

Cullen, Terry

From: Paul Simmerly <psimmerly@outlook.com>
Sent: Wednesday, January 02, 2019 12:40 PM
To: Chelminiak, John; Robinson, Lynne; Lee, Conrad; Nieuwenhuis, Jared; Robertson, Jennifer; Stokes, John; Zahn, Janice; PlanningCommission; Environmental Services Commission (ESC); PermitTech; Cullen, Terry; Stead, Elizabeth
Subject: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No.
Attachments: BC - Fraudulent Screen Planting Concept Drawing.jpg; BC - Dormitory 12-17-18 from same viewpoint as Screen Planting Concept.jpg; BC - Fraudulent Plan for Screen Planting Concept.jpg; Blazing dorm entrance light.jpg; 3-18-18 BC - Wax Myrtle Tree Landscape Screen.jpg; 3-18-18 BC - Closeup of Wax Myrtle Tree.jpg; BC - BC's Answers and Responses to Interrogs and RFPs.pdf
Follow Up Flag: Follow up
Flag Status: Completed

LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY

I reside in the College Hill neighborhood and live in the house closest to the five story, 350 unit student dormitory Bellevue College has just constructed. I have commenced a lawsuit against the College over this construction.

Three more dormitories are planned to go in right next to this one. Would you like a project like this put in next to your house? Even the College and its environmental consultants recognized from the start that this project would have significant environmental impacts, promising to use mitigation and building modulation to lessen its impact and down shielding so the lighting would have "no impact."

Bellevue College was required by the Washington State Environmental Policy Act, RCW 43.21C, et seq. ("SEPA") to create, file and distribute a SEPA Environmental Checklist in conjunction with the planning, design and construction of the new dormitory. That document was authored by Shockey Planning Group, Inc., of Everett, WA, environmental experts hired by Bellevue College at public expense. That document required Bellevue College, among other things, to do the following:

- 1) "The proposed building would provide landscaping and building modulation to soften the impact to the nearby homes." SEPA Environmental Checklist, section 10. AESTHETICS.
- 2) "Lighting would be downshielded so as to not impact neighbors." SEPA Environmental Checklist, section 11. LIGHT AND GLARE, subsection d.

In its Determination of Non-Significance (DNS) under SEPA law dated August 9, 2016, Bellevue College through its Responsible Official, Dexter Johnson, stated and represented as follows: "The proposal includes mitigation measures so the proposal as mitigated has been determined by the Lead Agency to be unlikely to have any probable significant adverse impacts on the environment; therefore an Environmental Impact Statement is not required under RCW 43.2C.030(2)(c)." In other words, the College used the SEPA Checklist to avoid the great effort and expense of an Environmental Impact Statement. The College uses the SEPA Checklist to its advantage, then fails to fulfill the obligations it agreed to undertake and was required to undertake by law. This should concern you greatly.

Bellevue College then commissioned a Seattle landscape architectural firm, communita atelier, to draw a "Screen Planting Concept" to present to its College Hill neighbors and the citizens of Bellevue which showed 30+ foot tall trees largely obscuring the dormitory and going so far as to show specific types of trees and the exact locations where they were to be planted. That document is attached which depicts the outline of the yet to be constructed dormitory. Nice huh? Only problem is the dormitory is drawn 40% of its eventual size. It also does not show the

rest of the five-story dormitory to the right (West), which goes on for the length of a football field! I have obtained documents in my lawsuit which show that Bellevue College and its architects, NAC Architecture, knew this and deliberately misrepresented its size to the public. The College failed to provide these documents to me in response to my Public Records Requests and that is the basis for my claim for damages under that law.

Further, the landscape architectural firm that drew this "Screen Planting Concept", communita atelier, has testified in a deposition that the trees and plants in the drawing were what they would look like in 2027! That fact was also never disclosed in the document or in any other communications. No "landscaping or building modulation" of any kind was done and there was no effort whatsoever to "down shield" the lighting and I do not believe the College ever had any intent to fulfil these obligations. See the attached photo I took from the same spot as the viewpoint in the "Screen Planting Concept". At the deposition, the Deputy Attorney General was so taken aback when he saw my photograph that he accused me of altering it!

