

## Paula Smith

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**From:** Tim Smith  
**Sent:** Friday, December 14, 2018 12:25 PM  
**To:** paul.larsen1@gmail.com  
**Cc:** Councilmembers; Steve Hall; Leonard Bauer; Keith Stahley; Cari Hornbein; Paula Smith  
**Subject:** Wellington Heights 18-1315

Mr. Larsen,

Thank you for your email. The action by staff was to request that the Hearing Examiner modify the mitigation measures in accordance with provisions in the Olympia Municipal Code. This request was outlined in a memorandum to the Hearing Examiner dated December 10<sup>th</sup> which was available to the public at the sign-in table for the public hearing. This memorandum was presented to the Hearing Examiner at the public hearing as an exhibit for the record. Staff did not remove the SEPA mitigation measures prior to the hearing. Such an action is outside the authority of City staff.

The question of whether the requested change to the SEPA Mitigated Determination of Nonsignificance (MDNS) should be undertaken by the Hearing Examiner is now under his consideration. The Examiner has continued the hearing to allow staff and the applicant to provide additional legal arguments on this issue. Staff is working with the City Attorney's Office to prepare a response. If the Examiner determines that the MDNS should be returned to staff for modification, the City will issue a new MDNS.

### **Tim Smith, AICP | Principal Planner**

City of Olympia Community Planning & Development  
P.O. Box 1967 | 601 4th Avenue E | Olympia, WA 98507-1967  
(360) 570-3915  
[tsmith@ci.olympia.wa.us](mailto:tsmith@ci.olympia.wa.us)

**From:** Paul Larsen <[paul.larsen1@gmail.com](mailto:paul.larsen1@gmail.com)>  
**Sent:** Thursday, December 13, 2018 10:00 AM  
**To:** Cheryl Selby; Clark Gilman; Jessica Bateman; Renata Rollins; Lisa Parshley  
**Subject:** Wellington Heights 18-1315

Mayor Selby and members of the Olympia City Council,

Attached is a letter pertaining to the Wellington Heights development project in my neighborhood. I thank you for taking the time to read and address this issue.

Individually members of the City Council cannot fix this issue. I am asking that you come together as a Council and call for the City Manager to follow the laws pertaining to the Mitigated Determination of Non-Significance. I implore you to bring this to the next City Council meeting and have an open discussion and vote to have our City Manager instruct city staff to follow the legal process and not subvert the integrity of the City's SEPA process.

I would very much appreciate a response. My hope is that as a City Council you will stand with the people that have entrusted you to work on our behalf.

Sincerely,

Paul Larsen  
1525 Division St SW  
Olympia, WA 98502

## Paula Smith

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**From:** Kate Fehsenfeld <katefeh1@gmail.com>  
**Sent:** Friday, December 14, 2018 9:48 AM  
**To:** Paula Smith; Jeff Fant; Steve Thompson; Keith Stahley; Tim Smith; Cheryl Selby; Nathaniel Jones; Jessica Bateman; Clark Gilman; Renata Rollins; Lisa Parshley; Steve Hall; Jay Burney  
**Subject:** Wellington Heights process irregularity

Dear City Council Members, CityStaff and Planners,

I attended the public hearing on December 10th 2018 for the Wellington Heights Development Application. I am concerned that two environmental conditions regarding drainage and storm water recommended in the SEPA determination on October 26th 2018 were removed literally days before the hearing. I personally witnessed flooding on the Bruce Titus Auto site last winter. These mitigations were legitimate concerns. At the hearing it sounded like the developers did not want to comply with the expensive concerns of Bruce Titus so they asked the city staff to strike the requirements from the plan.

At the meeting it appeared that the City did not follow its own processes or have any clear reason for changing their proposal besides honoring a request by the Developer Alex Vo. . I am concerned that the City Staff members are not adhering to their own decisions.

Does the city care at all about how its paid staff is handling these issues? Why were the 147 parties of record not informed of this last minute change? I am one of these parties. Cari Hornbein had approved these conditions, but at the meeting was unable to explain why they were suddenly unneeded.

In light of these unusual last minute changes I hope that the Mitigation question be reconsidered by the Environmental/SEPA officer so there can be due process and review of these changes. I hope that Steve Hall is aware that the staff is not following the laws pertaining to development.

