



MASTER LAND USE APPLICATION FORM

PERMIT NUMBER: PL19-156

1 PROPERTY WHERE WORK IS OCCURRING

ADDRESS: 425 S. 10th St.

PARCEL NUMBER(S): P52768

A copy of the site legal description is required to be attached to this form. Have you attached this document? [X] YES [] NO

2 PROPERTY OWNER INFORMATION

NAME: Joel + Andrea Dryden

ADDRESS: 425 S. 10th St.

CITY Mt. Vernon STATE WA ZIP 98274

TELEPHONE: CELL: 360-391-3297 EMAIL: jdryden1@gmail.com

3 APPLICANT INFORMATION

SELECT THE ONE PERSON THE CITY WILL CONTACT FOR ANYTHING RELATED TO THIS PERMIT? [X] Applicant [X] Property Owner

NAME: Same as # 2

ADDRESS: CITY STATE ZIP

TELEPHONE: CELL: EMAIL:

4 PROJECT INFORMATION

TYPE OF LAND USE PERMIT YOU ARE APPLYING FOR: [] HEARING EXAMINER CONDITIONAL USE [] HEARING EXAMINER SPECIAL USE [] MASTER PLAN [X] SPECIAL PERMISSION FOR A NON-CONFORMING STRUCTURE OR USE [] PRELIMINARY BINDING SITE PLAN [] PRELIMINARY PLAT [] PRELIMINARY SHORT PLAT [] REZONE [] SHORELINE [] VARIANCE

SITE AREA (S.F. OR ACRES): 282ft^2 ARE THERE EXISTING STRUCTURES? [X] YES [] NO

EXISTING ZONING: R-1, 7.0 PROPOSED ZONING: SAME

EXISTING COMPREHENSIVE PLAN: SF-HI PROPOSED COMPREHENSIVE PLAN: SAME

IS THE PROPERTY LOCATED IN A FLOOD ZONE? [] YES [X] NO IF YES, LIST ZONE: ARE THERE SLOPES IN EXCESS OF 15% ON OR ABUTTING THE SITE? [] YES [X] NO IF YES, MAKE SURE THESE AREA ARE CLEARLY SHOWN ON THE PLANS BEING SUBMITTED ARE THERE CRITICAL AREAS OR BUFFERS ON OR ABUTTING THE PROJECT SITE? [] YES [X] NO IF YES, THE CRITICAL AREA AND ITS ASSOCIATED BUFFER MUST BE CLEARLY SHOWN ON THE PLANS BEING SUBMITTED WILL MORE THAN 2-ACRES BE CLEARED? [] YES [X] NO IF YES, A LAND CLEARING PERMIT MUST BE SUBMITTED



EXPANSION & RECONSTRUCTION OF NON-CONFORMING USES

GENERAL INFORMATION

An existing nonconforming building may be enlarged, expanded or reconstructed in such a manner that it conforms to the regulations of the Mount Vernon Municipal Code (MVMC) and of the building code and to the end that it will no longer be or be used as a nonconforming building. An existing nonconforming building or use cannot, however, be enlarged or expanded or reconstructed for the continuance of its use as a nonconforming building except with special permission. This 'special permission' is granted through a Type IV process wherein the Hearing Examiner makes a recommendation to the City Council; and the City Council makes a final decision on whether to allow the enlarging, expanding, or reconstruction of a non-conforming building or use.

SUBMITTAL REQUIREMENTS

SPECIAL PERMISSION FOR NON-CONFORMING BUILDINGS OR USES	
ITEMS REQUIRED TO BE SUBMITTED:	# OF COPIES:
Master Land Use Form	1
Site Plan	5
Architectural Floor Plan	5
Title Report	2
Project Description & Justification	5
Other Submittals Required on a Site-by-Site Basis:	TBD
<ul style="list-style-type: none"> • Survey • Traffic Concurrency • Drainage Plan or Report • Grading Elevations • Geotechnical Report • Landscape Plans • As-Builts • Roadway Plans • Utility Plans • Stream & Wetland Studies 	
Application Fees	TBD

See the accompanying handouts/forms that provide additional information on the submittal items listed above.

PROCESS AND TIMING

These types of projects are generally processed by the City within three (3) to four (4) months. This length of time is necessary because there are timeframes in which the public is able to comment on the application and two hearings are required. The first hearing is open record before the Hearing Examiner. The Hearing Examiner makes recommendations on these applications to the City Council. Following the Hearing Examiner's hearing the Council will make a final decision on these applications at a closed record hearing.

OTHER NOTEWORTHY ITEMS

- Applicants are responsible for submitting complete applications. The list of submittal items on this handout are supplemented by detailed descriptions of what is required to be included in each of the listed items.
- The City's website contains copies of the forms identified within this handout that are required to be filled out and submitted.
- Only after completing this land use process are Applicants able to submit construction related permits, e.g. Building Permit(s) and/or Fill & Grade Permit(s).

The purpose of this handout is to assist the public in complying with detailed permit submittal requirements. It is NOT a complete list of permit or code requirements and should NOT be used as a substitute for applicable laws and regulations. It is the responsibility of the owner/design professional to review the submittal for completeness and applicability to other codes. Only complete applications can be accepted by the City for review.

WILL MORE THAN 5,000 BOARD FEET OF TIMBER BE HARVESTED? YES NO IF YES, A LAND CLEARING PERMIT MUST BE SUBMITTED

HAS A PRE-APPLICATION MEETING BEEN HELD THAT INCLUDES THIS PROJECT? YES NO IF YES, LIST ITS FILE NO:

HAVE YOU COMPLETED THE TRAFFIC IMPACT ANALYSIS PROCESS? YES NO IF YES, LIST ITS FILE NO:

5 PROJECT CONTACTS & THOSE INVOLVED

It is imperative that the members of the City Council, Planning Commission and that the Hearing Examiner know all of the people involved with your application so that they can act without any conflict of interest charges or violations of the appearance of fairness doctrine. Therefore, the following information MUST be complete and MUST be updated when new companies or individuals become involved with your project. The following persons are associated with this project. Attach additional pages as necessary to ensure complete disclosure:

DEVELOPERS:	ADDRESS:	PHONE AND EMAIL ADDRESS:
N/A		
ARCHITECT:	ADDRESS:	PHONE AND EMAIL ADDRESS:
N/A		
ENGINEER:	ADDRESS:	PHONE AND EMAIL ADDRESS:
N/A		
TITLE COMPANY:	ADDRESS:	PHONE AND EMAIL ADDRESS:
Land Title and Escrow	111 E. George Hopper Rd. Burlington, WA 98223	360-707-2158
LENDER/LOAN OFFICER:	ADDRESS:	PHONE AND EMAIL ADDRESS:
N/A		
ATTORNEY:	ADDRESS:	PHONE AND EMAIL ADDRESS:
N/A		
CONTRACTORS:	ADDRESS:	PHONE AND EMAIL ADDRESS:
N/A		
REAL ESTATE AGENTS:	ADDRESS:	PHONE AND EMAIL ADDRESS:
N/A		
INVESTORS:	ADDRESS:	PHONE AND EMAIL ADDRESS:
N/A		
OTHER PARTIES PROVIDING SIMILAR, SIGNIFICANT SERVICES:	ADDRESS:	PHONE AND EMAIL ADDRESS:
Surveyor Lisser + Associates	320M. Iwalksee St. P.O. Box 100 Mt. Vernon, WA 98223	360-419-7442 bruce@lisser.com



6 ACKNOWLEDGEMENTS & SIGNATURES

The following statements MUST be read and initialed by the property owner. Land Use applications involve many steps and processes; and most applications are conditioned through the process. The following disclosure statements involve items that the Community & Economic Development Department wishes to bring to your attention at the beginning of a project. The following statements in no way contain all of the conditions that could be applied to your project, but rather, are conditions that could seem out of the ordinary to an applicant who does not regularly work with land use codes.

