



MEDINA, WASHINGTON

HEARING EXAMINER

Remote Public Hearing

Tuesday, January 09, 2024 – 10:00 AM

AGENDA

Virtual Meeting Participation

The scheduled variance hearing will be held using remote meeting technology. Please either log in or call in a few minutes prior to the start of the meeting to participate. Written comments may still be submitted prior to the hearing by emailing Andy Crossett, Medina Tree Consultant at andycrossett@hotmail.com. These comments are given the same weight as public testimony.

Join Zoom Meeting: <https://medina-wa.zoom.us/j/84128626608?pwd=PYrrbK2Wp3FGnRKv3p9v3Z8ekLrqZc.1>

Meeting ID: 841 2862 6608

Passcode: 089368

One tap mobile

+12532050468,,84128626608#,,,,*089368# US

+12532158782,,84128626608#,,,,*089368# US (Tacoma)

Public Hearings:

***NOTE:** The Hearing Examiner has the discretion to limit testimony to relevant non-repetitive comments and to set time limits in order to ensure an equal opportunity is available for people to testify.*

PRE-DECISION HEARING:

File No.: TREE-23-043

Proposal: Non-administrative Tree Activity Permit to authorize the removal of one "Landmark" 50.2-inch DSH Coast Redwood (*Sequoia sempervirens*).

Location: 116 Overlake Dr. E

Time: 10:00am

[TREE-23-043](#) Staff Packet



CITY OF MEDINA

501 EVERGREEN POINT ROAD | PO BOX 144 | MEDINA WA 98039-0144
TELEPHONE 425-233-6400 | www.medina-wa.gov

STAFF ANALYSIS AND RECOMMENDATION BURNSTEAD NON-ADMINISTRATIVE TREE ACTIVITY PERMIT

Prepared by Andy Crossett, Medina Tree Consultant

Date: January 2, 2024

Part 1 – General Information:

CASE NUMBER: TREE-23-043

LOCATION: 116 OVERLAKE DR E, Medina 98039

TAX PARCEL NUMBER: 938970-0015

PROPERTY OWNER: Steve Burnstead

APPLICANT: Thomas Burnstead

LEGAL DESCRIPTION: WIGHTS M F REPLAT POR KENWOOD PK & POR VAC ST

PROPOSAL: Non-administrative Tree Activity Permit to authorize the removal of one “Landmark” 50.2-inch DSH Coast Redwood (*Sequoia sempervirens*).

COMPREHENSIVE PLAN DESIGNATION: Single Family Residential.

ZONING DESIGNATION: R-20

CRITICAL AREAS: Approximately half of the site is within the Shoreline Jurisdiction and Fish and Wildlife Habitat Conservation Area (Lake Washington); the tree that has been requested to be removed is not within this critical area.

ENVIRONMENTAL REVIEW (SEPA): Exempt pursuant to WAC 197-11-800(6).

EXHIBITS:

1. Staff Report
2. Application, received August 24, 2023
3. Site Plan, received August 24, 2023
4. Tree Replacement Plan, received August 24, 2023
5. Affidavits declaration of mailing and posting and proof of publishing
6. Public Comments
7. Photographic documentation of the Subject tree
8. City of Medina – List of Significant Trees
9. WAC 197-11-800

Part 2 – Site Characteristics:

EXISTING CONDITIONS: No existing structures on the property. The subject tree sits along the north property border amongst a small grove of trees. It is currently in good condition with no visible defects or disease.

SURROUNDING ZONING:

Direction	Zoning	Present Use
North	R-20 District	Residential
South	R-20 District	Residential
East	N/A	Lake Washington
West	R-16 District	Residential

ACCESS: Ingress and egress are from Overlake Drive East

Part 3 – Comprehensive Plan:

The Medina Comprehensive Plan identifies the setting and character of Medina as enriched with valued natural features that enhance the quality of life for the community. One of the primary goals is: “To maintain Medina’s high-quality residential setting and character” (Goal LU-G1).

Chapter 3: Community Design Element

Trees and vegetation help reduce the impact of development, by providing significant aesthetic and environmental benefits. Trees and other forms of landscaping improve air quality, water quality, and soil stability. They provide limited wildlife habitat and reduce stress associated with urban life by providing visual and noise barriers between the City’s streets and private property and between neighboring properties. They also have great aesthetic value and significant landscaping, including mature trees, is always associated with well-designed communities.

It is important that citizens be sensitive to the impact that altering or placing trees may have on neighboring properties. Trees can disrupt existing and potential views and access to sun. Residents are urged to consult with the City and with their neighbors on both removal and replacement of trees and tree groupings. This will help to protect views and to prevent potential problems (e.g., removal of an important tree or planting a living fence). Clear cutting should not be permitted on a property prior to development.

Policy CD-P5: Residents are urged to consult with the City and with their neighbors on both removal and replacement of trees and tree groupings to help protect views and to prevent potential problems (e.g., removal of an important tree or planting a living fence).

Policy CD-P6: Clear cutting should not be permitted on property prior to development.

Part 4 – Agency Review/ Public Comment:

NOTICES: (See Exhibit 3.)

Application Received: August 24, 2023
Determination of Completeness: November 27, 2023
Notice of Application and Hearing: December 7, 2023

The application was received on August 24, 2023. The application was determined to be completed on November 27, 2023. A combined Notice of Application and Hearing was issued on December 7, 2023. A 15-day public comment period was utilized, consistent with MMC 16.80.120. The notice was mailed to property owners pursuant to MMC 16.80.140(B)(2), published in *The Seattle Times* newspaper, and posted on the site and other public notices locations (City Hall, Medina Post Office, Medina Park Posting Board, and City of Medina website).

GENERAL PUBLIC COMMENTS:

Betty Tong
122 Overlake Dr. East, Medina

Ms. Tong has requested the removal of a tree due to its ongoing damage to their garage door for the past two years and its impact on a newly planted evergreen hedge. She's also worried about potential damage the tree's roots could cause to their recently constructed driveway. Additionally, Ms. Tong is concerned about the potential risks to the safety of her friends and family posed by the tree or its debris.

AGENCY COMMENTS: Not applicable.

Part 5 – Staff Analysis/ Findings of Fact:

GENERAL:

1. The applicant applied for a non-administrative tree activity permit for the removal of one landmark sized tree located on 116 OVERLAKE DR E.
2. MMC 2.78.070 authorizes the hearing examiner to conduct public hearings and make decisions or recommendations when authorized to do so under the Medina Municipal Code. MMC 16.72.090 establishes non-administrative tree activity permits as a Type 3 decision processed pursuant to the review procedures set forth in Chapter 16.80 MMC. Table 16.80.060(C) establishes the procedures for Type 3 decisions and authorizes the hearing examiner as the decision authority for non-administrative tree activity permit.

ANALYSIS OF THE NON-ADMINISTRATIVE TREE ACTIVITY PERMIT:

3. MMC 16.52.160(E) requires a non-administrative tree activity permit for removing a significant tree, excluding hazard trees, that is 50 inches or larger diameter breast height, located on private property, and located outside of the footprint of a building containing the principal use of the property. The Burnstead's proposal to remove the subject landmark tree meets these criteria.

4. MMC 16.52.080 (B) requires Legacy and Landmark trees to be preserved and retained unless replacement trees are planted in accordance with either the Legacy or Landmark requirements. For Landmark Trees, the quantity of replacement inches is calculated by multiplying the diameter breast height of each subject landmark tree by 100 percent to establish the minimum number of replacement inches, with all fractions being rounded up to the next whole number (MMC 16.52.080(B)(2)).
5. In lieu of planting the replacement trees, the Director or Designee may authorize an applicant to satisfy the tree replacement requirements by paying a fee-in-lieu of supplemental plantings provided: 1) There is insufficient area on the lot or adjacent right-of-way to meet the number of replacement inches prescribed by MMC 16.52.090; or 2). Tree replacement provided within public right-of-way or a city park in the vicinity will be of greater benefit to the community 3) Fees shall be provided in lieu of on-site tree replacement based upon the following: a. The expected tree replacement cost including labor, materials, and maintenance for each replacement tree; and b. The most current council of tree and landscape appraisers guide for plant appraisal. 4. The applicant executes a written agreement with the city demonstrating compliance with this section.
6. Public outreach began with the notice of application on December 7, 2023. As of December 24, 2023, the city received one comment from a concerned resident.

STATE ENVIRONMENTAL POLICY ACT:

7. The Responsible Official concluded that the proposal is exempt from environmental (SEPA) review and threshold determination pursuant to WAC 197-11-800(6).

Part 6 - Conclusions:

- A. Pursuant to MMC 2.78.070 and MMC 16.80.050(C), the hearing examiner has the authority to hold a hearing and decide non-administrative tree activity permits. Adequate public notice for the public hearing has been provided. Notice was posted at nineteen locations around the City including the City website, mailed to affected property owners, and published in the *Seattle Times* newspaper, at least 15 days prior to the date of the hearing.
- B. Pursuant to MMC 16.72.090(E), the Hearing Examiner may approve a Non-administrative Tree Activity Permit only if the following criteria are satisfied:
 1. ***The proposal is compatible with Chapter 3, Community Design Element, of the comprehensive plan;***

STAFF CONCLUSION: Chapter 3. Community Design Element of the Comprehensive Plan (2015) states the following: "Trees and vegetation help reduce the impact of development, by providing significant aesthetic and environmental benefits. Trees and other forms of landscaping improve air quality, water quality, and soil stability. They provide limited wildlife habitat and reduce stress associated with urban life by providing visual and noise barriers between the City's streets and private property and between neighboring properties. They also have great aesthetic value and significant landscaping, including mature trees, is always associated with well-designed communities.

It is important that citizens be sensitive to the impact that altering or placing trees may have on neighboring properties. Trees can disrupt existing and potential views and access

to sun. Residents are urged to consult with the city and with their neighbors on both removal and replacement of trees and tree groupings. This will help to protect views and to prevent potential problems (e.g., removal of an important tree or planting a living fence). Clear cutting should not be permitted on a property prior to development.”

In 2019 twenty-four (24) out of thirty-nine (39) significant trees at 116 Overlake Dr E were permitted for removal under TREE-19-046. According to the permit application, this left fifteen (15) significant trees on the property. In August 2023 an administrative tree activity permit application was submitted indicating there were nineteen (19) significant trees on the property. The application proposed the removal of fourteen (14) significant trees, including the subject coast redwood. This would Leave five (5) significant trees on the property and a required tree unit deficit of 4.25 TU. I believe this proposal is antithetic to the Comp Plan as the lot has essentially been clear cut and the comprehensive plan states that “Clear cutting should not be permitted on a property prior to development.” Additionally, the subject tree is aesthetically pleasing and offers some level of a “visual” barrier between properties. It will take many years for the proposed replacement trees to offer a similar benefit. Therefore, I do not believe the proposal meets this requirement.

2. *The proposal is consistent with the public interest in maintaining an attractive and safe environment;*

STAFF CONCLUSION: The subject coastal redwood is healthy with a good structural condition. It is still relatively young with an estimated age in the 65 – 80-year range, however, this is a species that can live well over 2,000 years. It would be considered an excellent example of species and positively “contributes to the residential character of the city”. Therefore, the removal of this tree is not in the public interest in maintaining an attractive environment.

