

AMY DUERR DAY - ASID
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Gary Christensen
Josh Macken
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Vault
Heather Wright

20 July 2016

To: Responsible Officer
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island WA 98110

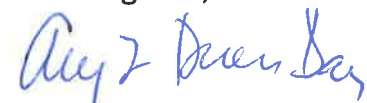
Re: Permit #PLN15354 RUE, VAR
(Rural American Duerr Day Reasonable Use Variance Application)
2075, 2015 and 2137 Soundview Drive NE Bainbridge Island

The NOTICE OF INCOMPLETE APPLICATION dated July 5, 2016 for these projects was emailed to myself and the owner of the property. I did not receive the email until July 6. The NOTICE was sent as an unsigned document in word format and a signed hard copy was never received by postal mail.

The owner has no plan to ever combine the lots as one project. By request of COBI, the three individual lots were submitted at one time to be reviewed together but in my understanding, not to be combined as one project/parcel. We request to have this clarified.

We are respectfully requesting an administrative review/and or appeal of the City's NOTICE. Please see the attached document.

Best regards,



Amy L. Duerr Day

For
Rural American Properties
21241 Ventura Blvd Ste 276
Woodland Hills, CA 91364

July 19, 2016

Responsible Officer
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110

RE: Permit # PLN15354 RUE, VAR
[Rural American Duerr Day Reasonable Use/Variance Application]
2075, 2105, 2137 Soundview Drive NE, Bainbridge Island

TO THE RESPONSIBLE OFFICER:

The applicant received your NOTICE OF INCOMPLETE APPLICATION dated July 5, 2016. The Notice stated that various documents must be submitted within sixty days in order to complete the application, under threat of application cancellation per BIMC 2.16.057.

Please be advised that the property owner is herewith requesting an Administrative Review of the City's Notice, which indicated that

- BIMC 16.20.110 required a mitigation plan;
- Split rail fencing is inadequate mitigation under BIMC 16.20.110;
- The property owners "should consider" off-site mitigation;
- Changing the orientation of the house on Lot 2 from north-south to east-west would minimize encroachment into the wetland buffer
- The delineation shown on the site plan is incomplete;
- Insufficient data (sample) plots on the site plan are shown;
- The data sheets on the site plan require clarification;
- The rating form requires additional maps and figures;
- The City contends that an untruthful statement ("maps are all in the reports") is included at page 2
- The City contends that an untruthful statement ("all items per Table 7 will be used") is included at page 6, Item 2D;
- "Stormwater plans shall be combined for the impacts of developments on all 3 lots";
- "Low impact development techniques shall be considered";
- A shared drive between lots shall be considered;
- A minimal excavation foundation for the single-family homes shall be considered, and
- Removal and restoration of the primitive drive shall be considered.

The property owner responds as follows:

1. A mitigation plan as required by BIMC 16.20.110 was, in fact, provided to the City.
2. The City's assertion that "split rail fencing is not adequate mitigation" is an unsubstantiated assertion, and thus at this juncture a statement of opinion rather than a conclusory fact. As such, the applicant has a legitimate query as to this assertion, its nature and effect. Accordingly, the City is asked to explain to the applicant why split rail fencing is not adequate mitigation, and the authority under which this assertion is made.¹
3. In fact, off-site mitigation was considered by the applicant, and as a result deemed not appropriate. The applicant's mitigation plan focuses on minimizing impacts to the existing buffer to the fullest extent possible, in addition to erecting a split rail fence. The

1. ¹ The City's Municipal Code provides that all critical area restoration, creation and/or enhancement projects shall follow a mitigation plan "prepared by an expert approved by the director." The applicant shall receive written approval of the mitigation plan by the director prior to commencement. **The applicant has not, to date, commenced any activity other than to file an application.** If allowed activities utilize best management activities to protect the functions and values of regulated critical areas, compensatory mitigation is not required. The required mitigation plan must provide information on land acquisition, construction, maintenance and monitoring of the replaced critical area, shall recreate as nearly as possible the original critical area in terms of its acreage, function, geographic location and setting, shall consist of plot plans, a written report, and performance bonds, with plot plans and report prepared by qualified professionals approved by the director, with plot plans including a legal description and a survey prepared by a licensed surveyor of the proposed development site, compensation site, and location of existing critical area(s) on each, with wetland delineation and existing wetland acreage. The scaled plot plans must indicate proposed construction, zoning setback and critical area buffer requirements, construction phasing and sequence of construction, site cross-sections, percent slope, existing and finished grade elevations, soil and substrate conditions, grading and excavation plan, including erosion and sediment control plans needed for construction and long-term survival, substrate stockpiling locations and techniques, and source controls needed for critical area construction and maintenance, landscape plans indicating species, types, quantities, locations, size, spacing or density of planting, planting season or timing, planting instructions, watering schedule and nutrient requirements, source of plant materials or seeds, and, where appropriate, measures to protect plants from destruction or predation, and water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics. The written report shall accompany the plot plan(s) and provide baseline information, wetland delineation and existing wetland acreage, vegetative, faunal and hydrologic characteristics, soil and substrate conditions, relationship within watershed and to existing streams, wetlands, ponds, or saltwater, existing and proposed adjacent site conditions, and existing and proposed ownership. The report shall also contain a description of the environmental goals and objectives to be met by the compensation plan. This analysis shall include site selection criteria, identification of compensation goals, identification of functions and values, dates for beginning and completion of the project and compensation plan, a complete description of the relationship between and among structures and functions sought, review of available literature and/or known like-projects to date in restoring or creating the type of critical area proposed, and likelihood of success of the proposed compensation project at duplicating the original critical area, based on experiences of comparable projects identified in the literature review or existing projects, if any, along with likelihood of the ability of the created or restored critical area to provide the functions and values of the original critical area, based on such factors as surface water and groundwater supply and flow patterns, dynamics of the ecosystem, sediment or pollutant influx and/or erosion, periodic flooding and drought, presence of invasive flora or fauna, potential human or animal disturbance, and previous comparable projects, if any.