For the past year, Bellevue College representatives have told me that they have no obligation to put in a landscape screen. At one point in our email exchanges, they went so far as to start calling this area a "Utility Planting Area" rather than the "Landscape Screen Area". Now in litigation, they are apparently contending (with a straight face) that they have fulfilled their obligations to put in a landscape screen! They apparently are going to claim that the ten inch high Wax Myrtle seedlings they planted (see attached photo) fulfill their obligations.

Another attached photo shows the five-story tall lighting on the east entrance. I first noticed this about 9:00 PM one night. I went outside to see what it was and I thought it must be 9:00 AM. The lighting lit up the neighborhood for a radius of several blocks. It hurt my eyes to look at it. I have the right as a citizen to expect our environmental laws to be obeyed and the mitigation, modulation and down shielding measures to be carried out as recommended by the College's own experts, as promised and as required by law.

I only want what the College promised, what its own environmental experts said was necessary and what the law requires. That is a very unique litigation position – where a citizen with an environmental complaint is advocating that the recommendations of the State's experts should be followed and the State recommending that the recommendations of its experts, for which the State paid many thousands of public tax dollars, should be disregarded. The College spent \$570,000 of our tax money to plant all sorts of expensive landscaping in the interior of this horseshoe-shaped building. They completely ignored their obligations around the outside of the dormitory.

For the past year, I have made exhaustive attempts to resolve this matter without success. I have been met with bad faith at every turn. The City of Bellevue states that there is nothing it can do and has directed me to the State Department of Ecology for enforcement. The State Department of Ecology also states that there is nothing it can do and has directed me to the City of Bellevue for enforcement. The State Department of Ecology and the City of Bellevue have made serious mistakes by failing to hold Bellevue College to the requirements of the SEPA Environmental Checklist during construction and they refuse to take any action now because it would require them to admit they made serious mistakes and acted incompetently. So what are we left with? Incredibly, under our ridiculously misguided SEPA law, we are left with Bellevue College determining whether Bellevue College has complied with SEPA unless we want to resort to the Courts.

Over the course of the past year, I have sent at least two hundred emails to Bellevue College representatives, the Governor's Office, the State Department of Ecology, the State Auditor, State Legislators, Bellevue Councilpersons and others, had meetings with Dexter Johnson, Vidya Ramachandran, former Vice President Ray White, President Jerry Weber, Interim VP Richard Cummins and the Bellevue College Board of Trustees, had two meetings with Bellevue Land Use Director Elizabeth Stead and had telephone discussions and an exchange of emails with Tom Buroker, Northwest Region Director of the State Department of Ecology. I spoke at the September 5, 2018 Board of Trustees' Meeting about this matter and was only allowed to speak for three minutes before being cut off. That has been the extent of the involvement of the Board of Trustees. The Bellevue College Trustees have indicated no interest in this matter, which is in violation of their oaths of office and fiduciary obligations. The Washington State Attorney General's Office, legal advisers for the College, has also failed to

make any attempt at investigating or resolving this matter, choosing to defend the illegal actions of Bellevue College Administrators rather than enforce the State Environmental Policy Act.

In its Answers to my Interrogatories 2, 3 and 4 and Request for Production 1 (attached), Bellevue College continues to insist that the City of Bellevue has been actively involved in supervising and enforcing these SEPA Checklist matters. This is directly contrary to what I have been repeatedly informed by Elizabeth Stead, City of Bellevue Land Use Director. Please explain this alarming contradiction.

Bellevue College came up with these phony mitigation, modulation and down shielding promises to avoid State environmental laws and avoid doing a costly Environmental Impact Statement. How our government officials can get away with this conduct is beyond me.

I am preparing complaints against the licenses of every professional involved in this conduct.

As I stated above, Bellevue College has three more of these dormitories on the drawing board directly to the south of this one. That will substantially increase the traffic on Kelsey Creek Road. If the City of Bellevue does not step in and properly regulate Bellevue College, I will file a lawsuit each time one comes up for construction and I will name the City of Bellevue as a Defendant.