In terms of ensuring the safety of the local community, there are no apparent significant defects that could contribute to catastrophic tree or tree part failure under normal weather conditions and based on the risk assessment methodology outlined by the International Society of Arboriculture (ISA), would fall within the “low” risk category. The low-risk category applies when consequences are negligible, and likelihood is unlikely; or consequences are minor, and likelihood is somewhat likely. It is important to remember that it is impossible to maintain trees completely free of risk – some level of risk must be accepted to experience the benefits that trees provide. Additionally, removal of this tree may have detrimental effects on surrounding trees, as it is dominant in the landscape, and likely provides significant dampening of wind forces to nearby trees. If it were to be removed, trees that were formally protected would now be fully exposed to wind forces they are not adapted to. Which in turn would increase risk to surrounding properties. As a result, removal of this tree is not in the public interest in maintaining a safe environment.

3. *The tree trimming, pruning or removal will have no materially detrimental effects on nearby properties;*

STAFF CONCLUSION: The proposed landmark tree removal will likely not be materially detrimental to nearby properties. It may be materially beneficial to 8847 Overlake Dr E, as it could potentially open up a view to the lake.

4. *The tree has not been granted special protection pursuant to MMC 16.52.080:*

STAFF CONCLUSION: 16.52.080. – Legacy and Landmark tree protection measures (B)(2) does allow removal of Landmark trees, provided that replacement trees are planted. “B. Legacy and landmark trees shall be preserved and retained unless replacement trees are planted in accordance with the following: 2. Landmark tree: a. The quantity of replacement inches is calculated by multiplying the diameter breast height of each subject landmark tree by 100 percent to establish the minimum number of replacement inches; and b. All fractions of this section shall be rounded up to the next whole number.” 16.52.080 (C) also states the following: “In lieu of planting the replacement trees prescribed in subsection (B) of this section, an applicant may satisfy the tree replacement requirements by meeting the criteria set forth in MMC 16.52.180. – Fee-in-lieu of supplemental plantings.”

5. *All requirements set forth in Chapter 16.52 MMC are satisfied;*

STAFF CONCLUSION: The removed tree is proposed to be mitigated with a replacement tree selected from list 5 of the Suitable Tree Species Lists. The tree removal mitigation will also include a contribution to the Medina Tree Fund for lost public benefit between the larger tree being removed and smaller trees being planted. The proposal meets this requirement.

6. *All other ordinances, regulations, and policies applicable to tree removal are followed.*

STAFF CONCLUSION: The subject landmark tree removal meets the requirements set forth in MMC 16.52 but is antithesis to its purpose and intent. Examples include the following:

(A) **The purpose of the tree management code is to preserve the existing sylvan appearance through long-term preservation** and planting of trees that contribute to the community's distinct features including proximity to the lakeshore, views, heavily landscaped streetscapes, and large tracts of public and private open spaces. The city recognizes that trees: 1. Contribute to the residential character of the city; 2. Provide a public health benefit; 3. Provide wind protection, ecological benefits to wetlands and watercourses, and aid in the stabilization of geologically hazardous areas; 4. Improve surface water quality and control and benefit Lake Washington; and 5. Reduce noise and air pollution.

(B) The intent of this chapter is to establish regulations and standards that: **1. Protect and preserve the existing tree canopy;** 2. Provide homeowners flexible standards that encourage the preservation of trees while recognizing the importance of having access to sunlight and views; 3. Recognize through the standards in this chapter that certain factors may require the removal or pruning of certain trees due to circumstances such as disease, danger of falling, proximity to structures and improvements, interference with utility services, protection of view and sunlight, and the reasonable enjoyment of property; 4. Encourage best practices for the planting and managing of trees appropriately to minimize hazards, nuisances, and maintenance costs while allowing access to sunlight and views; **5. Prevent the indiscriminate removal or destruction of trees except as provided for in accordance with this chapter;** 6. Promote building and site planning practices consistent with the purpose and intent of this chapter; 7. Ensure prompt development,

restoration, replanting and effective erosion control of property after tree removal with landscape plans and other reasonable controls; and 8. Foster public education on the local urban forestry program and encourage good tree management consistent with this chapter.

7. All other requirements set forth in MMC 16.52.200 are satisfied;

STAFF CONCLUSION: MMC 16.52.200. – City tree removals is not applicable as this tree is located on a private property and the city right-of-way will not be utilized for removal.

Pursuant to MMC 16.72.080(F), the Hearing Examiner may attach reasonable conditions as necessary to safeguard the public health, general welfare and safety.

Part 7 – Staff Recommendation:

While removal of this tree may be antithetical to the purpose and intent of MMC 16.52, the code itself does allow removal of landmark trees if remediation is provided. Therefore, staff recommends approval of the administrative tree activity permit for the removal of one Landmark” 50.2-inch DSH Coast Redwood (*Sequoia sempervirens*), subject to the following conditions:

1. The applicant shall plant at least twelve (12) replacement trees selected from list 5 of the City of Medina Lists of Suitable Trees within 18-months of permit issuance under this non-administrative tree activity permit. The replacement trees shall meet all of the standards set forth in MMC 16.52.200(E)(2). The applicant shall coordinate selection and the planting location of the replacement trees with the City Tree Consultant.
2. A contribution of \$10,800 shall be made to the Medina Tree Fund prior to removal of the Giant Sequoia tree. If additional trees are proposed, the contribution will be reduced consistent with MMC 16.52.200(F)(4). If additional trees are removed, contributions to the Medina Tree Fund consistent with MMC 16.52.200(E)(3) shall be made prior to completing the work authorized under this non-administrative tree activity permit.
3. The applicant shall be responsible for all costs associated with the planting and maintenance of replacement trees for five years. The applicant shall take necessary measures to ensure that supplemental trees remain healthy and viable for at least five years after inspection by the city and the owner shall be responsible for replacing any supplemental trees that do not remain healthy and viable for the five years after inspection by the city.

Report prepared by:



Andy Crossett
Medina Tree Consultant

January 2, 2024

Date



DEVELOPMENT SERVICES

NON-ADMINISTRATIVE TREE ACTIVITY PERMIT T-04

501 EVERGREEN POINT ROAD MEDINA, WA 98039
PHONE: 425-233-6414/6400

Instructions: Complete this form for the following:

- Removal of any tree, excluding hazard trees, on private property having a 50-inch Diameter Breast Height and larger size that is located outside of the footprint of a building containing a principle use of the property

<input checked="" type="checkbox"/> New Application <input type="checkbox"/> Supplemental	Staff Only	Date Received: _____	By: _____	Permit No.
		Fee: _____	Receipt No: _____	
		Tech Fee: _____	Advanced deposit: _____	

Property Information

Property Address: 116 Overlake Dr E, Medina WA 98039	Check if tree is located: <input checked="" type="checkbox"/> Within 200 feet of shoreline <input type="checkbox"/> Within a critical area (Ch. 18.12 MMC)
Tax Parcel No. 9389700015	

Applicant Information

Name: Steve Burnstead Construction LLC	Email: thomas@burnstead.com
Mailing Address: 11980 NE 24th St. Ste 200, Bellevue, WA 98005	City _____ State _____ Zip _____
Phone: 425-753-2527	

Contact/ Agent Information

Name: Thomas Burnstead & Leo Suver	Email: Same as above
Address: Same as above	Phone:

Contractor Information STEVEBC914RH	Email & Phone:
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Project Information

Is the property under development? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Application is for tree performance standards (attach form T-01a)
<input checked="" type="checkbox"/> Check if a Legacy Tree (attach form T-08)	<input type="checkbox"/> Application is for tree restoration standards (attach form T-01b)

Application Submittal Checklist

The following materials are required for a complete application:

Copies	Material to be submitted	Applicant	N/A	City
3	This form completed.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Form T-01a (performance standards) or T-01b (restoration standards).....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Form T-08 if legacy trees are included.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1	Proof of ownership by adjoining property owner.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1	Declaration of Agency (A-05).....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3	Tree removal and planting plan (T-06).....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1	Set of mailing labels (A-06).....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Additional information, as required by the City to evaluate the proposal.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2	Critical Areas Report (if applicable).....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Approval Criteria

Please respond in detail how your request meets the approval criteria in MMC 20.71.050(E). Demonstrating meeting the approval criteria is necessary if your application is to be approved. Attach additional pages if necessary.

How is the proposal compatible with Chapter 3, Community Design Element, of the comprehensive plan?

The site is zoned R-16 and the proposed building will disturb much less surface area of the site than what is permitted. A significant area of the middle of the property is dedicated to a park-like landscape plan, as well as supplemental tree plantings, that will help reduce the impact of the development of the single family residence and lake pavilion. New plantings and existing remaining trees will screen the development from City streets and neighboring properties, and provide a diversity of plant species. Remaining trees along the frontage of the property will provide significant canopy.

How is the proposal consistent with the public interest in maintaining an attractive and safe environment?

Supplemental plantings and the proposed landscape plan are consistent with an attractive environment. In addition, it is likely that the root system of this tree would be damaged by any permitted development of the site, possibly causing an unsafe condition. Removal of this tree and mitigation is the safer option. The existing tree has significant root structure that is impacting the existing public sewer main located directly north (same sewer that was recently re-lined by Bellevue Utilities).

How will the tree removal have no materially detrimental effects on nearby properties?

Supplemental plantings will mitigate any detrimental effects on nearby properties by creating a lush, park-like landscape plan and achieving the goals compatible with Chapter 3 of the comprehensive plan. Removal of this tree is supported by all three adjacent properties owners.

Was the tree granted special protection pursuant to MMC 20.52.120 (is it a legacy tree)?

Pursuant to MMC 16.52.080 the tree is granted special protection as a Landmark Tree.

Are all other requirements set forth in MMC 20.52.400 satisfied?

Requirements set forth in MMC 16.52.080 shall be satisfied by planting of replacement trees as indicated in the Tree Removal and Planting Plan (T-06). The quantity of replacement inches required for a 50.2" tree is 51". We propose planting (12) 2" replacement trees, meeting the standards prescribed in MMC 16.52.090, and mitigating 28" of replacement trees with fee-in-lieu of supplemental plantings, due to insufficient area on the lot, as set forth in MMC 16.52.180, for a total of 52" of mitigation.

Explain how all of the other ordinances, regulations and policies applicable to the tree removal have been followed.

This application and it's corresponding documentation satisfy all requirements laid out in the MMC 16.52.080

I declare under penalty of perjury that I am the owner of the above property or the duly authorized agent of the owner(s) and that all applicable information furnished in support of this application is true, correct and complete.