I challenge each of you to consider this situation more carefully and to review how the staff is processing development proposals. I would appreciate a response from City Council and know that the

Kate Fehsenfeld  
103 Thomas St NW  
Olympia, WA 98502  
360-584-0400

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## Paula Smith

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**From:** Kate Fehsenfeld <katefeh1@gmail.com>  
**Sent:** Sunday, December 23, 2018 9:11 PM  
**To:** Steve Thompson; Keith Stahley; Tim Smith; Cheryl Selby; Nathaniel Jones; Jessica Bateman; Clark Gilman; Renata Rollins; Steve Hall; Jay Burney; Paula Smith; Jeff Fant; parshle@ci.olympia.wa  
**Subject:** Wellington Heights Management Follow up

Dear City Manager Steve Hall and Mayor Cheryl Selby and Council Members:

I am writing to you again as a Party of Record in regard to the Alex Vo/Chris Merritt Wellington Heights Project. I want this memo inserted in the public comment file associated with this project.

I am concerned that the city staff did not follow the rules and laws surrounding the Wellington Heights project.

Although I was relieved that the Hearing Examiner returned the MDNS SEPA determination of October 26th back to staff after they changed the environmental mitigation plan at the last minute in response to a note from Alex Vo's engineer Chris Merritt, there is more to be done.

1) If the SEPA Determination is revised, it should be subject to comment and appeal periods as required by Olympia Municipal Code. (Order Continuing the Hearing, Mark C. Scheibmeir, December 18, 2018.)

2) The staff failed to notify the public and the parties of record when they decided to make changes to the environmental mitigation rules pertaining to Wellington Heights. Only Bruce Titus was notified. I think that the staff should notify the public and the parties of record of their mistake in making this change outside of the time allotted for appeals and not informing or notifying anyone as required by law. They should clarify that since the process was violated there has been a return to the SEPA determination.

3) I no longer trust Jeff Fant, Paula Smith, Tim Smith, Cari Hornbein and Steve Thompson and want them to recuse themselves from further work on this project. Their attempt to sidestep procedures to seek important substantial changes on behalf of the applicant (Alex Vo/Chris Merritt) without public notice and comment shows their lack of concern for protecting the city, the citizens, neighbors, and environment (Fant to Titus Memo, December 6, 2018). They are clearly biased in favor of development even to the point of breaking their own laws, rules and procedures.

4) My neighbor, Mauri Shuler, paid \$1,000 for legal representation at the December 10<sup>th</sup> hearing where I learned that this private agreement between staff and Chris Merritt was not based on anything besides a request by Alex Vo and his engineer Chris Merritt who did not want to follow the rules made by the staff based on previously determined legitimate concerns.

5) Moreover, I challenge the city to start considering neighborhood concerns as they pertain to the quality of life in Olympia. Why do we not consider funding sources for projects? The city should care about the effects of developments on neighbors including neighborhoods and adjoining businesses. Do they not consider housing aesthetics, housing costs of finished projects and who these developments are serving, including long and short term environmental effects including drainage and traffic.

While this project has opened my eyes as to the disregard of the City Staff when it comes to following the City's rules, I am also sad that not one City Council member has taken the time to acknowledge any of the letters they have been sent in regards to this project. No one has supported our neighborhood or even taken the time to listen. Thoughtless development will ruin the few healthy neighborhoods Olympia has.

Please rectify some of these unnecessary and illegal wrongs by admitting mistakes were made, removing untrustworthy staff and paying back Mauri Schuler. I would appreciate a response to this letter so I know someone is at least aware of and is considering this disturbing scenario.

Sincerely,

Kate Fehsenfeld

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Kate Fehsenfeld

103 Thomas St NW  
Olympia, WA 98502  
360-584-0400

**From:** Dan Leahy <danleahy43@yahoo.com>  
**Sent:** Monday, December 31, 2018 3:56 PM  
**To:** Paula Smith  
**Cc:** Kenneth Haner  
**Subject:** Re: City of Olympia - Notice of Revised SEPA MDNS and Continuation of Public Hearing - 18-1315 Wellington Heights

This is all nice, Paula, but you should have updated your records before sending out a December 27th re-issued MDNS with a January 10th comment deadline.

On Monday, December 31, 2018, 3:25:11 PM PST, Paula Smith <psmith@ci.olympia.wa.us> wrote:

Dan- Thanks for contacting staff. It would be preferred if you have any comments on this project, that those be directed to me or if it is a SEPA related comment that it **also** be provided to Cari Hornbein at [chornbei@ci.olympia.wa.us](mailto:chornbei@ci.olympia.wa.us). so that your comments can be saved into the record. I have provided some responses to your email below.

Hope you have a Happy New Year.