OWNER'S INITIALS: LAND USE PERMITTING DISCLOSURE STATEMENTS:

I understand that land use permits do not authorize earth disturbing activities, the removal of vegetation, or the construction of buildings. I understand that additional permits will be required after my land use permitting process is completed. I understand that no earth disturbing activities (including the removal vegetation) may take place until after my land use process is complete, and only after I have received additional permits such as Fill & Grade, Utility, or Right-of-Way permit(s). Additionally, I understand that structures cannot be constructed until after my land use permitting processes are complete and I receive permits authorizing such construction, e.g. building permit(s). I understand that if critical areas (wetlands, streams, steep slopes, et cetera) are found on or near my property I will be required to leave an undisturbed buffer area around the critical area. I also understand that depending upon the size and scope of my project that I may be required to enhance a critical area buffer. I understand that depending upon the size and scope of my project, I may be required to provide maintenance and/or performance bonds for items such as landscaping, public roads and/or public utilities that I construct or install. I understand that I am solely responsible for providing complete and accurate information to the City. I understand that if my application is missing information or if inaccurate materials are submitted, my land use process will be delayed. I understand that depending on how inaccurate and how incomplete my application is or becomes, the Development Services Department could require an entirely new application to be submitted. I understand that when and if conditions change from that which my application originally represented, I am responsible for letting the City know. I understand that I am applying for permits from the City of Mount Vernon only; and that additional permits from other Federal and State agencies will likely be required. I understand that the City of Mount Vernon cannot advise me of permits that are required from other agencies, and that I must contact these agencies to make sure I comply with their requirements. These agencies include (but are in no way limited to): Corps of Engineers, Department of Natural Resources, Department of Ecology, and Northwest Clean Air Agency. I understand that I may be required to properly and timely post a pink land use sign on my property during my land use permitting process. I understand that I am responsible for making sure that this sign continues to be posted on my property until my land use process is completed; and I understand that I am responsible for removing and disposing of this sign once my land use process is completed. I understand that I will be responsible for paying consultants that the City may deem necessary to review certain aspects of my application. I understand that these consultant reviews could include traffic concurrency, critical area, landscaping, et cetera.

I declare that I am either the owner of the property involved in this application or the authorized representative to act for the property owner (proof of authorization is required to be attached if you are not the property owner), and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my knowledge and belief. The below-signed does certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signature: [Handwritten Signature]
Printed Name: Joel Dryden

Date: 10-29-18

STATE OF WASHINGTON }
COUNTY OF SKAGIT } SS.

I certify that I know or have satisfactory evidence that Joel Dryden is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the owner to be the free and voluntary act and deed of said property, for the uses and purposes therein mentioned.

Given under my hand and official seal this 29 day of October, 2018



Notary Public Signature: [Handwritten Signature]
NOTARY PUBLIC WRITTEN NAME: Morgan Morrison
RESIDING AT: Skagit
MY APPOINTMENT EXPIRES ON: 3/1/2021

Exhibit 2

Project Description and Justification

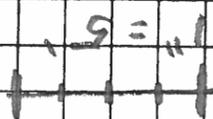
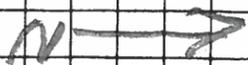
425 S. 10th St.
P52768

This is the 425 S. 10th Street Deck. It is a 282 ft² deck located off the southwest corner of the house. The current use of the site is a single-family home and this deck is an existing improvement. There are no special site features present on this site. The soil type is well-drained native glacial till. The proposed use of the property will be maintained as a single-family home, with the deck surface height being 7 feet off the ground level, and 282 ft² in size. No off-site improvements are planned for this proposal. Total estimated construction costs and approximate value of the deck are \$8,000. No fill or excavation is planned for this proposal. No trees will be removed, and no land will be dedicated to the City.