Print Name: Thomas Burnstead

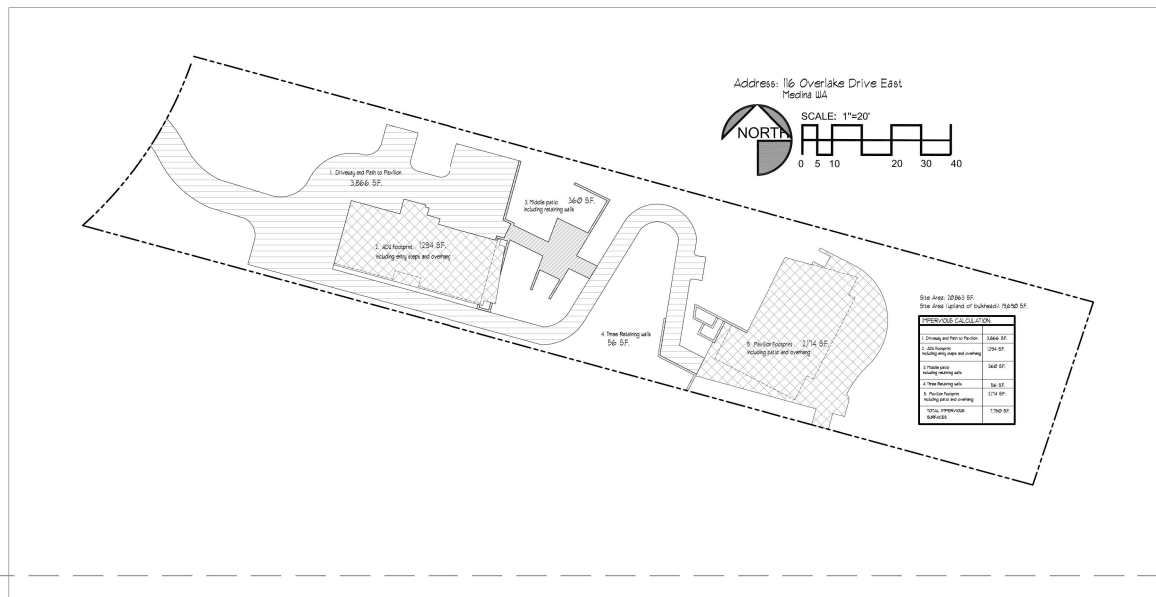
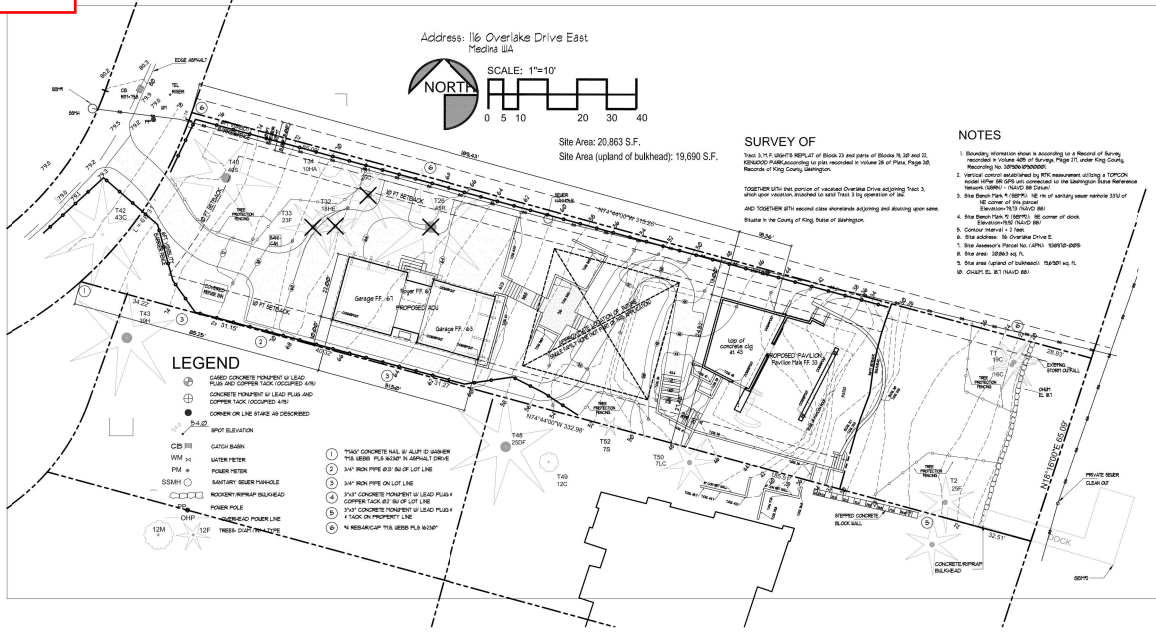
Owner Agent (check one)

Signature: 

Date: 8/22/2023

Exhibit 3

CONSTRUCTION ACTIVITY PERMIT



PERMIT CONDITIONS

- WORK HOURS:**
 - WEEKDAYS 7:00 AM TO 7:00 PM
 - SATURDAY 8:00 AM TO 5:00 PM
 - NO WORK ALLOWED ON SUNDAYS OR HOLIDAYS
- CONSTRUCTION VEHICLE PARKING:**
 - CONSTRUCTION PARKING IS PROHIBITED OUTSIDE OF THE PROJECT'S PROPERTY BOUNDARY, UNLESS SPECIFICALLY PERMITTED INCLUDING BUT NOT LIMITED TO WHERE SIGNED ALONG NE 12TH STREET.
 - CONSTRUCTION ENTRANCE TO PROPERTY AND ON-SITE CONSTRUCTION PARKING AREAS SHALL BE STABILIZED.
- SITE MAINTENANCE:**
 - A VISUAL BARRIER SHALL BE MAINTAINED ALONG THE PROJECT'S PROPERTY BOUNDARY ADJACENT TO OTHER PROPERTIES.
 - PROJECT SITE SHALL CONTAIN AN APPROPRIATELY SIZED COVERED TRASH CONTAINER.
 - PROJECT SITE SHALL BE KEPT CLEAN OF TRASH INCLUDING BUT NOT LIMITED TO CONSTRUCTION DEBRIS, AND FOOD WRAPPERS.
 - CONSTRUCTION MATERIALS SHALL BE STORED IN A SAFE, SECURE, AND ORDERLY MANNER.
- NOISE:**
 - NOISE SHALL NOT EXCEED THE PERMITTED LIMITS IDENTIFIED IN CHAPTER 8.06 OF THE MEDINA MUNICIPAL CODE.
 - SITE WORKERS SHALL ENDEAVOR TO LIMIT THE SOUND OF RADIOS AND VOICES FROM TRAVELING ACROSS PROPERTY BOUNDARIES.
 - IDLING VEHICLES ARE PROHIBITED.
- UTILITY DISRUPTION:**
 - FOR ANY UTILITY DISRUPTIONS TO NEIGHBORING PROPERTIES, THE CONTRACTOR SHALL PROVIDE AT LEAST SEVEN (7) DAYS' WRITTEN NOTICE TO ALL AFFECTED NEIGHBORS BY DELIVERING A CITY-ISSUED DOOR-HANGING FLYER AT EACH AFFECTED HOME THAT INCLUDES THE FOLLOWING INFORMATION:
 - CONTACT INFORMATION OF THE OWNER OR AGENT FOR THE PERMITTED PROJECT WHICH IS CAUSING THE DISRUPTION;
 - THE EMERGENCY CONTACT INFORMATION INCLUDING THE NAME, PHONE NUMBER AND EMAIL ADDRESS FOR THE UTILITY CONTRACTOR DOING THE WORK;
 - THE DATE AND DURATION THAT THE SERVICE WILL BE AFFECTED.
- ROAD CLOSURE:**
 - COMPLETE CLOSURE OF ROADS IS PROHIBITED EXCEPT IN AN EMERGENCY.
- ROAD OBSTRUCTION:**
 - OBSTRUCTION OF ROADS IS PROHIBITED UNLESS ALLOWED PURSUANT TO A RIGHT-OF-WAY USE PERMIT PER MMC 10.72.040.
- ADDITIONAL CONDITIONS:**
 - THE CITY OF MEDINA DEVELOPMENT SERVICE DIRECTOR MAY MODIFY THE CONSTRUCTION PERMIT CONDITIONS KEEPING THE REQUIREMENTS OF CHAPTER 15.20 MMC AT ANY TIME IF ADDITIONAL IMPACTS ARE IDENTIFIED OR CONDITIONS CHANGE.

CITY OF MEDINA PERMIT# _____

THIS CONSTRUCTION ACTIVITY PERMIT IS APPROVED FOR CONFORMANCE WITH THE CITY OF MEDINA MUNICIPAL CODE CHAPTER 15.20.

DEVELOPMENT SERVICES DIRECTOR OR DESIGNEE: _____ DATE: _____

PROJECT INFORMATION

OWNER: _____ ADDRESS: _____

MEDINA CITY HALL:
501 EVERGREEN POINT ROAD
MEDINA, WASHINGTON 98039
425-233-6409

Exhibit 4



DEVELOPMENT SERVICES

LEGACY TREE MITIGATION

T-08

501 EVERGREEN POINT ROAD MEDINA, WA 98039
PHONE: 425-233-6414/6400

Instructions: Complete this form to calculate replacement requirements for removing a legacy tree.

- What is a Legacy Tree?**
- A tree having a 50-inch DBH or larger size;
 - A tree that is healthy and will survive the next 10 years if properly cared for;
 - A tree not designated a hazard or nuisance tree per the municipal code;
 - The tree is of one of the following species:

<i>Western Red Cedar</i>	<i>Alaska Yellow Cedar</i>
<i>Douglas Fir</i>	<i>Grand Fir</i>
<i>Mountain Hemlock</i>	<i>Western Hemlock</i>
<i>Pacific Madrone</i>	<i>Lawson Cypress</i>
<i>Shore Pine</i>	<i>Western White Pine</i>
<i>Sitka Spruce</i>	

Location Information

Permit No. Ref-23-0399

Describe location of the tree:
The tree is located on the upper portion of the lot (see site plan)

- Check if tree is located:**
- Within 200 feet of shoreline
 Within a critical area (Ch. 18.12 MMC)

Project Information

List the scientific and common name of the legacy tree
Coast Redwood

- Check selected option for tree replacement:**
- Planting all replacement trees
 Planting replacement trees and contributing to the Medina Tree Fund

Tree Replacement Requirements

Calculate Replacement Inches:

List the DBH size of the Legacy Tree Being Removed: 50.2" (Landmark)

Multiply by: 1.0

This is the required total replacement inches: 51"

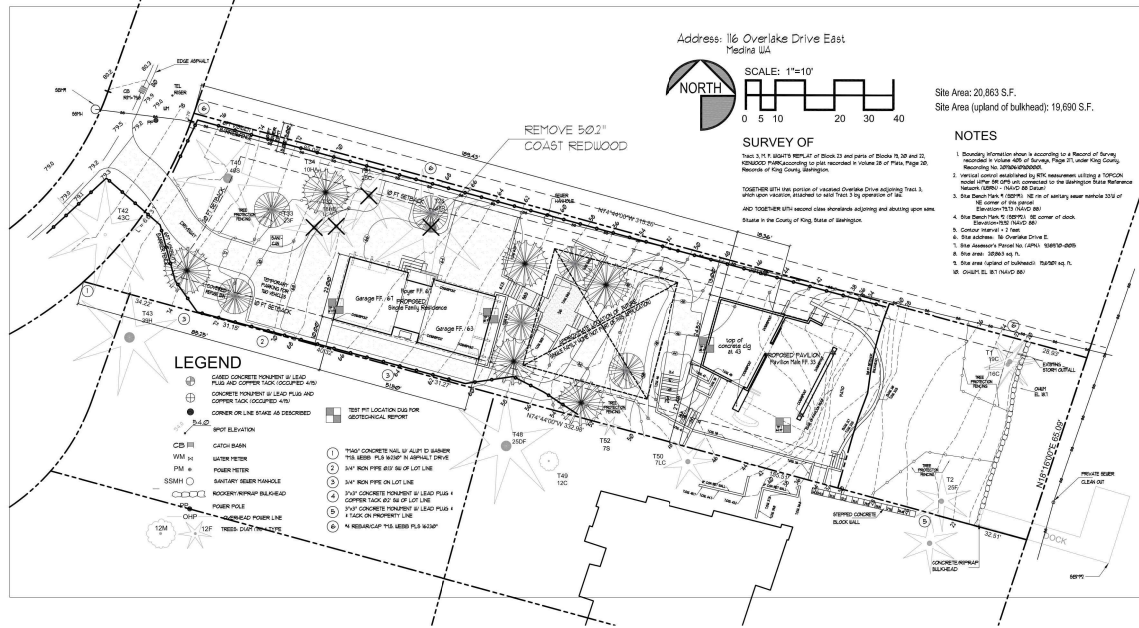
List the Number of Replacement Trees to be Planted and the Total Caliper Inches (A minimum of three replacement trees must be planted)