Paula

Paula Smith, Associate Planner

*City of Olympia / Community Planning & Development*

601 4th Avenue East | PO Box 1967, Olympia WA 98507-1967

360.753.8596 | [olympiawa.gov](http://olympiawa.gov)

[psmith@ci.olympia.wa.us](mailto:psmith@ci.olympia.wa.us)

**Note: Emails are public records and are potentially eligible for release.**

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**From:** Kenneth Haner <[khaner@ci.olympia.wa.us](mailto:khaner@ci.olympia.wa.us)>  
**Sent:** Monday, December 31, 2018 7:33 AM  
**To:** Paula Smith <[psmith@ci.olympia.wa.us](mailto:psmith@ci.olympia.wa.us)>  
**Subject:** FW: City of Olympia - Notice of Revised SEPA MDNS and Continuation of Public Hearing - 18-1315 Wellington Heights

FYI

Ken Haner

City of Olympia

PO Box 1967 | 601 4th Avenue | Olympia WA 98507

Phone: (360) 753-8735

Email: [khaner@ci.olympia.wa.us](mailto:khaner@ci.olympia.wa.us)

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**From:** Dan Leahy <[danleahy43@yahoo.com](mailto:danleahy43@yahoo.com)>  
**Sent:** Saturday, December 29, 2018 8:53 AM  
**To:** Kenneth Haner <[khaner@ci.olympia.wa.us](mailto:khaner@ci.olympia.wa.us)>  
**Cc:** Nathaniel Jones <[njones@ci.olympia.wa.us](mailto:njones@ci.olympia.wa.us)>; Cari Hornbein <[chornbei@ci.olympia.wa.us](mailto:chornbei@ci.olympia.wa.us)>  
**Subject:** Re: City of Olympia - Notice of Revised SEPA MDNS and Continuation of Public Hearing - 18-1315 Wellington Heights

Hi Ken,

Thanks for this notice to the Parties of Record.

I do want to make a few comments to you on your notice as part of my comment on the re-issued MDNS itself.

I do this because I assume the Hearing Examiner expects the City staff to repair its "appearance of fairness" and "impartiality" practice given the December 6th staff debacle.

1. The Parties of Record did not receive nor is it posted on the City's Wellington Heights site the City's December 17th memo to the Hearing Examiner noting the substantive nature of the two contested mitigating conditions. **The Wellington Heights webpage is currently being updated.**

2. The Parties of Record did not receive nor is it posted on the City's Wellington Heights site the Hearing Examiner's decision of December 18th. **The Wellington Heights webpage is currently being updated.**

3. Emailed communication to the City staff by Parties of Record after the Hearing Examiner's decision of December 18th are not posted on the City's public comments Wellington Heights site. The last public comment posting is dated 11/14/18. **Updates to webpage regarding comments will be updated after the end of this coming week.**

4. Your notice of this MDNS directs comments to Paula Smith. However, the notice itself states that comments "should be directed to the SEPA Official", in other words, Cari Hornbein. **You are correct. Email notices sent from our office typically indicates to send any questions or comments to the lead planner of the project and on the SEPA Notice it is indicated that comments should be directed to the SEPA Official. I have noted this and will discuss with other staff regarding how it might seem confusing. I appreciate your feedback on this.**

5. Calls for the staff involved in the December 6th debacle to recuse themselves from this project have not been implemented.

I don't know whether it is your job to help the City staff conform to its obligation to keep the Parties of Record informed and up to date, but these five facts, at least to me, indicate on-going irregularities with regard to "development procedures."

Sincerely,

Dan Leahy

Party of Record

1415 6th Avenue SW

Olympia, WA. 98502

cc: Mark C. Scheibmeir. City of Olympia Hearing Examiner.

147 Parties of Record.

On Thursday, December 27, 2018, 7:59:47 AM PST, Kenneth Haner <[khaner@ci.olympia.wa.us](mailto:khaner@ci.olympia.wa.us)> wrote:

The City of Olympia has issued the following **Notice of Revised State Environmental Policy Act Mitigated Determination of Nonsignificance (SEPA MDNS) and Continuation of Public Hearing** for the project known as **Wellington Heights** at **2000 BLK 18th Avenue SW**.

PROJECT: **18-1315**

See the above attachments for further details.