PS2768

1425 S. 10th St.

Vicinity Map



Garage

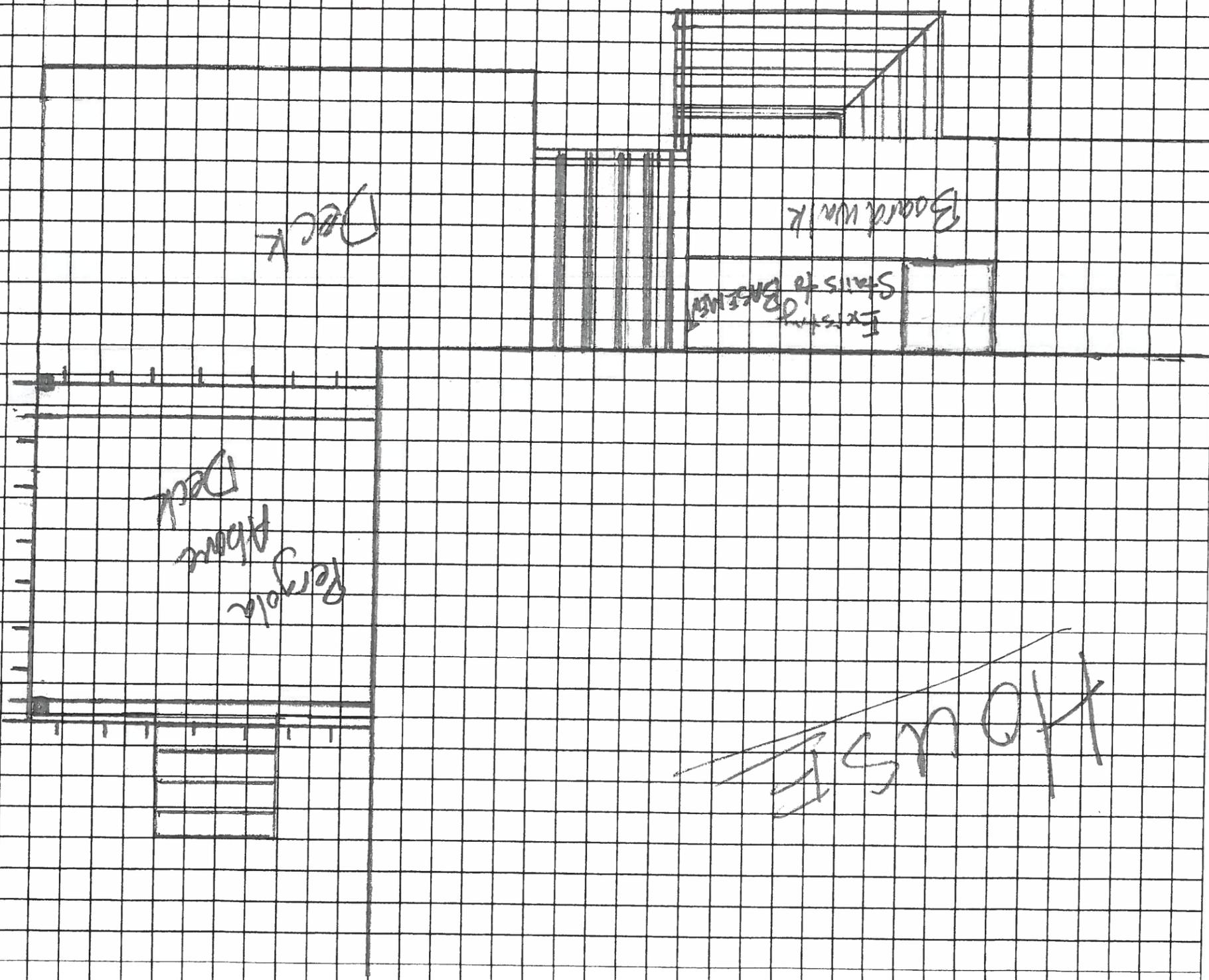
Boardwalk

Existing
Stairs to Basement

Deck

Pergola
Above
Deck

HOUSE

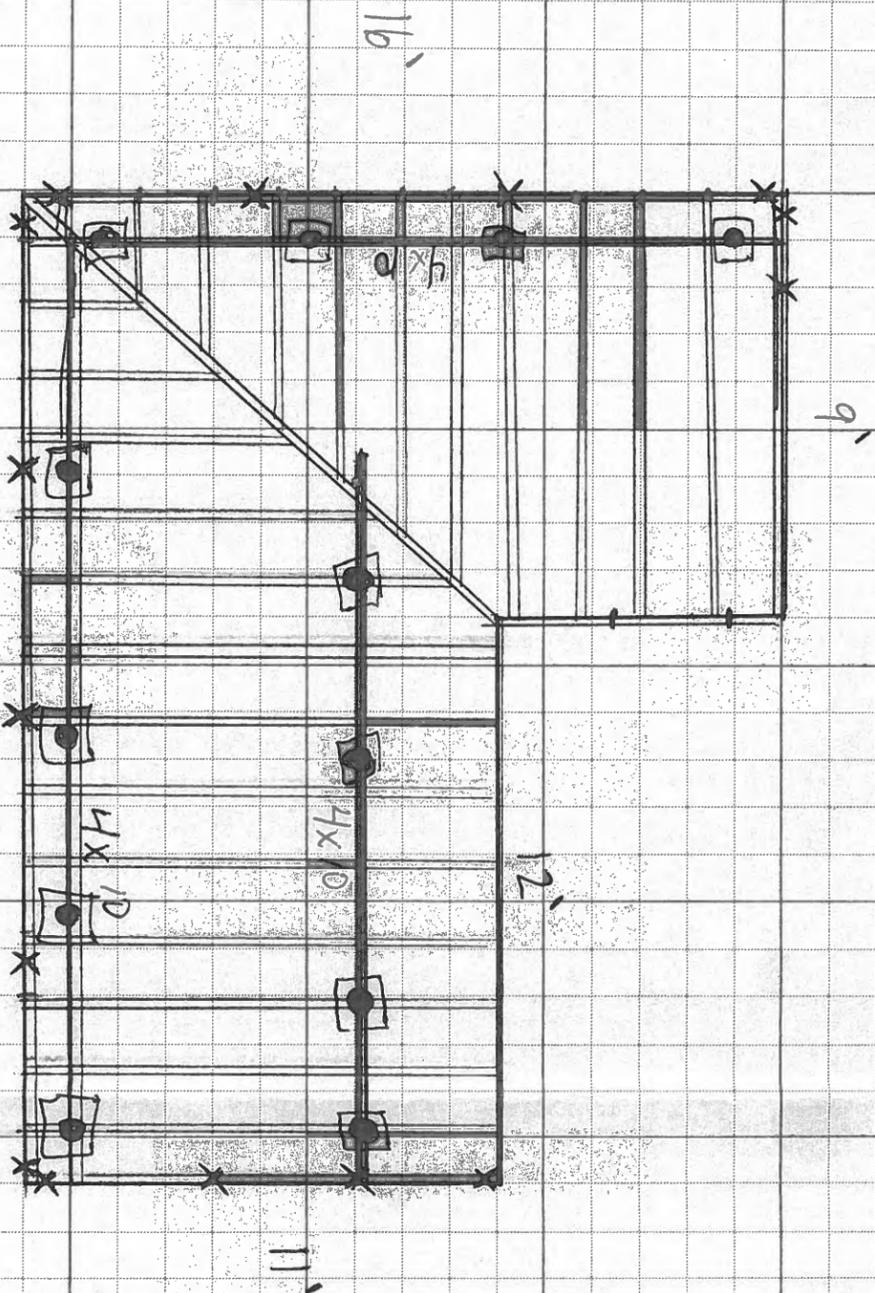


Deck Plans

425 S. 10th St.
Mt. Vernon, WA 98274

□ = 1 Foot

North ↑



✗ 4x4 Rail Posts on surface

□ 4x4 Posts anchored to concrete footings

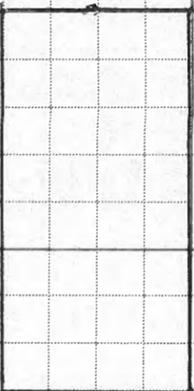
2x10 Ledger boards attached w/ Timber Lock Screws. Flashing on top of Ledger

2x10 Joists attached w/ Joist Hangers + nails

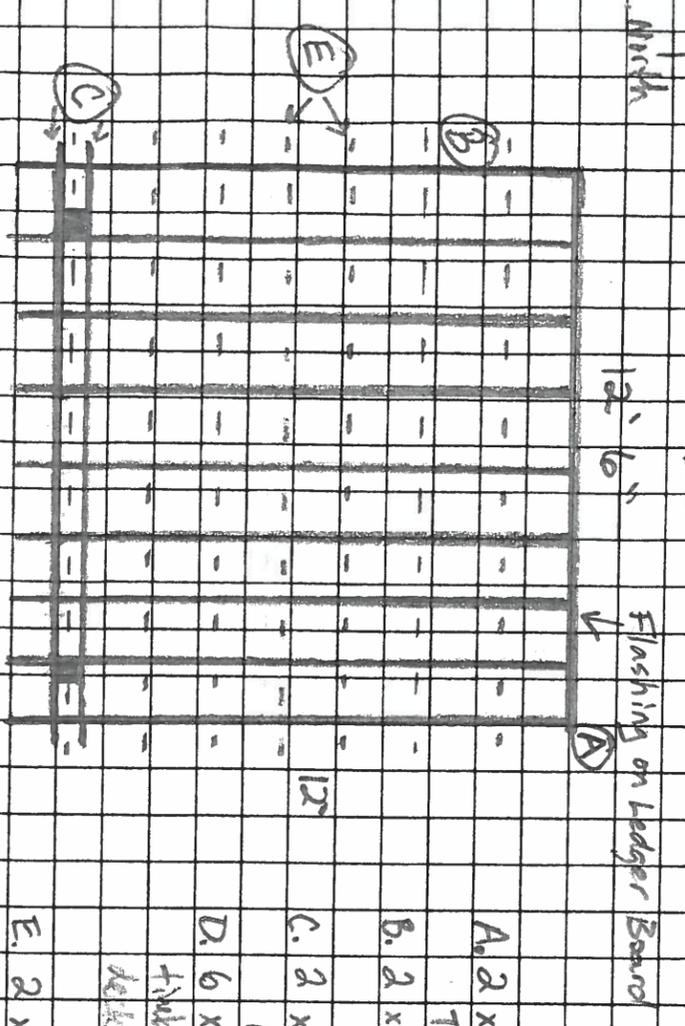
4x10 Beams attached to posts w/ brackets + nails

5/4x6 Cedar decking on top

✗ Railings built to code, allowing no gap > 4", 36" High.
Metal Hogsvine framed with 2x4s + 2x6s