12	24 Inches
--	---

Contribution to Medina Tree Fund

Required Total Replacement Inches	51"
Subtract total caliper inches of trees to be planted	24"
Difference	27"
Multiply by \$400	
This is your contribution to the Medina Tree Fund	\$10,800

CONSTRUCTION ACTIVITY PERMIT



LANDMARK TREE REMOVAL/REPLACEMENT SITE PLAN

PERMIT CONDITIONS

1. WORK HOURS:
 - a. WEEKDAYS 7:00 AM TO 7:00 PM
 - b. SATURDAY 8:00 AM TO 6:00 PM
 - c. NO WORK ALLOWED ON SUNDAYS OR HOLIDAYS
2. CONSTRUCTION VEHICLE PARKING:
 - a. CONSTRUCTION PARKING IS PROHIBITED OUTSIDE OF THE PROJECT'S PROPERTY BOUNDARY UNLESS SPECIFICALLY PERMITTED INCLUDING BUT NOT LIMITED TO WHERE SIGNED ALONG NE 12TH STREET.
 - b. CONSTRUCTION ENTRANCE TO PROPERTY AND ON-SITE CONSTRUCTION PARKING AREAS SHALL BE STABILIZED.
3. SITE MAINTENANCE:
 - a. A VISUAL BARRIER SHALL BE MAINTAINED ALONG THE PROJECT'S PROPERTY BOUNDARY ADJACENT TO OTHER PROPERTIES.
 - b. PROJECT SITE SHALL CONTAIN AN APPROPRIATELY SIZED COVERED TRASH CONTAINER.
 - c. PROJECT SITE SHALL BE KEPT CLEAN OF TRASH INCLUDING BUT NOT LIMITED TO CONSTRUCTION DEBRIS, AND FOOD WRAPPERS.
 - d. CONSTRUCTION MATERIALS SHALL BE STORED IN A SAFE, SECURE, AND ORDERLY MANNER.
4. NOISE:
 - a. NOISE SHALL NOT EXCEED THE PERMITTED LIMITS IDENTIFIED IN CHAPTER 8.08 OF THE MEDINA MUNICIPAL CODE.
 - b. SITE WORKERS SHALL ENDEAVOR TO LIMIT THE SOUND OF RADIOS AND VOICES FROM TRAVELING ACROSS PROPERTY BOUNDARIES.
 - c. IDLING VEHICLES ARE PROHIBITED.
5. UTILITY DISRUPTION:
 - a. FOR ANY UTILITY DISRUPTIONS TO NEIGHBORING PROPERTIES, THE CONTRACTOR SHALL PROVIDE AT LEAST SEVEN (7) DAYS' WRITTEN NOTICE TO ALL AFFECTED NEIGHBORS BY DELIVERING A CITY-ISSUED DOOR-HANGING FLYER AT EACH AFFECTED HOME THAT INCLUDES THE FOLLOWING INFORMATION:
 - i. CONTACT INFORMATION OF THE OWNER OR AGENT FOR THE PERMITTED PROJECT WHICH IS CAUSING THE DISRUPTION;
 - ii. THE EMERGENCY CONTACT INFORMATION INCLUDING THE NAME, PHONE NUMBER AND EMAIL ADDRESS FOR THE UTILITY CONTRACTOR DOING THE WORK;
 - iii. THE DATE AND DURATION THAT THE SERVICE WILL BE AFFECTED.
6. ROAD CLOSURE:
 - a. COMPLETE CLOSURE OF ROADS IS PROHIBITED EXCEPT IN AN EMERGENCY.
7. ROAD OBSTRUCTION:
 - a. OBSTRUCTION OF ROADS IS PROHIBITED UNLESS ALLOWED PURSUANT TO A RIGHT-OF-WAY USE PERMIT PER MMC 10.72.040.
8. ADDITIONAL CONDITIONS:
 - a. THE CITY OF MEDINA DEVELOPMENT SERVICE DIRECTOR MAY MODIFY THE CONSTRUCTION PERMIT CONDITIONS MEETING THE REQUIREMENTS OF CHAPTERS 15.20 MMC AT ANY TIME IF ADDITIONAL IMPACTS ARE IDENTIFIED OR CONDITIONS CHANGE.

TREE REPLACEMENT	
EXISTING TREE:	$\frac{502'}{2} = 26$ TREES
PROPOSED REPLACEMENT TREES:	
	6 EACH WESTERN RED CEDAR 6 FEET
	6 EACH DOUGLAS FIR 6 FEET
	14 EACH FEE IN LIEU OF REPLACEMENT
TOTAL: 26 REPLACEMENT TREES	

CITY OF MEDINA PERMIT# _____	
THIS CONSTRUCTION ACTIVITY PERMIT IS APPROVED FOR CONFORMANCE WITH THE CITY OF MEDINA MUNICIPAL CODE CHAPTER 15.20.	
DEVELOPMENT SERVICES DIRECTOR OR DESIGNEE _____	DATE _____

PROJECT INFORMATION

OWNER: _____
ADDRESS: _____



MEDINA CITY HALL:
501 EVERGREEN POINT ROAD
MEDINA, WASHINGTON 98039
425-233-6409

**CITY OF MEDINA
DECLARATION OF MAILING**

Rebecca Bennett does declare as follows:

That s/he is the Development Services Coordinator of the city of Medina and that on the 7 day of December 2023 s/he caused a true and correct legible copy of the following described documents to be mailed to all residences which are within 300 feet of the property in question described by its street address as:

116 Overlake Dr E

Description of document:
Notice of Application

Signed under the penalties of perjury of the laws of the state of Washington at Medina, Washington this:

11 day of December 2023



Signature of posting employee



CITY OF MEDINA

501 EVERGREEN POINT ROAD | PO BOX 144 | MEDINA WA 98039-0144
TELEPHONE 425-233-6400 | www.medina-wa.gov

NOTICE OF APPLICATION

Proposal: Non-administrative Tree Activity Permit for the removal of a 50.2" diameter Coast Redwood within the Shoreline setback.

File No. TREE-23-043

Applicant: Suver & Burnstead Custom Homes c/o Thomas Burnstead, Steve Burnstead Construction, LLC

Site Address: 116 OVERLAKE DR E, Medina, WA, 98039

Required Permits/Studies: Non-administrative Tree Activity Permit

Application Received:	August 24 th , 2023
Determination of Completeness:	November 27 th , 2023
Notice of Application:	December 11 th , 2023

PUBLIC COMMENTS: Pursuant to MMC 16.80.110(B)(7), this application has a public comment period. Please submit public comments no less than 14 days and no more than 30 days from the date of issuance of the Notice of Application.

STATE ENVIRONMENTAL POLICY ACT: The proposal is exempt from environmental (SEPA) review pursuant to WAC 197-11-800(2)(e).

DETERMINATION OF CONSISTENCY: Pursuant to RCW 36.70B.040, a preliminary determination has found the proposal consistent with the provisions of the Medina Municipal Code.

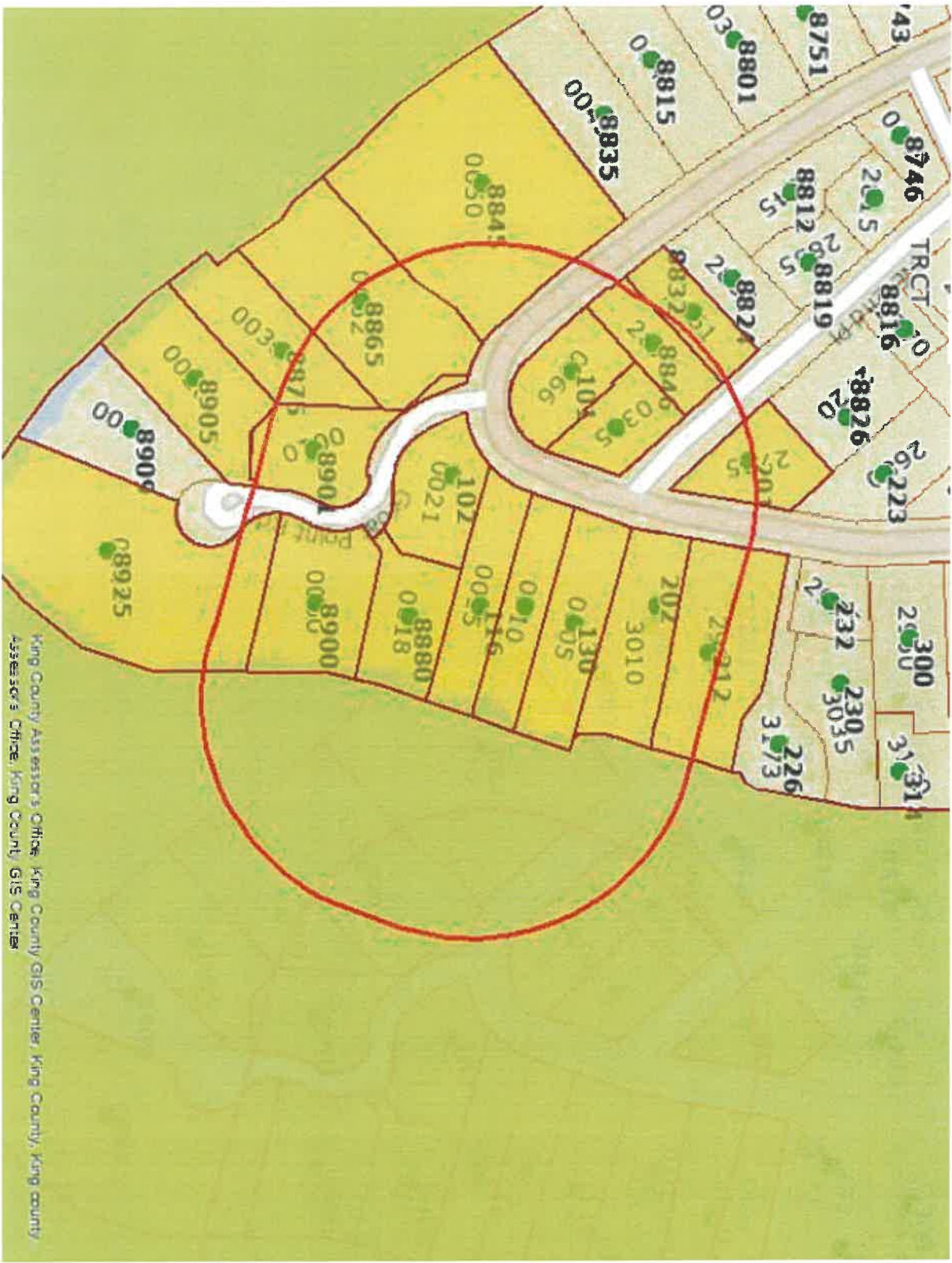
PUBLIC HEARING: The Non-administrative Tree Activity Permit will have a hearing before the Medina Hearing Examiner. **A SEPARATE MAILING** will be sent with the date and time of the hearing once the public comment period has expired.