Please forward questions and comments you may have regarding this project to the staff contact listed below:

- **Paula Smith, Associate Planner, 360.753.8596, [psmith@ci.olympia.wa.us](mailto:psmith@ci.olympia.wa.us)**

Ken Haner

City of Olympia

PO Box 1967 | 601 4th Avenue | Olympia WA 98507

Phone: (360) 753-8735

Email: [khaner@ci.olympia.wa.us](mailto:khaner@ci.olympia.wa.us)

## Paula Smith

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**From:** Cari Hornbein  
**Sent:** Wednesday, January 02, 2019 10:04 AM  
**To:** Dan Leahy  
**Cc:** Kenneth Haner; Paula Smith; Nathaniel Jones; Tim Smith; Leonard Bauer  
**Subject:** RE: Request for extension of comment & appeal deadlines.

Good morning, Dan –

Thank you for your e-mail. I've looked over your comments from 12/29 and spoke with Paula just a few moments ago. There were no instructions from the Hearing Examiner regarding notice to parties of record, but all of the referenced materials are now available on the Wellington Height's webpage. Regarding commenting instructions in the notice, the intent is for project-related comments to be directed to the lead planner, and SEPA-related comments to the SEPA Official. As noted in her response, Paula will be bringing this matter to staff, but in the meantime, both Paula and I keep each other informed when SEPA comments come in. When I receive comments, I forward them to her for inclusion in the record; if she receives comments, she forwards them to me for my review and consideration.

When deciding whether a comment period should be extended, I consider the following (generally based on WAC 191-11-550, Specificity of Comments): 1) whether there are issues with the City's methodology in arriving at its threshold determination, 2) if there is information the City is not aware of, and 3) if mitigation measures are needed.

Given that none of these have been raised, and given that I and the lead planner and I are in direct communication during the comment period, there is no basis for extending the comment/appeal period.

I know this isn't the outcome you hoped for, but I appreciate your input.

Regards,

**Cari Hornbein, AICP, Senior Planner**  
City of Olympia  
Community Planning and Development Department  
360-753-8048 | [chornbei@ci.olympia.wa.us](mailto:chornbei@ci.olympia.wa.us)

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**From:** Dan Leahy <danleahy43@yahoo.com>  
**Sent:** Monday, December 31, 2018 4:38 PM  
**To:** Cari Hornbein <chornbei@ci.olympia.wa.us>  
**Cc:** Kenneth Haner <khaner@ci.olympia.wa.us>; Paula Smith <psmith@ci.olympia.wa.us>; Nathaniel Jones

<njones@ci.olympia.wa.us>

**Subject:** Request for extension of comment & appeal deadlines.

Cari,

Based on the admission by Ms. Smith with regard to the need to update available materials and notices to the parties of record pertinent to the re-issue of the SEPA MDNS of December 27th, I request that comment and deadlines be extended by the number of days between December 27th and the date upon which Ms. Smith completes her updates and corrects Mr. Haner's notice to parties of record indicating comments on the MDNS be directed to you.

Dan Leahy

Cc: Mark C. Scheibmeir.

Sent from my iPad

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Dan- Thanks for contacting staff. It would be preferred if you have any comments on this project, that those be directed to me or if it is a SEPA related comment that it **also** be provided to Cari Hornbein at [chornbei@ci.olympia.wa.us](mailto:chornbei@ci.olympia.wa.us). so that your comments can be saved into the record. I have provided some responses to your email below.  
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FYI

Ken Haner

City of Olympia

PO Box 1967 | 601 4th Avenue | Olympia WA 98507

Phone: (360) 753-8735

Email: [khaner@ci.olympia.wa.us](mailto:khaner@ci.olympia.wa.us)

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**Cc:** Nathaniel Jones <[njones@ci.olympia.wa.us](mailto:njones@ci.olympia.wa.us)>; Cari Hornbein <[chornbei@ci.olympia.wa.us](mailto:chornbei@ci.olympia.wa.us)>

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Sincerely,

Dan Leahy  
Party of Record  
1415 6th Avenue SW  
Olympia, WA. 98502

cc: Mark C. Scheibmeir. City of Olympia Hearing Examiner.  
147 Parties of Record.

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PROJECT: **18-1315**

See the above attachments for further details.

Please forward questions and comments you may have regarding this project to the staff contact listed below:

- **Paula Smith, Associate Planner, 360.753.8596, [psmith@ci.olympia.wa.us](mailto:psmith@ci.olympia.wa.us)**

Ken Haner

City of Olympia

PO Box 1967 | 601 4th Avenue | Olympia WA 98507

Phone: (360) 753-8735

Email: [khaner@ci.olympia.wa.us](mailto:khaner@ci.olympia.wa.us)

<18-1315 Continuance Hearing Notice MDNS.pdf>