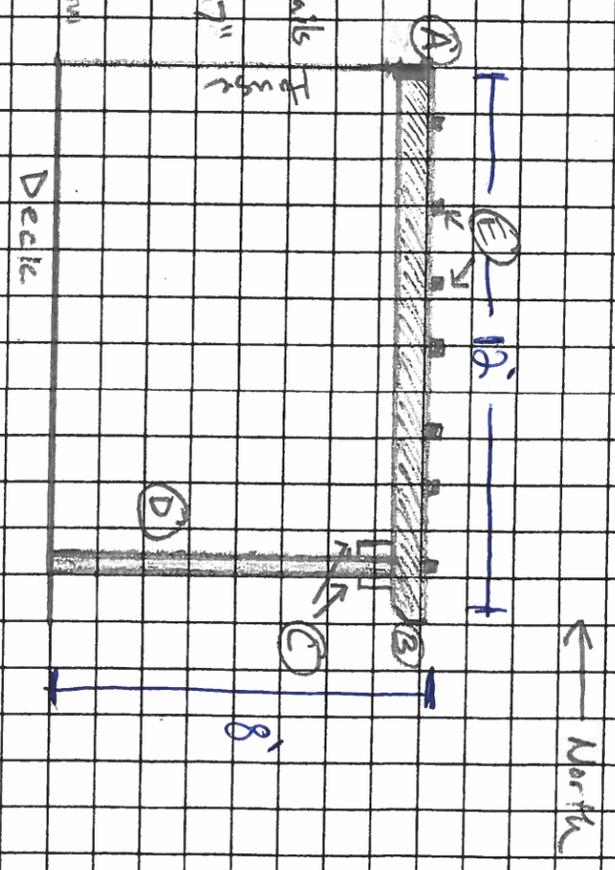


PERGOLA PLANS

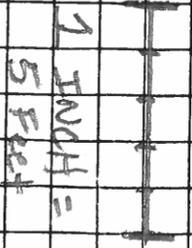


Top View

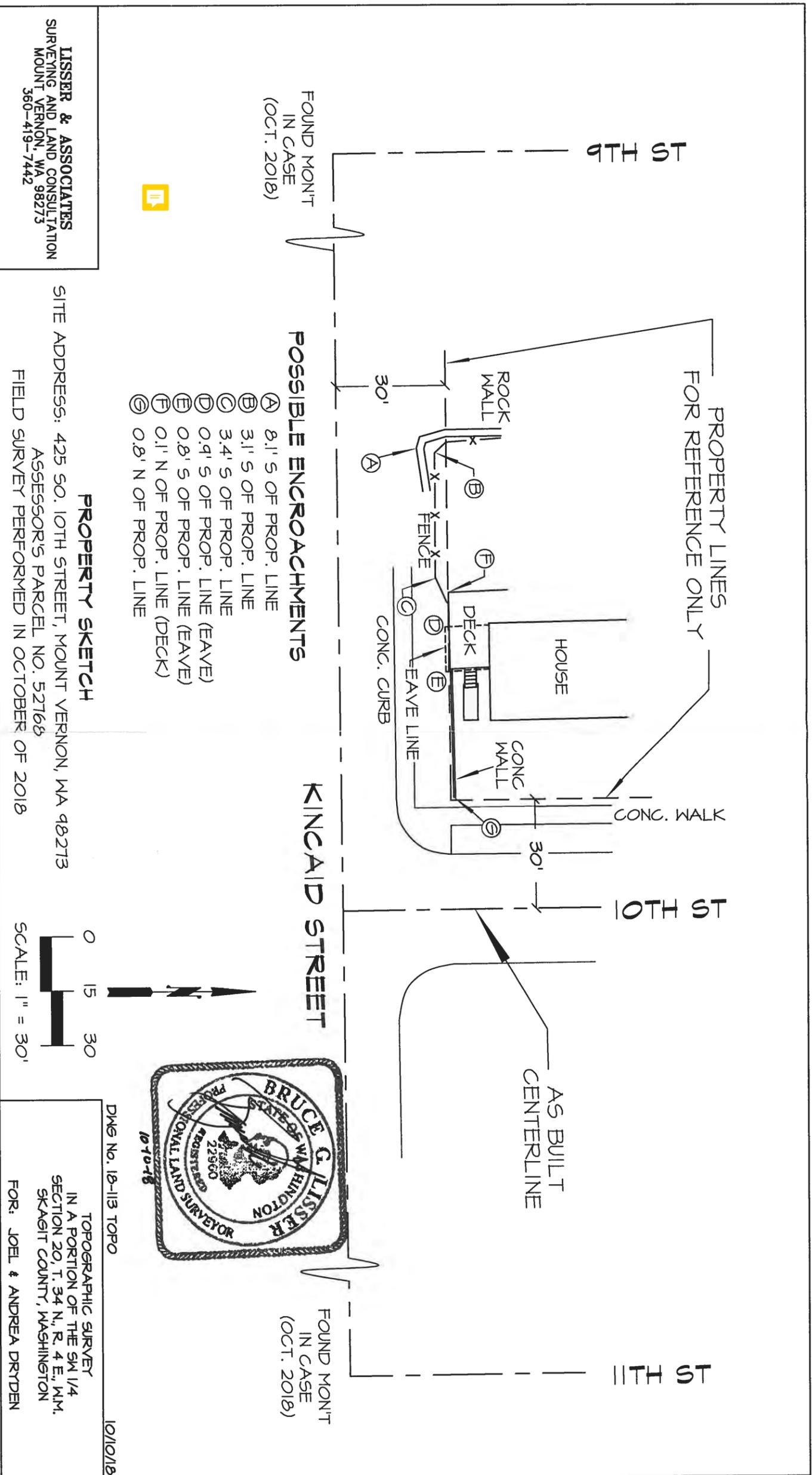
- A. 2 x 8 LEDGER Attached with Timber Lock Screws
- B. 2 x 8 Joists Attached with nails
- C. 2 x 8 Beams Attached with 5/8" LAG Bolts
- D. 6 x 6 Posts attached with timber lock screws to blocking below deck and to rail posts
- E. 2 x 2 Louvers



SIDE VIEW



1 INCH =
5 FEET





MEMORANDUM

TO: Alan Danforth, Steve Riggs, Rick Prosser, Skagit PUD, and Rebecca Lowell

FROM: Kirsten Hawney, Planning Coordinator

DATE: November 30, 2018

SUBJECT: Dryden Deck/Pergola – Special Permission PL18-156

Please find attached items for your review and comment with regard to a deck/pergola addition to a single family residence. The existing single family residence is non-conforming with regards to setbacks. The applicant is asking for special permission to keep the deck/pergola, which was constructed without permits, in the current location that does not meet setbacks and may extend into the ROW.

If you don't review and comment on the attached I am forced to assume that you have reviewed these materials and they comply with the development regulations that your department administers.

Although there will be construction related permits obtained by the applicant following the approval of the subject site plan and SEPA approvals, planning staff routes these materials to other department in an effort to vet issues sooner, rather than later, in a project.

If you have comments and/or concerns, please send them to me by **December 14, 2018**. The entire file may be reviewed during office hours at the Development Services Department in City Hall located at 910 Cleveland Avenue, Mount Vernon, Washington. If no comments are received by **December 14, 2018**, it will be assumed that there are no comments or concerns. An extension of time may be granted for an additional five (5) calendar days if the application involves unusual circumstances.

Please do not hesitate to contact me if you have any questions, or if you need any additional information.

Thank you!



