should not be allowed to be cut down.

Will someone please give me answers very quickly? I don't want to find that the deadline has come and passed and we are too late to appeal. That would not be fair.

Sarah Fletcher

On Fri, Mar 10, 2023 at 4:13 PM Carolyn Boatsman <carolyn.boatsman@mercergov.org> wrote:

Hi Sarah. This appears to be a land use permit and, as such, it is not something that comes before the Planning Commission.

Best,

Carolyn

From: Sarah Fletcher <fletchsa1@gmail.com>

Sent: Tuesday, March 7, 2023 6:49 AM

To: Ryan Harriman <ryan.harriman@mercerisland.gov>

Cc: Deb Estrada <Deborah.Estrada@mercerisland.gov>; Council <council@mercergov.org>; Carolyn Boatsman

<carolyn.boatsman@mercergov.org>

Subject: Re: SEP19-005 ODNS Parties of Record Email

Hello, I just want to make sure that they filled the form out properly. I don't know if you are aware, but there is a volleyball court/field on the property which is used for recreation. But on the form, it does not mention that fact. Do any of you happen to know why that was omitted? You see, people playing volleyball on that field are going to be "displaced to existing recreational uses," And wasn't the gym being used up until the sale of the property?

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



I just don't know why no-one corrected the applicant? So, would someone like to explain what is going to happen to those people who would play volleyball on that field? Was that an error or deliberate and now that I am making you aware of that fact, are you going to make the applicant redo the application or what happens when they have missed that out? Who was responsible for checking the application for errors? And how do you propose to correct the information? Does that mean, citizens have to pay the \$850 appeal money to appeal the City's errors?

And it is an historic building whether they care to admit it or not. What was wrong with the City declaring it so?

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.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?
Secret Park is located approximately 150' north of the subject site.

- b. Would the proposed project displace any existing recreational uses? If so, describe.
The site currently contains an abandoned building therefore the proposal will not displace any existing recreation

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Measures to reduce or control impacts to recreation are not proposed, as no displacement to existing recreational uses will occur.

On Mon, Mar 6, 2023 at 11:17 AM Ryan Harriman <ryan.harriman@mercerisland.gov> wrote:

Good morning:

Please find the attached SEPA ODNS (SEP19-005) and SEPA Checklist for a proposed preliminary long plat (SUB19-002) approval to subdivide the 2.88-acre subject property, zoned R-8.4, into 14 lots with associated infrastructure to support single-family residences.

This notice and associated documents are also available via the City's online permit system: <https://mieplan.mercergov.org/public/SEP19-005 & SUB19-002>.

Please note this is your official copy.

Best regards,

Ryan Harriman, EMPA, AICP
Planning Manager

Community Planning & Development | City of Mercer Island

City Hall Operating Hours: Tuesday – Wednesday – Thursday, 9 AM to 4 PM
206.275.7717 | mercerisland.gov/cpd

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