QUESTIONS: Please email the staff contact below to review the complete application electronically, or if you have any questions.

STAFF CONTACT: Andy Crossett, Medina Tree Consultant, at (206) 310-8254 or andycrossett@hotmail.com



50.2" diameter Coast Redwood



GRIFFITH MICHAEL V -TRUSTEE
PO BOX 848
MEDINA WA 98039

BURNSTEAD JOAN K
919 109TH NE #1600
BELLEVUE WA 98004

YEOH TIONG KEAT
719 99TH AVE NE
BELLEVUE WA 98004

KREKEL C ALAN & BARBARA E
8832 OVERLAKE DR W
MEDINA WA 98039

KOURTIS SPYRO+JILL
8846 OVERLAKE DR W
MEDINA WA 98039

MEDINA PLACE L L C
212 OVERLAKE DR E
MEDINA WA 98039

DAYANG REAL ESTATE INVESTME
6513 132ND AVE NE # 38
KIRKLAND WA 98033

GOODRICH ANDREW R-TTEES
601 UNION ST #2600
SEATTLE WA 98101

HUGHES LAWRENCE & MARY
8865 OVERLAKE DRIVE W
MEDINA WA 98039

YANG BIN+YUN LI
8847 NE 2ND PL
MEDINA WA 98039

HUTSON REVOCABLE LIVING TRU
101 OVERLAKE DR E
MEDIAN WA 98039

PARK MICHAEL S+HWA C
8901 GROAT PT DR
MEDINA WA 98039

TDNRE LLC
601 UNION ST #2600
SEATTLE WA 98101

CHAFFEE MIKE & JILL
130 OVERLAKE DR E
MEDINA WA 98039

ATM LLC
PO BOX 609
MEDINA WA 98039

STEVE BURNSTEAD CONSTRUCTIO
11980 NE 24TH ST STE #200
BELLEVUE WA 98005

BURNSTEAD DONNA+STEVE
8880 GROAT POINT DR
MEDINA WA 98039

HUGHES LAWRENCE & MARY
8865 OVERLAKE DR W
MEDINA WA 98039

RIVERSEDGE PROPERTIES LLC
3527 121ST ST SW
LYNNWOOD WA 98037

CITY OF MEDINA
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Description of document:
Notice of Hearing

Signed under the penalties of perjury of the laws of the state of Washington at Medina, Washington this:

11 day of December 2023



Signature of posting employee



CITY OF MEDINA NOTICE OF VIRTUAL HEARING

NOTICE IS HEREBY GIVEN that the Medina Hearing Examiner will conduct a virtual public hearing on **Tuesday, January 9, 2023, at 10:00 AM** or as called as soon thereafter via Zoom. The purpose of this hearing is to consider testimony for and against the following:

Proposal: Request for a non-administrative tree activity permit to remove a tree greater than 50 inches

File No. Non-administrative Tree Activity Permit (TREE-23-043)

Applicant: Thomas Burnstead (Owner/Agent)

Site Address: 116 Overlake Dr E

YOU ARE INVITED to attend the remote hearing and make oral and written comments. The Hearing Examiner has the discretion to limit testimony to relevant, non-repetitive comments and to set time limits. If you are unable to attend, written comments, photographs, or other exhibits on the application may be submitted to the staff contact or address below before the hearing date. The Hearing Examiner gives equal weight to testimony submitted in person at a hearing and written comments that are submitted.

For information on how to participate in the remote hearing, please see the City's website for the hearing agenda which will be posted by Friday, January 5, 2023, at 4:00 PM. Please either log in or phone in at the beginning of the hearing to participate. If you need special accommodations, please contact the staff below.

STATE ENVIRONMENTAL POLICY ACT: The proposal is exempt from environmental (SEPA) review pursuant to WAC 197-11-800(2)(e).

APPEAL RIGHTS: Appeal of the Non-administrative Tree Activity Permit is to King County Superior Court pursuant to MMC 16.80.220(B).

QUESTIONS: The complete application may be reviewed by emailing the staff contact below. Requests for information and/or written comments may be directed to the staff contact below, or to Medina City Hall, Attn: Development Services, 501 Evergreen Point Road, Medina, WA 98039.

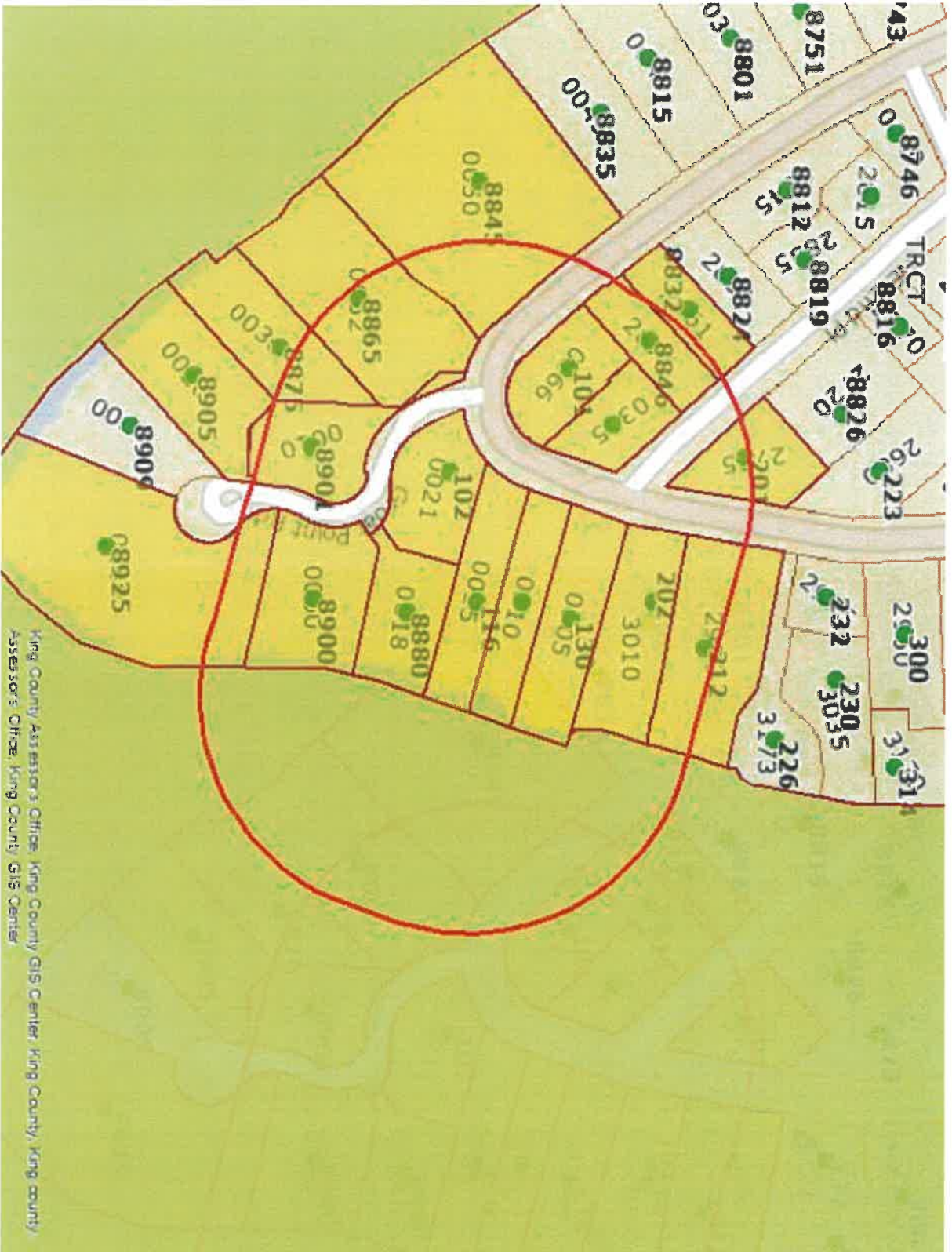
STAFF CONTACT: Andy Crossett, Medina Tree Consultant, at (206) 310-8254 or andycrossett@hotmail.com

Andy Crossett, Medina Tree Consultant

12/11/2023
Notice Issued

WARNING!

Posted notice is not to be removed, mutilated or concealed in any way.



King County Assessor's Office, King County GIS Center, King County, King County Assessor's Office, King County GIS Center

GRIFFITH MICHAEL V -TRUSTEE
PO BOX 848
MEDINA WA 98039

BURNSTEAD JOAN K
919 109TH NE #1600
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3527 121ST ST SW
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CITY OF MEDINA DECLARATION OF POSTING

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That s/he is an employee of the city of Medina and that on the:

11 day of December 20 23

s/he caused a true and correct legible copy of the following described documents to be posted at each of the following indicated locations:

PC Medina City Hall, 501 Evergreen Point Road, Medina

PC City Website

PC Medina Post Office, 816 Evergreen Point Road, Medina

PC Public notice boards at Medina Park Northeast 12th Street parking lot.

PC At ~~two~~^{one} locations within 300 feet of the property in question described by its street address as follows:

116 Overlake Dr E

Description of document:
Notice of Application

A copy of the posted item is attached hereto.

Signed under the penalties of perjury of the laws of the state of Washington at Medina, Washington this:

11 day of December 20 23


Signature of posting employee



CITY OF MEDINA

NOTICE OF APPLICATION

Proposal: Non-administrative Tree Activity Permit for the removal of a 50.2" diameter Coast Redwood within the Shoreline setback.

File No. TREE-23-043

Applicant: Suver & Burnstead Custom Homes c/o Thomas Burnstead, Steve Burnstead Construction, LLC

Site Address: 116 OVERLAKE DR E, Medina, WA, 98039

Other Permits: TREE-23-018, B-23-031, ENG-GD-23-010, CAP-23-017, P-23-035

Application Received:	August 24th, 2023
Determination of Completeness:	November 27th, 2023
Notice of Application:	December 11th, 2023

PUBLIC COMMENTS: Pursuant to MMC 16.80.110(B)(7), this application has a public comment period. Please submit public comments no less than 14 days and no more than 30 days from the date of issuance of the Notice of Application.

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QUESTIONS: The complete application may be viewed either at City Hall, located at 501 Evergreen Point Road, Medina, WA 98039, or electronically by emailing the staff contact below.

STAFF CONTACT: Andy Crossett, Medina Tree Consultant, at (206) 310-8254 or andycrossett@hotmail.com



Above: 50.2" DSH Coast Redwood (*Sequoia sempervirens*)

Andy Crossett, Medina Tree Consultant

12/11/2023
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11 day of December 20 23

Pat Cuckler
Signature of posting employee



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Proposal: Request for a non-administrative tree activity permit to remove a tree greater than 50 inches

File No. Non-administrative Tree Activity Permit (TREE-23-043)

Applicant: Thomas Burnstead (Owner/Agent)

Site Address: 116 Overlake Dr E

YOU ARE INVITED to attend the remote hearing and make oral and written comments. The Hearing Examiner has the discretion to limit testimony to relevant, non-repetitive comments and to set time limits. If you are unable to attend, written comments, photographs, or other exhibits on the application may be submitted to the staff contact or address below before the hearing date. The Hearing Examiner gives equal weight to testimony submitted in person at a hearing and written comments that are submitted.