Exhibit 4b

January 28, 2019

Joel & Andrea Dryden
425 S. 10th Street
Mount Vernon, WA 98274

Reference: Dryden Pergola and Deck – Special Permission – PL18-156, Request for Additional Information

Dear Mr. and Mrs. Dryden:

As you are aware, on October 29, 2018 you submitted an application for Special Permission per Mount Vernon Municipal Code Chapter (MVMC) 17.102 to allow an existing pergola and deck to remain on your property. Following submittal of this application staff was made aware that an amendment to MVMC Chapter 17.102 was necessary before this application could be processed. The City Council approved the needed code amendment last week on January 23, 2019. As such, the processing of this application is now able to proceed. Per MVMC 14.05.130(3) the timeframe between October 29, 2018 and January 23, 2019 is exempted from the timing provisions found in MVMC 14.05.130(A).

The items you submitted for the above-referenced permit/approval have been reviewed by the City departments responsible for approving different aspects of your application. The following list of comments is the result of this consolidated review.

Each of the items in this list require responses and/or revised or new materials to be re-submitted to the City before any further action can be taken on this permit. Pursuant to Mount Vernon Municipal Code (MVMC 14.05.130) a hold is placed on this application and the time it takes you to respond to this list of items is excluded in calculating permit processing timeframes. Once revised/corrected materials are submitted to the City your permit processing timeframe starts again.

1. A boundary survey completed by a surveyor licensed in the State of Washington is required so that staff is able to ascertain the location and extent of improvements placed in the right-of-way of Kincaid Street, 10th Street, and the City alley abutting the west property line of the subject site.

A complete response to each of the items listed above is required to be submitted at the same time. Consistent with Mount Vernon Municipal Code Chapter 14.05.110(D)(3) this response must be received by our Department on or before **April 26, 2019** to avoid this application being withdrawn from consideration. Withdrawn application must be resubmitted as new applications requiring repayment of all applicable fees and processing requirements.

A complete response is required to include: 1) a written document addressing all of the comments provided (one copy), 2) new and/or updated technical reports (two copies), 3) plan corrections, identified by clouding and noted in a revision list on the plan sheet(s), being incorporated into a full set of revised plans (two copies), and 4) a transmittal that itemizes everything you are resubmitting to the City.

If you have any questions about the contents of this letter; or if you need additional information, please do not hesitate to call me at (360) 336-6214; or to email me at: rebeccab@mountvernonwa.gov

Thank you,

A handwritten signature in blue ink, appearing to read "Kirsten Hawney".

Kirsten Hawney,
Planning Coordinator

Enclosed:

- Comment letter with attachments from Alan Danforth, Development Services Engineering Manager; and,
- Comment email from Steve Riggs, City Fire Marshall.

NOTICE OF APPLICATION

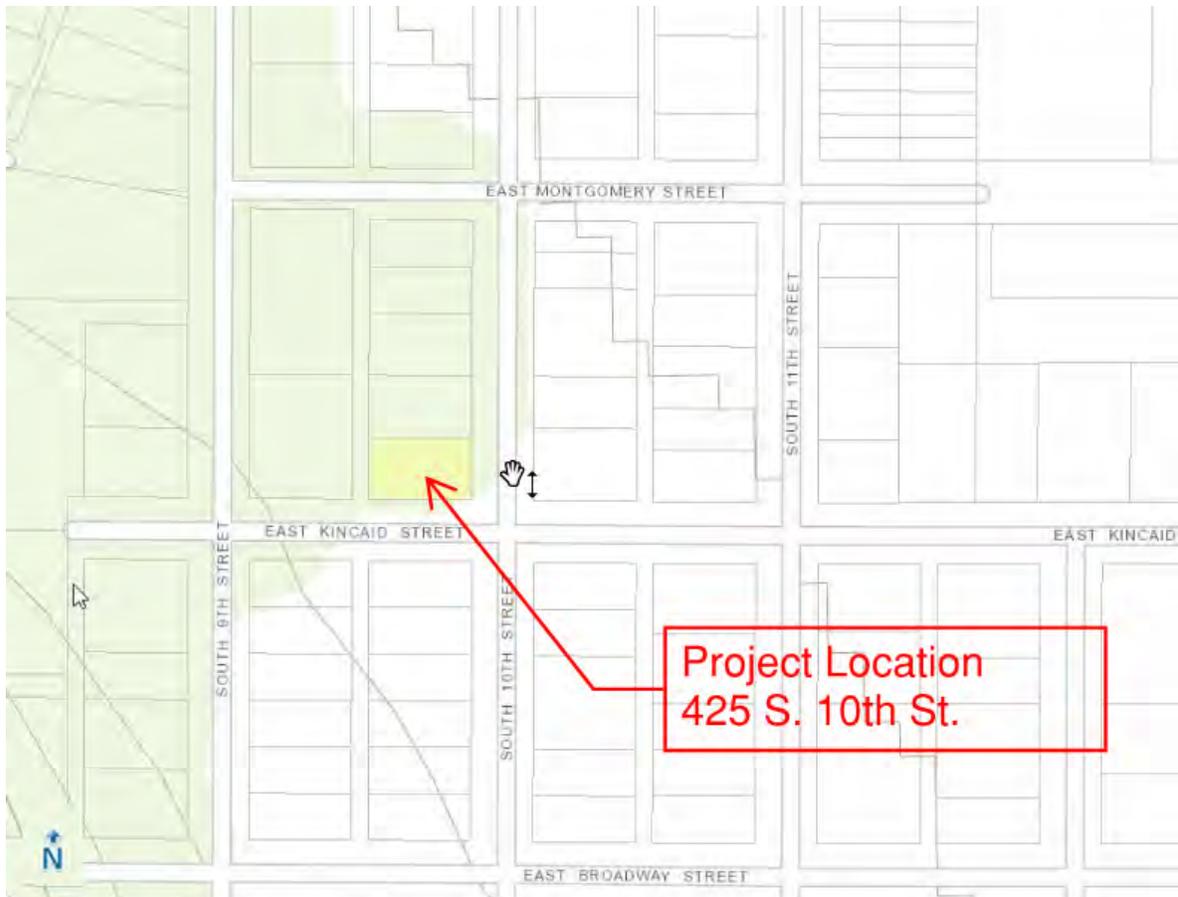
This Notice of Application is being posted and sent to those property owners who are located within 300 feet of the project site described within this notice. City code requires the applicant for this action to obtain a permit that will allow the construction of the improvements described herein. If you have concerns or questions about this project please respond to the staff person listed in this notice within the timeframe provided.

APPLICATION NAME/NUMBER: Dryden Pergola and Deck – Special Permission, File No. PLAN19-0063

PROJECT DESCRIPTION: The Applicant is seeking approval for the construction of a non-conforming deck and pergola built on the south side of an existing non-conforming single family residence. The deck and pergola were constructed without the benefit of the required City permit(s) and are not observing the required setback from East Kincaid Street.

MVMC Chapter 17.102 has a process by which the City Council (upon recommendation by the Hearing Examiner) can grant special permission to enlarge or expand an existing non-conforming structure and/or use so long as certain criteria are met.

PROJECT LOCATION: The proposal property has an address of 425 S. 10th St. The parcel number is P52768, and it is located within a portion of the southwest 1/4 of Section 20, Township 34, Range 4, W.M. The project site is identified on the vicinity map below.