applicant's mitigation plan should be reviewed by an Examiner for the City in open hearing. It is inappropriate at this time to delay the application further on the basis stated by the City in its July 5 determination Notice, since the applicant has met the requirements stated in the Code and indeed, by the City itself in its Notice. Moreover, while the applicant has considered off-site mitigation, it is not a requirement. The applicants thus deserve a hearing, and the City given an opportunity why the application should be delayed and potentially cancelled on the basis stated July 5.

4. The applicant considered orienting the house as noted, but determined that it likely would position the garage at the front of the property, which conflicts with the design standards set for the Fort Ward area. The applicant requests an opportunity to explain the basis and appropriateness for the decision in this regard.
5. The delineation stops at EW100 because the delineation provides a buffer for the single family lot at issue. The delineation noted is the entirety which impacts a single family lot.
6. 99U and 99W are shown because the applicant need only show two data plots. It is sufficient, and the remainder of the data plots match up with the flag number. This point should be clarified immediately by the City.
7. The City's comments as to the rating forms are only pertinent to 2014 rating forms. The 2014 forms are not appropriate under the BIMC. The applicant's report details the maps and figures required. The applicant reasonably questions whether the City has in fact read the report, because while the City is referencing the 2014 rating form, that form does not appear to be used by the City of Bainbridge Island Municipal Code. The applicant's understanding is that the City uses the 2008 rating form in the Municipal Code. That understanding was detailed in the submitted report.
8. The City claims a false statement at page 6, item 2D, without providing a clear statement of which statement is untrue. This blanket statement/assertion should be clarified immediately by the City.

9. Stormwater plans do not need to be combined for the development of each lot, despite the City's assertion in its Notice. The applicant proposes three separate and individual projects. The City cannot arbitrarily combine those projects, and neither can the City require a shared drive.
10. The City should clarify its requirement that the applicant must combine all three individual projects, and the basis for the City's consideration of deleting three separate and individual lots by combining them into one single project.

Respectfully, the applicant requires confirmation as to the City's findings and conclusions, especially since the City requests most of them as something to "consider".

The applicant will take necessary actions in response to the July 5, 2016 Notice, including but not limited to this writing. The applicant will rely upon the advice of his counsel as to proceeding.

An administrative review is herewith requested. The applicant understands that your receipt of this letter shall stay the effect of the order, permit, decision, determination or other action until an appeal is before a hearing examiner and the matters are resolved. The applicant expressly does not waive any of his rights to an administrative appeal under the City of Bainbridge Island Municipal Code or any other codification.

In sum, the applicant raises queries as to the conclusions, noted in the July 5 Notice, drawn by the City's responsible officer and representative, in which conclusions/confirmations may act to the ultimate detriment of the applicant's property rights and/or economic interests.

Sincerely,

Amy L. Duerr Day

KC. Nortness

for

RURAL AMERICAN PROPERTIES, INC.
21241 Ventura Blvd Ste 276
Woodland Hills, CA 91364

City of Bainbridge Island**Treasurer's Office**

280 Madison Ave. N

Bainbridge Island, WA 98110

206-780-8591

**CASH
RECEIPT**Date 7-20 20 16 004306

Received From

Amy L Duerr-Day, ASID

Address

AppealDollars \$ 530.00# 1947

For

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT			CASH		
AMT. PAID			CHECK		
BALANCE DUE			MONEY ORDER <input type="checkbox"/>		
			CREDIT CARD <input type="checkbox"/>		

By

L. Lu

AMY L DUERR-DAY, ASID
14329 KOMEDAL RD NE
BAINBRIDGE ISLAND, WA 98110
(206)842-1705

1947
34-827/1251
1086

Pay to the
Order of

City of Bainbridge Island \$ 530.00
Five Hundred Thirty & 10/100 Dollars



Columbia Bank
 COLUMBIA STATE BANK

249 Winslow Way E
 Bainbridge Island, WA 98110

For

Appeal Rural Am Prop Amy L Duerr Day

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