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APPEAL RIGHTS: Appeal of the Non-administrative Tree Activity Permit is to King County Superior Court pursuant to MMC 16.80.220(B).

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STAFF CONTACT: Andy Crossett, Medina Tree Consultant, at (206) 310-8254 or andycrossett@hotmail.com

Andy Crossett, Medina Tree Consultant

12/11/2023
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**CITY OF MEDINA
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Medina Hearing Examiner will conduct a remote public hearing on Tuesday, January 9, 2023, at 10:00 AM. The purpose of this hearing is to consider public testimony for and against the following:

Proposal: Request for a non-administrative tree activity permit to remove a tree greater than 50 inches

File No: Non-administrative Tree Activity Permit (TREE-23-043)

Applicant: Thomas Burnstead
(Owner/Agent)

Address: 116 Overlake Dr E

YOU ARE INVITED to attend the remote hearing and make oral and written comments. The Hearing Examiner has the discretion to limit testimony to relevant, non-repetitive comments and to set time limits. If you are unable to attend, written comments, photographs, or other exhibits on the application may be submitted to the staff contact or address below before the hearing date. The Hearing Examiner gives equal weight to testimony submitted in person at a hearing and written comments that are submitted.

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STATE ENVIRONMENTAL POLICY ACT (SEPA): This project is exempt from environmental (SEPA) review pursuant to WAC 197-11-800(2)(e)

APPEAL RIGHTS: Appeal of the Non-administrative Tree Activity Permit is to King County Superior Court pursuant to MMC 16.80.220(B).

QUESTIONS: The complete application may be reviewed by emailing the staff contact below. Requests for information and/or written comments may be directed to Medina City Hall, Attn: Development Services, 501 Evergreen Point Road, Medina, WA 98039.

STAFF CONTACT: Andy Crossett, Medina Tree Consultant, at (206) 310-8254 or andycrossett@hotmail.com

Exhibit 6

Tree removal 🔍

BT Betty Tong <bettyt@isomedia.com> ↩️ ↪️ ⋮
To: You Sun 12/24/2023 9:01 PM

Hi Mr. Crossett,

This is Betty Tong, my kids and myself reside next door to Burnstead's property. Located at 116 Overlake Drive East, Medina.

We moved in the spring of 2021, and did some renovation, new driveway and painted the entire house and garage. Since we moved in, we had experienced some severe windstorm and power outage. This particular tree has damaged my garage door 2 years in a row, and took out my newly planted evergreen hedge! I'm worried that the evasive root system is going to damage my new driveway. Non native rapidly growing trees impact increase every year. Emotional feeling of large tree in close proximity to my house with dominate southeast storm winds causing roof damage from branches and catastrophic when tree falls. I was almost hit by the branches on my head a few month ago! It was pretty scary and I'm really concerned about my kids, my friends and delivery people safety. And we have an under 5lbs dog.

Please take into the consideration for everyone's safety. It'd be wise to remove the tree.

Have a wonderful holiday season!

Best,

Betty Tong
122 Overlake Dr. East. Medina
Cell: 206-228-3709

↩️ Reply ↪️ Forward





Lists of Suitable Trees

PURPOSE: The suitable tree species listed under each section are for the purpose of establishing significant trees under the Medina Tree Code (Chapter 20.52 Medina Municipal Code). This list includes tree species eligible towards planting requirements.*

LIST 1: SIGNIFICANT TREE SPECIES ON PRIVATE PROPERTY**

The following trees are designated as significant tree species pursuant to MMC 20.52.050. List 1 is used in conjunction with the definition of “significant tree” set forth in MMC 20.12.200 to denote the application of the term “significant tree” in the Medina Tree Code (Chapter 20.52 MMC). Please note that not all trees in this list are eligible for credit as supplemental or restoration trees. See List 4 for tree species eligible for supplemental tree or restoration tree credit.

A. EVERGREENS (CONIFERS):

1. All, except the following:
 - a. Leyland Cypress – *Cupressocyparis leylandii*
 - b. Arborvitae – *Thuja occidentalis*
 - c. Italian Cypress - *Cupressus sempervirens*
 - d. Blue Surprise Port Orford Cedar – *Chamaecyparis lawsoniana* ‘Blue Surprise’
 - e. Wissel’s Saguaro False Cypress – *Chamaecyparis lawsoniana* ‘Wissels Saquaro’
 - f. Other species not listed that typically have a crown diameter of less than 10 feet at maturity
 - g. Trees planted, clipped or sheared into use as a hedge regardless of species

B. DECIDUOUS

1. All that coincide with United States Department of Agriculture hardiness zones 8b and 9a, except the following:
 - a. Swedish Aspen – *Populus tremula* “Erecta’
 - b. Skyward Bald Cypress – *Taxodium distichum* ‘Skyward’
 - c. Other species not listed that typically have a crown diameter of less than 10 feet at maturity
 - d. Trees planted, clipped or sheared into use as a hedge regardless of species

* *The list of native trees are those that are naturally occurring and propagating in the Puget Sound lowlands in the last 100 years and coincide with the USDA hardiness zone 8b.*

** *Private property includes state highway right-of-way.*

Note: *The USDA Plant Hardiness Zones helps determine which plants are most likely to thrive at a location. The zones are based on the average annual minimum winter temperature, divided into 10-degree F zones.*

LIST 2: SIGNIFICANT TREE SPECIES ON CITY RIGHTS-OF-WAY

This list shall apply only where a tree is removed from city rights-of-way. It is used to distinguish significant and non-significant trees. Tree species eligible for replacement credit in the city right-of-way are set forth in List 6 and 7.

A. EVERGREENS (CONIFERS) - NATIVE:

1. Lawson Cypress – *Chamaecyparis lawsoniana*
2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
3. Western Red Cedar – *Thuja plicata*
4. Douglas Fir – *Pseudotsuga menziesii*
5. Engelmann Spruce – *Picea engelmannii*
6. Grand Fir – *Abies grandis*
7. Pacific Silver Fir – *Abies amabilis*
8. Rocky Mountain Juniper – *Juniperus scopulorum*
9. Mountain Hemlock – *Tsuga mertensiana*
10. Western Hemlock – *Tsuga heterophylla*
11. Shore Pine – *Pinus contorta* var. *contorta*
12. Sitka Spruce – *Picea sitchensis*
13. Western White Pine – *Pinus monticola*

B. EVERGREENS (CONIFERS) – NON-NATIVE:

1. None

C. DECIDUOUS - NATIVE:

1. Pacific or Western Flowering Dogwood -- *Cornus nuttallii*
2. Vine Maple -- *Acer circinatum*
3. Red Alder -- *Alnus rubra*
4. Western Hazelnut -- *Corylus cornuta*
5. Oregon Ash -- *Fraxinus latifolia*
6. Narrow-leaved Cherry – *Prunus emarginata* var. *mollis*
7. Western Serviceberry - *Amelanchier alnifolia*
8. Black Hawthorn - *Crataegus douglasii*
9. Cascara - *Rhamnus purshiana*
10. Oregon White Oak - *Quercus garryana*
11. Pacific Crabapple - *Malus fusca*
12. Pacific Willow - *Salix lasiandra*

D. DECIDUOUS – NON-NATIVE:

1. None

LIST 3: LEGACY TREE SPECIES LIST

The following trees are Legacy Tree species that if the criteria in MMC 20.52.120 are present are subject to the replacement requirements for a Legacy Tree.

A. EVERGREENS (CONIFERS):

1. Lawson Cypress – *Chamaecyparis lawsoniana*
2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
3. Western Red Cedar – *Thuja plicata*
4. Douglas Fir – *Pseudotsuga menziesii*
5. Grand Fir – *Abies grandis*
6. Mountain Hemlock – *Tsuga mertensiana*
7. Western Hemlock – *Tsuga heterophylla*
8. Pacific Madrone – *Arbutus menziesii*
9. Shore Pine – *Pinus contorta* var. *contorta*
10. Western White Pine – *Pinus monticola*
11. Sitka Spruce – *Picea sitchensis*

B. DECIDUOUS:

1. None

LIST 4: TREE SPECIES ELIGIBLE FOR CREDIT ON PRIVATE PROPERTY

This list establishes eligibility requirements for receiving supplemental tree unit or restoration credits under MMC 20.52.130 and MMC 20.52.150 respectively. This list is used for determining existing trees that may be included as credit; and new tree plantings on private property that are eligible for credit. The list of native species in Sub-list 4A and 4C apply to determining tree retention requirements in MMC 20.52.110.

A. EVERGREENS (CONIFEROUS) - NATIVE:

1. Lawson Cypress – *Chamaecyparis lawsoniana*
2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
3. Western Red Cedar – *Thuja plicata*
4. Douglas Fir – *Pseudotsuga menziesii*
5. Engelmann Spruce – *Picea engelmannii*
6. Grand Fir – *Abies grandis*
7. Pacific Silver Fir – *Abies amabilis*
8. Rocky Mountain Juniper – *Juniperus scopulorum*
9. Mountain Hemlock – *Tsuga mertensiana*
10. Western Hemlock – *Tsuga heterophylla*
11. Shore Pine – *Pinus contorta* var. *contorta*
12. Sitka Spruce – *Picea sitchensis*
13. Western White Pine – *Pinus monticola*

B. EVERGREENS (CONIFEROUS) – NON-NATIVE:

1. Korean Fir – *Abies koreana*
2. Spanish Fir – *Abies pinsapo*
3. White Fir – *Abies concolor*
4. Incense Cedar – *Calocedrus decurrens*
5. Deodar Cedar – *Cedrus deodara*
6. Atlas Cedar – *Cedrus atlantica*
7. Cedar of Lebanon – *Cedrus libani*
8. Moss Cypress – *Chamaecyparis pisifera*
9. Dwarf Hinoki Cypress – *Chamaecyparis obtusa*
10. Smooth-barked Arizona Cypress – *Cupressus glabra*
11. Dawn Redwood – *Metasequoia glyptostroboides*
12. Swiss Stone Pine – *Pinus cembra*
13. Austrian Black Pine – *Pinus nigra*
14. Japanese Black Pine – *Pinus thunbergii*
15. Japanese Red Pine – *Pinus densiflora*
16. Japanese Cryptomeria – *Cryptomeria japonica*
17. Serbian Spruce – *Picea omorika*
18. Umbrella Pine – *Sciadopitys verticillata*
19. Bald Cypress – *Taxodium distichum*
20. Hiba Cedar – *Thujopsis dolobrata*
21. Canadian Hemlock – *Tsuga canadensis*

C. DECIDUOUS - NATIVE:

1. Pacific or Western Flowering Dogwood -- *Cornus nuttallii*
2. Vine Maple -- *Acer circinatum*
3. Red Alder -- *Alnus rubra*
4. Western Hazelnut -- *Corylus cornuta*
5. Oregon Ash -- *Fraxinus latifolia*
6. Narrow-leaved Cherry – *Prunus emarginata* var. *mollis*
7. Western Serviceberry - *Amelanchier alnifolia*
8. Black Hawthorn - *Crataegus douglasii*
9. Cascara - *Rhamnus purshiana*
10. Oregon White Oak - *Quercus garryana*
11. Pacific Crabapple - *Malus fusca*
12. Pacific Willow - *Salix lasiandra*

D. DECIDUOUS – NON-NATIVE:

1. None

LIST 5: REPLACEMENT TREE SPECIES FOR CREDIT ON CITY RIGHTS-OF-WAY

The following trees are designated as eligible for receiving replacement credit on the city right-of-way. Trees planted in the rights-of-way shall ensure that sight-distance requirements are maintained and utilities will not become encumbered. If overhead power distribution or transmission lines are within 20 horizontal feet of the planting location, the replacement tree species shall be selected from List 6.