**PROPERTY OWNER &
APPLICANT:**

Joel & Andrea Dryden
425 S. 10th Street Mount Vernon, WA 98274
Telephone: 360-391-3297

STAFF CONTACT:

Rebecca Lowell, Principal Planner
Development Services Department
City of Mount Vernon
910 Cleveland Avenue, Mount Vernon WA 98273
Telephone: 360-336-6214

DETAILS:

Counter Complete:	January 23, 2019	Technically Complete:	January 28, 2018
Permits/Review Requested:	Expansion of a Non-Conforming Building	Other Permits that may be Required:	Building Permit

Comments on the Notice of Application must be submitted, in writing, no later than **May 13, 2019**. Comments should be as specific as possible and include; your full name, your mailing address, and the name of the proposal you are commenting on. Comments submitted on paper are required to be mailed or delivered to the Development Services Department at the address listed above. Public comments are not accepted by the department through email. Comments not meeting the requirements of this section are considered as not being received by the city.

Any person may comment on the application, receive notice and request a copy of the decision once it is made. To receive additional information regarding this project contact the Development Services Department and ask to become a party of record.

City staff has created a page on the City's website where the site plans, technical reports, and other pertinent information can be viewed. This webpage can be viewed as follows: navigate to: www.mountvernonwa.gov; once here click on 'Departments' then 'Development Services' then then 'News Notices' then scroll down the page to find the project name/number.

ISSUED: April 25, 2019
PUBLISHED: April 29, 2019



December 10, 2018
Kirsten Hawney
Planning Coordinator
City of Mount Vernon

RE: PL18-156 Dryden Special Permission

Dear Kirsten,

Development Services (DS) Engineering has received and reviewed the items submitted to our department on 11/30/18 regarding the subject line site; we have also reviewed this in conjunction with public works and will be adding comments according to our departmental review. Our review included the Project Description and Justification, Topographic Survey by Lisser and Associates, and accompanying documentation.

The following summarize the comments that DS Engineering and Public Works Engineering have for the submittal:

1. Along with the new deck, two other non-permitted items were found on a site visit performed on 12-05-2018:
 - a. A new fence was installed without the benefit of a permit (photos attached). The fence encroaches into the public Right of Way (ROW) on Kincaid St.
 - b. A rock retaining wall was installed without the benefit of a permit (photos attached). The fence encroaches into the public ROW on Kincaid St and possibly in the Alley Way west of the subject parcel.

Both Development Services and Public Works will not accept new private structures that are built in the public ROW. If the applicant is not willing to relocate the fence and rock retaining wall to the property line, we will pursue all legal options available, including recuperating all costs associated, to have the fence and wall removed and relocated.

2. In regards to the new deck, as indicated in comment #1, both DS and PW Engineering will not accept any structures built into the ROW. At a minimum, any overhang must be removed from the ROW. Furthermore, if the site is subject to setbacks, it is our recommendation that the City hold the property owners accountable to the same City Development standards as all developers doing business in the City including, but not limited to, setbacks for structures.
3. The survey provided is listed as a topographic survey, which does not constitute a legal boundary survey. We recommend the applicant have a boundary survey

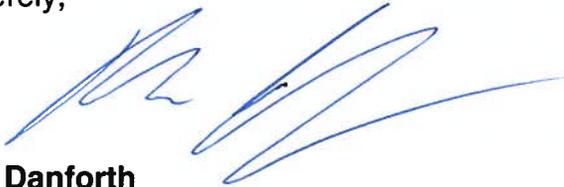
completed so they may know the extents of the work that will have to be relocated.

4. DS Engineering wants to be clear regarding costs of the City having to perform the work if the applicant is unwilling. The city does not have the manpower to perform the required corrections, which means we will have to contract out for the work. It is a Federal requirement that the City pay construction contractors prevailing wage. If the applicant chooses to go this route, costs to move the structures will be drastically higher than if the property owner hires a contractor to perform the work.

We have attached photos of the site before and after the property was purchased for clarity.

If you have any questions, comments or need clarifications do not hesitate to contact Development Services at (360) 336-6214 or via email at aland@mountvernonwa.gov.

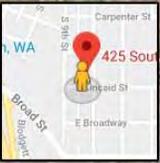
Sincerely,



Alan Danforth
Development Services Engineering Manager
City of Mount Vernon

951 E Kincaid St
Mt Vernon, Washington
Google, Inc.
Street View - Sep 2015

GOOGLE STREET VIEW DATED
SEPTEMBER 2015



Google

Image capture: Sep 2015 © 2018 Google, United States Terms Report a problem



CITY OF MOUNT VERNON AERIAL IMAGERY DATED MAY 2017. CURRENT PROPERTY OWNER PURCHASED PARCEL IN MARCH OF 2017. ROCK RETAINING WALL, NEW FENCE AND PORCH NOT INSTALLED AS OF MAY 2017.

SITE VISIT ON 12/05/2018 -
SITE PHOTO



SOUTHWEST
CORNER OF
SUBJECT PARCEL



SOUTHEAST
CORNER OF
SUBJECT PARCEL

Hawney, Kirsten

From: Riggs, Steve
Sent: Saturday, December 29, 2018 12:25 AM
To: Hawney, Kirsten
Cc: Grace, Michelle; Prosser, Rick
Subject: PL18-156

Kirsten,

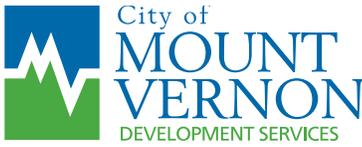
I have reviewed the submitted documents for the illegal construction of a deck and pergola.

I do not find any fire code violations or impacts that would create an issue for response. The deck and pergola are not sleeping or living space and would not increase the fire flow unless a solid roof structure was installed.

No comments for this project.

Respectfully

Steven V. Riggs
Fire Marshal
City of Mount Vernon
(360) 336-6277



NOTICE OF PUBLIC HEARING

PROJECT DESCRIPTION: The Applicant is seeking approval for the construction of a non-conforming deck and pergola built on the south side of an existing non-conforming single family residence. The deck and pergola were constructed without the benefit of the required City permit(s) and are not observing the required setback from East Kincaid Street. City File Name: Dryden Pergola and Deck – Special Permission, File No. PLAN19-0063

PROJECT LOCATION: The proposal property has an address of 425 S. 10th St. The parcel number is P52768, and it is located within a portion of the southwest 1/4 of Section 20, Township 34, Range 4, W.M.

PROJECT APPLICANT & OWNER:

Joel & Andrea Dryden
425 S. 10th Street Mount Vernon, WA 98274
Telephone: 360-391-3297

PUBLIC HEARING: A public hearing on the above described project will be held by the Mount Vernon Hearing Examiner on **June 27, 2019** at Mount Vernon City Hall located at 910 Cleveland Ave, Mount Vernon at 10 AM

City staff has created a page on the City's website where additional information can be viewed. This webpage can be viewed as follows: navigate to: www.mountvernonwa.gov; once here click on 'Departments' then 'Development Services' then then 'News Notices' then scroll down the page to find the project name/number.

CITY CONTACT: Further information can be obtained by contacting the following:
City of Mount Vernon, Development Services Department
Contact: Rebecca Lowell
910 Cleveland Ave.
Mount Vernon, WA 98273
(360) 336-6214

ISSUED: June 12, 2019

PUBLISHED: June 14, 2019

ORDINANCE NO. 3775

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, AMENDING PORTIONS OF TITLE 17, ZONING, WITHIN CHAPTERS 17.51 COMMUNITY COMMERCIAL DISTRICT, 17.54 NEIGHBORHOOD COMMERCIAL DISTRICT, 17.69 PLANNED UNIT DEVELOPMENTS, 17.90 SITE PLAN REVIEW, 17.102 NON-CONFORMING BUILDINGS OR USES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, several chapters within the Zoning Code (Title 17) need to be amended to correct discrepancies, achieve consistency with Chapter 14.05, Procedures, and to implement Comprehensive Plan Goals, Objectives, and Policies; and

WHEREAS, the Department of Commerce was notified of the proposed amendments on November 30, 2018, an acknowledgement was received from Commerce on December 3, 2018, and Commerce granted the City expedited review on December 22, 2018 (their identification number: 25553); and as such, the City is in compliance with RCW 36.70A.106 (1); and

WHEREAS, a SEPA Threshold Determination of Non-significance, non-project action, was issued on December 3, 2018 and published on December 6, 2018 and no comments were received or appeals filed; and,

WHEREAS, on January 15, 2018 the Planning Commission held an open record public hearing and forwarded their recommendation on the subject code amendments to the City Council for consideration at their open record public hearing held on January 23, 2018; and

WHEREAS, the requirements for public participation in the development of this amendment as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met; and

WHEREAS, The City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the Ordinance. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including RCW 36.70A.370(4), with the City Attorney's Office which has reviewed the Advisory Memorandum has discussed this Memorandum, including the "warning signals" identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of this Ordinance to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2); and

WHEREAS, the proposed amendments ensure that the City's municipal code is internally consistent.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION ONE. RECITALS INCORPORATED. That the City Council adopts the recitals set forth above as findings justifying adoption of this Ordinance and incorporates those recitals as if set forth fully herein.

SECTION TWO. PLANNING COMMISSION RECOMMENDATION ADOPTED. The City Council adopts the Planning Commission’s findings of fact and conclusions of law, outlined below, in their entirety.

A. Planning Commission’s Findings of Fact:

1. The procedural requirements outlined in MVMC Chapter 14.05, Procedures, have been satisfied by City staff. This includes the Notice of Public Hearing, the environmental review pursuant to the SEPA statute, and receiving expedited review from the State Department of Commerce.

B. Planning Commission’s Conclusions of Law:

1. The proposed amendments ensure that the City’s development regulations are internally consistent.
2. The requirements for public participation in the development of this amendment as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met.
3. The proposed amendment is found to be in compliance with the State Growth Management Act.

C. Planning Commission Recommendation to the City Council:

At their public hearing on January 15, 2019 after review of the materials presented by City staff and holding a public hearing the Planning Commission made a unanimous motion to approve the ordinance presented by staff.

SECTION THREE. Section 17.51.040, Conditional Uses, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.51.040 Conditional uses.

Uses permitted by conditional use permit, and classified as a Type III permit in the C-3 district, are as follows:

A. Multifamily developments, subject to the following:

1. The multifamily use shall not be constructed on the ground floor; and the ground floor uses shall include one or more of the Permitted Uses listed in 17.51.020.
2. The multifamily uses must be built at the same time or following the non-residential ground floor uses.
3. The multifamily uses shall comply with the setbacks and building height requirements of this Chapter and the following requirements:
 - i. Minimum distance between buildings: 10 feet
 - ii. Density requirements: Unrestricted.
 - iii. Design Standards: Requirements found in Chapter 17.70 MVMC for multi-family uses.
 - iv. Parking requirements: Requirements found in Chapter 17.84 MVMC for multi-family uses.
 - v. Signage requirements: Requirements for residential uses found in Chapter 17.87 MVMC.
 - vi. Landscaping requirements: Requirements for R-3 zones found in Chapter 17.93 MVMC.

B. Churches; provided, that their principal access is from a collector street or greater and they shall conform to all the development standards and requirements of the public (P) zone and concurrent with approval the city shall require both the comprehensive plan and zoning designations to be changed to public (P) during the city’s next comprehensive plan amendment cycle. (Ord. 3714 § 8(C), 2017; Ord. 3429 § 101, 2008).

SECTION FOUR. Section 17.51.060, Setbacks, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.51.060 Setbacks.

Minimum setback requirements in the C-3 district are as follows:

A. Front yard: 10 feet. Buildings on corner lots and through lots shall observe the minimum setback on both streets. For properties that front on an arterial, the minimum setback from the right-of-way shall be 25 feet. The community and economic development and public works directors can through a Type I decision process administratively reduce, for good cause shown, this setback;

B. Side yard and rear yard: none, except along any property line adjoining a residentially zoned district or use, with no intervening street or alley, there shall be a setback of at least 10 feet when adjoining a multi-family district or use and 20 feet with adjoining a single-family district or use.

SECTION FIVE. Section 17.51.070, Building height, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.51.070 Building height.

Maximum building height shall be four stories, but not more than 50 feet. These maximum limits may be increased to six stories or 65 feet if parking is provided beneath the habitable stories. Uninhabitable stories such as a church spire, fleche, campanile, nave, a dome and lantern or a clock tower may be permitted to exceed the height limit provided such structures are not intended as advertising devices. (Ord. 3315, 2006; Ord. 2352, 1989).

SECTION SIX. Section 17.54.020, Application, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.54.020 Application.

A. Such districts are to be located only where they clearly serve daily needs of residents in the surrounding area and where uses are not in existence or are desirable.

B. Each district may not exceed three acres in total area.

C. Property that was zoned C-4 on or before June 26, 2013 shall have the option of using the zoning regulations found in this Chapter; or they can use the zoning regulations codified in Chapter 17.51, Community Commercial District (C-3), with the following limitations:

1. Buildings abutting single-family zones or uses shall be required to comply with the height limits specified in this chapter.

2. Applicants will not be allowed to mix regulations from the C-3 and C-4 districts; they must pick one district or the other and comply with all of the regulations from the district they choose.

D. Such districts may only be located within new planned developments that are created using the city's planned unit development (PUD) process that is codified within Chapter 17.69 MVMC.

SECTION SEVEN. Section 17.54.040, Conditional Uses, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.54.040 Conditional uses.

Uses permitted by conditional use permit and classified as a Type III permit in the C-4 district are as follows:

A. Multifamily developments, subject to the following:

1. The multifamily use shall not be constructed on the ground floor; and the ground floor uses shall include one or more of the Permitted Uses listed in 17.54.030.

2. The multifamily uses must be built at the same time or following the non-residential ground floor uses.

3. The multifamily uses shall comply with the setbacks and building height requirements of this Chapter and the following requirements:

vii. Minimum distance between buildings: 10 feet

viii. Density requirements: Unrestricted.

ix. Design Standards: Requirements found in Chapter 17.70 MVMC for multi-family uses.

x. Parking requirements: Requirements found in Chapter 17.84 MVMC for multi-family uses.

xi. Signage requirements: Requirements for residential uses found in Chapter 17.87 MVMC.

SECTION EIGHT. Section 17.69.090, Modification of permitted uses – Commercial Uses, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.69.090 Modification of permitted uses – Commercial uses.

A. A planned unit development may allow commercial uses in residential zones which are not otherwise permitted in the underlying use zone only under the following circumstances:

1. The use shall be part of a planned development in which not more than 10 percent of the gross floor area of the residential units (both single-family and multifamily) is devoted to a commercial use which is not otherwise permitted in the underlying use zone. For example, if a 100-unit development contained homes that all had a gross floor area of 2,000 square feet, a commercial use that was no larger than 20,000 square feet could be permitted. In measuring the square footage of the commercial use all features such as setbacks, access, parking and landscaping shall be included.
2. The use shall be supportive of and/or complementary to the other uses within a planned development and scaled to meet primarily the needs of the inhabitants of the project.
3. The use shall be compatible with the uses permitted on other properties in the surrounding area.
4. There is public benefit to be realized by allowing the proposed use.