A. EVERGREENS (CONIFERS) - NATIVE:

1. Lawson Cypress – *Chamaecyparis lawsoniana*
2. Alaska Yellow Cedar – *Chamaecyparis nootkatensis*
3. Western Red Cedar – *Thuja plicata*
4. Douglas Fir – *Pseudotsuga menziesii*
5. Engelmann Spruce – *Picea engelmannii*
6. Grand Fir – *Abies grandis*
7. Pacific Silver Fir – *Abies amabilis*
8. Rocky Mountain Juniper – *Juniperus scopulorum*
9. Mountain Hemlock – *Tsuga mertensiana*
10. Western Hemlock – *Tsuga heterophylla*
11. Shore Pine – *Pinus contorta* var. *contorta*
12. Sitka Spruce – *Picea sitchensis*
13. Western White Pine – *Pinus monticola*

B. EVERGREENS (CONIFERS) – NON-NATIVE:

1. Korean Fir – *Abies koreana*
2. Spanish Fir – *Abies pinsapo*
3. White Fir – *Abies concolor*
4. Incense Cedar – *Calocedrus decurrens*
5. Deodar Cedar – *Cedrus deodara*
6. Atlas Cedar – *Cedrus atlantica*
7. Cedar of Lebanon – *Cedrus libani*
8. Moss Cypress – *Chamaecyparis pisifera*
9. Dwarf Hinoki Cypress – *Chamaecyparis obtusa*
10. Smooth-barked Arizona Cypress – *Cupressus glabra*
11. Dawn Redwood – *Metasequoia glyptostroboides*
12. Swiss Stone Pine – *Pinus cembra*
13. Austrian Black Pine – *Pinus nigra*
14. Japanese Black Pine – *Pinus thunbergii*
15. Japanese Red Pine – *Pinus densiflora*
16. Japanese Cryptomeria – *Cryptomeria japonica*
17. Serbian Spruce – *Picea omorika*
18. Umbrella Pine – *Sciadopitys verticillata*
19. Bald Cypress – *Taxodium distichum*
20. Hiba Cedar – *Thujopsis dolabrata*
21. Canadian Hemlock – *Tsuga canadensis*

C. DECIDUOUS - NATIVE:

1. Pacific or Western Flowering Dogwood -- *Cornus nuttallii*
2. Vine Maple -- *Acer circinatum*
3. Red Alder -- *Alnus rubra*
4. Western Hazelnut -- *Corylus cornuta*
5. Oregon Ash -- *Fraxinus latifolia*
6. Narrow-leaved Cherry – *Prunus emarginata* var. *mollis*
7. Western Serviceberry - *Amelanchier alnifolia*
8. Black Hawthorn - *Crataegus douglasii*
9. Cascara - *Rhamnus purshiana*
10. Oregon White Oak - *Quercus garryana*
11. Pacific Crabapple - *Malus fusca*
12. Pacific Willow - *Salix lasiandra*

D. DECIDUOUS – NON-NATIVE:

1. None

LIST 6: TREE SPECIES FOR CREDIT IN RESTRICTED CITY RIGHT-OF-WAY

The tree species in List 7 shall be used for replacement credit in those locations identified as “Restricted R.O.W” in the Medina Landscape Plan set forth in Figure 3 of the Community Design Element of the Medina Comprehensive Plan. The city may accept other tree species not on the list for replacement credit provided the tree is an appropriate species to be planted where overhead utility lines or view corridors necessitate lower tree heights.

LIST 7: LOW-GROWING TREE SPECIES SUITABLE NEAR POWER LINES

The tree species in this list may be used for replacement credit when replacement trees are planted under or within 20 horizontal feet of overhead power distribution and transmission lines. The city may accept non-native tree species in this list and other non-native tree species not on the list for replacement credit provided the tree is an appropriate species to be planted near power lines.

A. EVERGREENS:

1. Mugo Pine – *Pinus mugo*
2. Tanyosho Pine – *Pinus densiflora* ‘*Umbraculifera*’
3. Dwarf Hinoki Cypress – *Chamaecyparis obtusa* ‘*Nana gracilis*’
4. Chinese Juniper – *Juniperus chinensis*
5. Swiss Stone Pine – *Pinus cembra*
6. Japanese Umbrella Pine – *Sciadopitys verticillata*
7. Bristlecone Pine – *Pinus aristata*
8. Dwarf Japanese Red Pine – *Pinus densiflora* sp

B. DECIDUOUS:

1. Vine Maple – *Acer circinatum*
2. Amur Maple – *Acer ginnala*
3. Rocky Mountain Maple – *Acer grandidentatum*
4. Paperbark Maple – *Acer griseum*
5. Japanese Maple – *Acer palmatum*
6. Pacific Serviceberry – *Amelanchier alnifolia*
7. Western Serviceberry – *Amelanchier grandiflora*
8. Japanese Hornbeam – *Carpinus japonica*
9. Eastern Redbud – *Cercis canadensis*
10. Corneliancherry Dogwood – *Cornus mas*
11. Japanese Dogwood – *Cornus officinalis*
12. European Filbert – *Corylus avellana*
13. Smoketree – *Cotinus sp.*
14. Hawthorn – *Crataegus sp.*
15. Goldenrain Tree – *Koelreuteria paniculata*
16. Galaxy Magnolia – *Magnolia 'Galaxy'*
17. Star Magnolia – *Magnolia stellata*
18. Lily Magnolia – *Magnolia liliiflora*
19. Victoria Southern Magnolia – *Magnolia grandiflora 'Victoria'*
20. Carmine Crabapple -- *Malus x atrosanguinea*
21. Sargent Crabapple – *Malus sargentii*
22. Pink Perfection Crabapple – *Malus 'Pink Perfection'*
23. Radiant Crabapple – *Malus 'Radiant'*
24. Strathmore Crabapple – *Malus 'Strathmore'*
25. Persian Parrotia – *Parrotia persica*
26. Flowering Cherry/Plum – *Prunus sp.*
27. Amur Chokecherry – *Prunus maackii*
28. Mt. Fuji Flowering Cherry – *Prunus serrulata 'Shirotae'*
29. Staghorn Sumac – *Rhus typhina*
30. Red Cascade Mountain Ash – *Sorbus americana 'Dwarf-crown'*
31. Japanese Stewartia – *Stewartia pseuocamellia*
32. Japanese Snowbell – *Styrax japonicus*
33. Japanese Tree Lilac – *Syringa reticulata*

SOURCE FOR IDENTIFYING NATIVE SPECIES:

- Kruckerberg, Arthur R. *Gardening with Native Plants of the Pacific Northwest – an illustrated guide*. Seattle: University of Washington Press, 1982. Print.
- Arno, Stephen F. and Hammerly, Ramona P. *Northwest Trees – identifying and understanding the regions native trees*. Seattle: The Mountaineers, 1977. Print.
- Hitchcock, C. Leo and Cronquist, Arthur. *Flora of the Pacific Northwest – an illustrated manual*. Seattle: University of Washington Press, 1973. Print.
- Breen, Patrick. *Oregon State University Department of Horticulture Landscape Plants – Images, identification and information* (<http://oregonstate.edu/dept/ldplants/>, September 12, 2013). Corvallis, OR 97331-4501, USA.
- USDA, NRCS. 2013. *The PLANTS Database* (<http://plants.usda.gov>, 19 September 2013). National Plant Data Team, Greensboro, NC 27401-4901 USA.
- USDA Plant Hardiness Zone Map, 2012. Agricultural Research Service, U.S. Department of Agriculture. Accessed from <http://planthardiness.ars.usda.gov>.

Exhibit 9

HTML has links - PDF has Authentication

PDF WAC 197-11-800

Categorical exemptions.

The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC **197-11-305**.

Note: The statutory exemptions contained in chapter **43.21C** RCW are not included in Part Nine. Chapter **43.21C** RCW should be reviewed in determining whether a proposed action not listed as categorically exempt in Part Nine is exempt by statute from threshold determination and EIS requirements.

(1) Minor new construction - Flexible thresholds.

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency. The exemptions in this subsection apply except when the project:

- (i) Is undertaken wholly or partly on lands covered by water;
- (ii) Requires a license governing discharges to water that is not exempt under RCW

43.21C.0383;

(iii) Requires a license governing emissions to air that is not exempt under RCW **43.21C.0381** or WAC 197-11-800 (7) or (8); or

(iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

(b) The following types of construction shall be exempt:

- (i) The construction or location of four attached or detached single family residential units.
- (ii) The construction or location of four multifamily residential units.

(iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iv) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for 20 automobiles. This exemption includes parking lots for 20 or fewer automobiles not associated with a structure.

(v) Any fill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in (i), (ii), (iii), or (iv) of this subsection shall be exempt.

(c) Cities, towns or counties may raise the exempt levels up to the maximum specified in (d) of this subsection by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (WAC **197-11-904**). Separate maximum optional thresholds are established in (d) of this subsection applying to both incorporated areas and unincorporated urban growth areas in fully planning jurisdictions under RCW **36.70A.040**; other unincorporated areas in fully planning counties; and jurisdictions in all other counties. Agencies may adopt the maximum level or a level between the minimum and maximum level. An agency may adopt a system of several exempt levels, such as different levels for different geographic areas, and mixed use projects.

At a minimum, the following process shall be met in order to raise the exempt levels.

(i) Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC **197-11-444**) have been adequately

addressed for the development exempted. The requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations. The city, town, or county must document the result of its outreach with the department of transportation on impacts to state-owned transportation facilities, including consideration of whether mitigation is necessary for impacts to state-owned transportation facilities.

(ii) Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established notice and comment opportunities for the public, affected tribes, and agencies regarding permitting of development projects included in these increased exemption levels.

(iii) Before adopting the ordinance or resolution containing the proposed new exemption levels, the agency shall provide a minimum of 60 days notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.

(iv) The city, town, or county must document how specific adopted development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources when exemption levels are raised. The requirements for notice and opportunity to comment for the public, affected tribes, and agencies in (c)(i) and (ii) of this subsection and the requirements for protection and mitigation in (c)(i) of this subsection must be specifically documented. The local ordinance or resolution shall include, but not be limited to, the following:

- Use of available data and other project review tools regarding known and likely cultural and historic resources, such as inventories and predictive models provided by the Washington department of archaeology and historic preservation, other agencies, and tribal governments.
- Planning and permitting processes that ensure compliance with applicable laws including chapters **27.44**, 27.53, 68.50, and **68.60** RCW.
- Local development regulations that include at minimum preproject cultural resource review where warranted, and standard inadvertent discovery language (SIDL) for all projects.

(d) The maximum exemption levels applicable to (c) of this subsection are:

Project types	Fully planning GMA counties			All other counties
	Incorporated UGA	Unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential	30 units	30 units	20 units	20 units
Single family residential with the total square footage less than 1,500 square feet	100 units	30 units	20 units	20 units
Multifamily residential	200 units	60 units	25 units	25 units
Barn, loafing shed, farm equipment storage, produce storage or packing structure	40,000 square feet	40,000 square feet	40,000 square feet	40,000 square feet
Office, school, commercial, recreational, service, storage building, parking facilities	30,000 square feet and 90 parking spaces	30,000 square feet and 90 parking spaces	12,000 square feet and 40 parking spaces	12,000 square feet and 40 parking spaces

Fill or excavation	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards
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(2) **Other minor new construction.**

(a) The exemptions in this subsection apply to all licenses required to undertake the following types of proposals except when the project:

- (i) Is undertaken wholly or partly on lands covered by water;
- (ii) Requires a license governing discharges to water that is not exempt under RCW

43.21C.0383;

(iii) Requires a license governing emissions to air that is not exempt under RCW **43.21C.0381** or WAC 197-11-800 (7) or (8); or

(iv) Requires a land use decision that is not exempt under WAC 197-11-800(6).

(b) The construction or designation of bus stops, loading zones, shelters, access facilities, pull-out lanes for taxicabs, transit and school vehicles, and designation of transit only lanes.

(c) The construction or installation of commercial on-premise signs, and public signs and signals, including those for traffic control and wayfinding.

(d) The construction or installation of minor road and street improvements by any agency or private party that include the following:

(i) Safety structures and equipment: Such as pavement marking, adding or removing turn restrictions, speed limit designation, physical measures to reduce motor vehicle traffic speed or volume, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators;

(ii) Transportation corridor landscaping (including the application of state of Washington approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality;

(iii) Temporary traffic controls and detours;

(iv) Correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required;

(v) Adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required;

(vi) Channelization, rechannelization, elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation;

(vii) Installation of catch basins and culverts for the purposes of road and street improvements;

(viii) Reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders where capacity is not increased and no new right of way is required;

(ix) Addition of bicycle lanes, paths and facilities, and pedestrian walks and paths including sidewalk extensions, but not including additional automobile lanes.

(e) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(f) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.

(g) The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance such as listing in a historic register.

(h) The installation or removal of impervious underground or above-ground tanks, having a total capacity of 10,000 gallons or less except on agricultural and industrial lands. On agricultural and industrial lands, the installation or removal of impervious underground or above-ground tanks, having a total capacity of 60,000 gallons or less.

(i) The vacation of streets or roads, converting public right of way, and other changes in motor

vehicle access.

(j) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(k) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(l) The installation of accessory solar energy generation equipment on or attached to existing structures and facilities whereby the existing footprint and size of the building is not increased.

(3) Repair, remodeling and maintenance activities. The following activities shall be categorically exempt: The repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, recreation, and transportation facilities involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

(a) Dredging of over 50 cubic yards of material;

(b) Reconstruction or maintenance of groins and similar shoreline protection structures;

(c) Replacement of utility cables that must be buried under the surface of the bedlands; or

(d) Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

(4) Water rights. Appropriations of one cubic foot per second or less of surface water, or of 2,250 gallons per minute or less of groundwater, for any purpose. The exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation.

(5) Purchase or sale of real property. The following real property transactions by an agency shall be exempt:

(a) The purchase or acquisition of any right to real property.

(b) The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to a specifically designated and authorized public use established by the public landowner and used by the public for that purpose.

(c) Leasing, granting an easement for, or otherwise authorizing the use of real property when the property use will remain essentially the same as the existing use for the term of the agreement, or when the use under the lease, easement or other authorization is otherwise exempted by this chapter.

(6) Land use decisions. The following land use decisions shall be exempt:

(a) Land use decisions for exempt projects, except that rezones must comply with (c) of this subsection.

(b) Other land use decisions not qualified for exemption under subsection (a) (such as a home occupation or change of use) are exempt provided:

(i) The authorized activities will be conducted within an existing building or facility qualifying for exemption under WAC 197-11-800 (1) and (2); and

(ii) The activities will not change the character of the building or facility in a way that would remove it from an exempt class.

(c) Where an exempt project requires a rezone, the rezone is exempt only if:

(i) The project is in an urban growth area in a city or county planning under RCW **36.70A.040**;

(ii) The proposed rezone is consistent with and does not require an amendment to the comprehensive plan; and

(iii) The applicable comprehensive plan was previously subjected to environmental review and analysis through an EIS under the requirements of this chapter prior to adoption; and the EIS

adequately addressed the environmental impacts of the rezone.

(d) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW **58.17.060**, and short plats or short subdivisions within the original short subdivision boundaries provided the cumulative divisions do not exceed the total lots allowed to be created under RCW **58.17.020**. This exemption includes binding site plans authorized by RCW **58.17.035** up to the same number of lots allowed by the jurisdiction as a short subdivision.

(e) Granting of variance based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density.

(f) Alteration of property lines as authorized by RCW **58.17.040**(6).

(7) **Open burning.** Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

(8) **Clean Air Act.** The granting of variances under RCW **70.94.181** extending applicable air pollution control requirements for one year or less shall be exempt.

(9) **Water quality certifications.** The granting or denial of water quality certifications under the Federal Clean Water Act (Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1341) shall be exempt.

(10) **Activities of the state legislature.** All actions of the state legislature are exempted.

(11) **Judicial activity.** The following shall be exempt:

(a) All adjudicatory actions of the judicial branch.

(b) Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

(12) **Enforcement and inspections.** The following enforcement and inspection activities shall be exempt:

(a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(b) All inspections conducted by an agency of either private or public property for any purpose.

(c) All activities of fire departments and law enforcement agencies except physical construction activity.

(d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(13) **Business and other regulatory licenses.** The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits.

(c) All licenses to operate or engage in amusement devices and rides and entertainment activities including, but not limited to, cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction

of any of the above.

(d) All licenses to operate or engage in charitable or retail sales and service activities including, but not limited to, peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers.

(e) All licenses for private security services including, but not limited to, detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services.

(f) All licenses for vehicles for-hire and other vehicle related activities including, but not limited to, taxicabs, ambulances, and tow trucks: Provided, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(g) All licenses for food or drink services, sales, and distribution including, but not limited to, restaurants, liquor, and meat.

(h) All animal control licenses including, but not limited to, pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection.

(i) The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

(14) **Activities of agencies.** The following administrative, fiscal and personnel activities of agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs.

(b) The assessment and collection of taxes.

(c) The adoption of all budgets and agency requests for appropriation: Provided, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

(d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.

(e) The review and payment of vouchers and claims.

(f) The establishment and collection of liens and service billings.

(g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.

(h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.

(i) Adoptions or approvals of utility, transportation and solid waste disposal rates.

(j) The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection.

(k) Classification of land for current use taxation under chapter **84.34** RCW, and classification and grading of forest land under chapter **84.33** RCW.

(15) **Financial assistance grants.** The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project. This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

(16) **Local improvement districts and special purpose districts.** The formation of local improvement districts and special purpose districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 197-11-800 and **197-11-880**. A special district or special purpose district is a local government entity designated by the Revised Code of Washington (RCW) and is not a city, town, township, or county.

(17) **Information collection and research.** Basic data collection, research, resource evaluation, requests for proposals (RFPs), and the conceptual planning of proposals shall be exempt.

These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see WAC **197-11-070**.)

(18) **Acceptance of filings.** The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

(19) **Procedural actions.** The proposal, amendment or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program shall be exempt if they are:

(a) Relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment.

(b) Text amendments resulting in no substantive changes respecting use or modification of the environment.

(c) Agency SEPA procedures.

(20) **Reserved.**

(21) **Adoption of noise ordinances.** The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the department of ecology under chapter **70.107** RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations, SEPA compliance may be limited to those items which differ from state regulations.

(22) **Review and comment actions.** Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

(23) **Utilities.** The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including communication towers or relay stations.

(b) All stormwater, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines 12 inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (up to and including 115,000 volts); within existing rights of way or developed utility corridors, all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 115,000 volts or less; and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station vault, pipe, or well: Additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or transportation right of way in its design condition: Provided, the chemicals used are approved by Washington state and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality.

(g) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(h) All grants of franchises by agencies to utilities.

(i) All disposals of rights of way by utilities.

(24) **Natural resources management.** In addition to the other exemptions contained in this

section, the following natural resources management activities shall be exempt:

- (a) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land that has been subject to a grazing lease within the previous 10 years.
- (b) Licenses or approvals to remove firewood.
- (c) Issuance of agricultural leases covering 160 contiguous acres or less.
- (d) Issuance of leases for Christmas tree harvesting or brush picking.
- (e) Issuance of leases for school sites.
- (f) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.
- (g) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than 12 campsites.
- (h) Periodic use of chemical or mechanical means to maintain public park and recreational land: Provided, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality.
- (i) Issuance of rights of way, easements and use permits to use existing roads in nonresidential areas.
- (j) Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of chapter **79.70** RCW.

(25) Wireless service facilities.

- (a) The siting of wireless service facilities are exempt if:
 - (i) The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures that does not substantially change the physical dimensions of such structures; or
 - (ii) The siting project involves constructing a wireless service tower less than 60 feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.
- (b) For the purposes of this subsection:
 - (i) "Wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.
 - (ii) "Wireless service facilities" means facilities for the provision of wireless services.
 - (iii) "Collocation" means the mounting or installation of equipment on an existing tower, building, structure for the purposes of either transmitting or receiving, or both, radio frequency signals for communication purposes.
 - (iv) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.
 - (v) "Substantially change the physical dimensions" means:
 - (A) The mounting of equipment on a structure that would increase the height of the structure by more than 10 percent, or 20 feet, whichever is greater; or
 - (B) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than 20 feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.
- (c) This exemption does not apply to projects within a critical area designated under GMA (RCW **36.70A.060**).

(26) State transportation projects. The following Washington department of transportation projects and activities shall be exempt: The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation, as long as the action:

- (a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards

or environmental permit requirements; and

(b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility.

(27) **Structurally deficient city, town and county bridges.** The repair, reconstruction, restoration, retrofitting, or replacement of a structurally deficient city, town or county bridge shall be exempt as long as the action:

(a) Occurs within the existing right of way and in a manner that substantially conforms to the preexisting design, function, and location as the original except to meet current engineering standards or environmental permit requirements; and

(b) The action does not result in addition of automobile lanes, a change in capacity, or a change in functional use of the facility.

"Structurally deficient" means a bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load-carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency.

[Statutory Authority: RCW **43.21C.110** and 2022 c 246. WSR 23-01-119 (Order 22-08), § 197-11-800, filed 12/20/22, effective 1/20/23. Statutory Authority: RCW **43.21C.110**. WSR 16-13-012 (Order 15-09), § 197-11-800, filed 6/2/16, effective 7/3/16. Statutory Authority: RCW **43.21C.110** and **43.21C.100** [43.21C.170]. WSR 14-09-026 (Order 13-01), § 197-11-800, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW **43.21C.110**. WSR 13-02-065 (Order 12-01), § 197-11-800, filed 12/28/12, effective 1/28/13. Statutory Authority: RCW **43.21A.090**, chapter **43.21C** RCW, RCW **43.21C.035**, **43.21C.037**, **43.21C.038**, **43.21C.0381**, **43.21C.0382**, **43.21C.0383**, **43.21C.110**, **43.21C.222**. WSR 03-16-067 (Order 02-12), § 197-11-800, filed 8/1/03, effective 9/1/03. Statutory Authority: 1995 c 347 (ESHB 1724) and RCW **43.21C.110**. WSR 97-21-030 (Order 95-16), § 197-11-800, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW **43.21C.110**. WSR 84-05-020 (Order DE 83-39), § 197-11-800, filed 2/10/84, effective 4/4/84.]