B. Basis for Approval of Commercial Uses in Residential PUDs. Commercial uses may be located within the planned unit development when the proposed development includes residential use as an integral component of the planned development and when commercial uses are situated and developed in such a manner as to be compatible with any residential uses that are existing or which could be developed in the adjoining residentially zoned area.

C. In proposing a commercial use in a residential zone, the applicant shall establish specific community economic need for the use and facilities. The Director of Development Services shall require a competent market analysis to demonstrate that need.

D. Building permits for commercial uses in residential PUD zoning districts may not be issued until at least two-thirds of all the proposed single-family detached residential units are completed, including issuance of final certificates of occupancy.

E. The commercial use shall meet the dimensional requirements applicable to the C-4 zoning district (setbacks, landscaping, parking, etc.).

SECTION NINE. Section 17.90.020, Committee Membership, of the Mount Vernon Municipal Code is hereby repealed.

SECTION TEN. Section 17.90.040, Procedure, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.90.040 Procedure.

Those applying for site plan approval shall submit all of the materials required in Chapter 14.05 MVMC. Chapter 14.05 MVMC classifies Site Plan approvals as Type I permits and they shall be processed as such.

SECTION ELEVEN. Section 17.90.050, Committee Review, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.90.050 Site Plan review.

Applications shall be reviewed consistent with the procedural requirements found in Chapter 14.05 MVMC to ensure compliance with the purpose and intent of this chapter. The city may do the following:

- A. Approve the application as submitted;
- B. Approve the application with conditions;
- C. Continue consideration of the application until the next regularly scheduled meeting to allow the applicant to provide additional information;

D. Table the application to allow the applicant to further refine or redesign the project to meet city criteria; or
E. Disapprove the application as submitted. Approval of the application means that the applicant can then seek the issuance of a building permit. (Ord. 2352, 1989).

SECTION TWELVE. Section 17.90.060, Appeals, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.90.060 Appeals.

In the event that an application is conditionally approved or disapproved, the applicant may appeal the decision to the hearing examiner. Such appeal shall follow the appeal procedures in Chapter 14.05 MVMC and must be accompanied by a fee as set forth in Chapter 14.15 MVMC. (Ord. 3429 § 152, 2008).

SECTION THIRTEEN. Section 17.90.080, Preliminary site plan review, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.90.080 Preliminary site plan review.

Prior to applying for site plan review, a developer may file a request for a preliminary site plan review which shall contain in a rough and approximate manner all of the information required in the site plan application. The application must clearly state that it is a request for a preliminary site plan review. The purpose of the preliminary site plan review is to enable a developer filing the plan to obtain the advice about the applicability of the intent, standards and provisions of this chapter to the plan. After the filing of the preliminary site plan, the city shall make available to the developer its written advice regarding the compatibility of the preliminary site plan with the intent, standards and provisions of this chapter.

SECTION FOURTEEN. Section 17.90.090, Additional information for review, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.90.090 Additional information for review.

The city may require the applicant to submit any additional information or material which it finds is necessary for the proper review and hearing of the application.

SECTION FIFTEEN. Section 17.90.100, Duration of Approval, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.90.100 Duration of approval.

Approval of the site plan shall be effective for 18 months from the date of approval. Upon written application of the owner or representative, the city may extend the approval for an additional six-month period; provided, that no changes have been made in regulations, ordinances, requirements, policies or standards which impact the project.

SECTION SIXTEEN. Section 17.90.110, Waiver and exemption from site plan review, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.90.110 Waiver and exemption from site plan review.

The development services director may waive the requirement of site plan review if the objectives of this section have been met through the review of other permit requirements and the developer concurs with the development services director's decisions. All applications for PUDs processed under the procedures of Chapter 17.69 MVMC are exempted from site plan review requirements. (Ord. 3092 § 67, 2002; Ord. 2943 § 24, 1999; Ord. 2352, 1989).

SECTION SEVENTEEN. Section 17.102.025, Expansion, alteration, or reconstruction of nonconforming buildings utilized for nonconforming uses, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.102.025 Expansion, alteration, or reconstruction of nonconforming buildings and uses.

An existing nonconforming building and/or nonconforming use may not be enlarged, expanded, or reconstructed for the continuance of its nonconformity or nonconformities , except by special permission.

SECTION EIGHTEEN. Section 17.102.030, Authority to grant special permission, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.102.030 Authority to grant special permission.

Approval to grant a permit to enlarge, expand, or reconstruct a nonconforming building and/or a nonconforming use may be granted by the city council, upon recommendation of the hearing examiner, after a public hearing and review by the hearing examiner.

SECTION NINETEEN. City staff is hereby directed to complete preparation of the final ordinance, including correction of any typographical or editorial edits.

SECTION TWENTY. SEVERABILITY. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

SECTION TWENTY-ONE. SAVINGS CLAUSE. All previous ordinances which may be repealed in part or their entirety by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION TWENTY-TWO. This ordinance shall be in full force and effect five days after its passage, approval, and publication as provided by law.

PASSED AND ADOPTED this 23rd day of January, 2019.

SIGNED AND APPROVED this 11th day of February, 2019.



Doug Volesky, Finance Director



Jill Boudreau, Mayor

Approved as to form:



Kevin Rogerson, City Attorney

Published 02/22/19

Rebecca Lowell, Principal Planner
Development Services Department
City of Mount Vernon
910 Cleveland Avenue, Mount Vernon WA 98273

RECEIVED
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MAY 14 2019

D S DEPARTMENT

BY _____

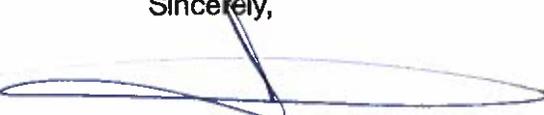
May 10, 2019

RE: Dryden Pergola and Deck - Special Permission PLAN19-0063

To whom it may concern;

I am writing this in support of the Dryden project. The addition of this deck and pergola has been a welcome addition to our neighborhood. Creating a welcoming neighborhood where people talk to each other is what the Drydens have done. Please allow them to keep this structure.

Sincerely,



Michael Marques, GM, Porterhouse Pub
811 S 10th Street
Mount Vernon, WA 98274
360-296-8254

Dryden Pergola and deck

Rebecca Lowell, Principal Planner
Development Services Department
City of Mount Vernon

Dear Ms. Lowell

RE: Special Permission, File No. Plan19-0063

My wife and I are writing in support of the Dryden Pergola and deck proposal to grant a variance for its use.

We have lived in the neighborhood for 40 years. We have observed the work the Dryden's have done on their property to upgrade and enhance, not only their property, but the neighborhood as well. The house had been occupied by Reverend Forbes and his family since I was young. I played in the house with their son, Hugh, from early grade school on through high school.

As years went by, it became difficult for the family to keep up the yard. The picket fence was falling apart and the shrubs and bushes were over grown and tangled with noxious weeds.

The Drydens replaced the fence, essentially where the old fence was, but improved its appearance. More importantly, they have been a magnet for the many of the other young families who have moved into our neighborhood with young children. I often drive by their house and see several families gathered on their pergola enjoying the sun and good weather together.

Our neighborhood has been blessed with several new families with young children. They all seem to care for their own homes as well as each other. It has revitalized our little community on the hill.

I see no reason not to grant a variance for the use of the Pergola and the location of the fence.

Please contact me if you have questions or concerns. I would be happy to discuss this further with you.

Sincerely,



Mark and Jeanne Johnson
402 South 9th St.
Mount Vernon, Wa, 98274

360-336-2245 (h)

360-708-7129 (c)