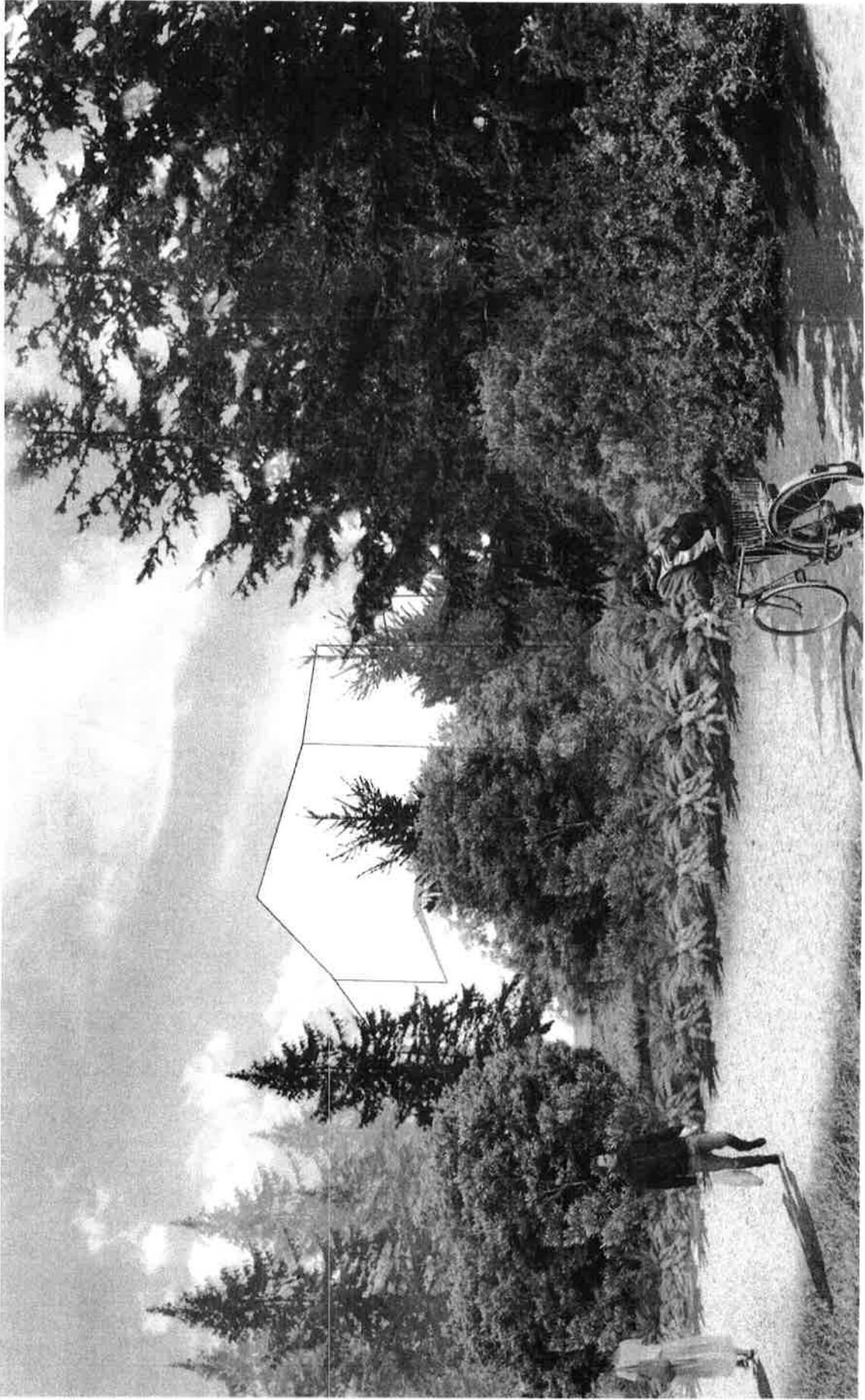
PAUL E. SIMMERLY

14418 S.E. 24th Street

Bellevue, WA 98007

(425) 830-8218

Sent from Mail for Windows 10





A Douglas Fir



B California Wax Myrtle



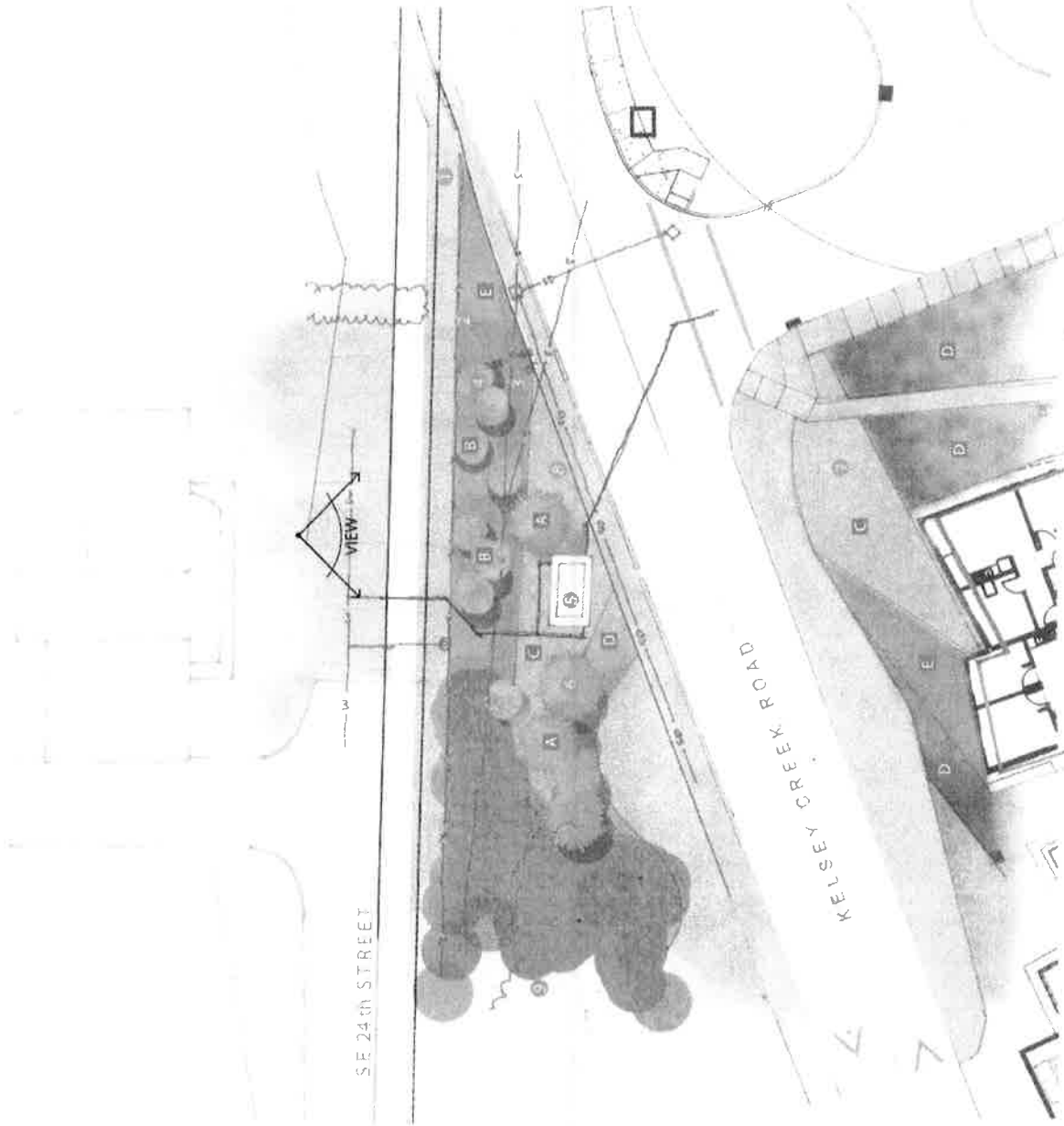
C Japanese Forest Grass



D Creeping Liriope



E Sword Fern



Screen Planting Concept

Page 1 of 2



A



September 11, 2012

- Existing concrete walkway
- Existing chainlink fence
- Existing underground utility lines limit tree planting opportunities in this area
- California Wax Myrtle plantings soften and buffer views to new housing structure as initial plantings mature over time. Mature height of California Wax Myrtle is approximately 20'
- New water vault
- Douglas fir planting screen views to new structure from SE 24th Street end
- Groundcover plantings of sword fern, creeping liriope, and golden Japanese forest grass per construction contract
- Additional groundcover plantings of sword fern, creeping liriope, and golden Japanese forest grass create a "campus gateway" landscape statement
- Provide 5-6 Douglas fir trees for additional screening to the west

A landscape solution is the preferred option for meeting the screening/ buffer goals. We did consider a screen fence as an option, but felt the fence would appear as a very rigid barrier on the campus site while offering limited screening of the new housing structure from off-site properties. In addition, the fence would most likely create small landscape areas which would be difficult to maintain.

EXHIBIT "B" – Screen Planting Concept – Never accomplished



California Wax
and buffer view
as initial plan
Mature height
approximately

5 New water

6 Douglas fir
new struc

7 Groundcover
creeping
forest gr

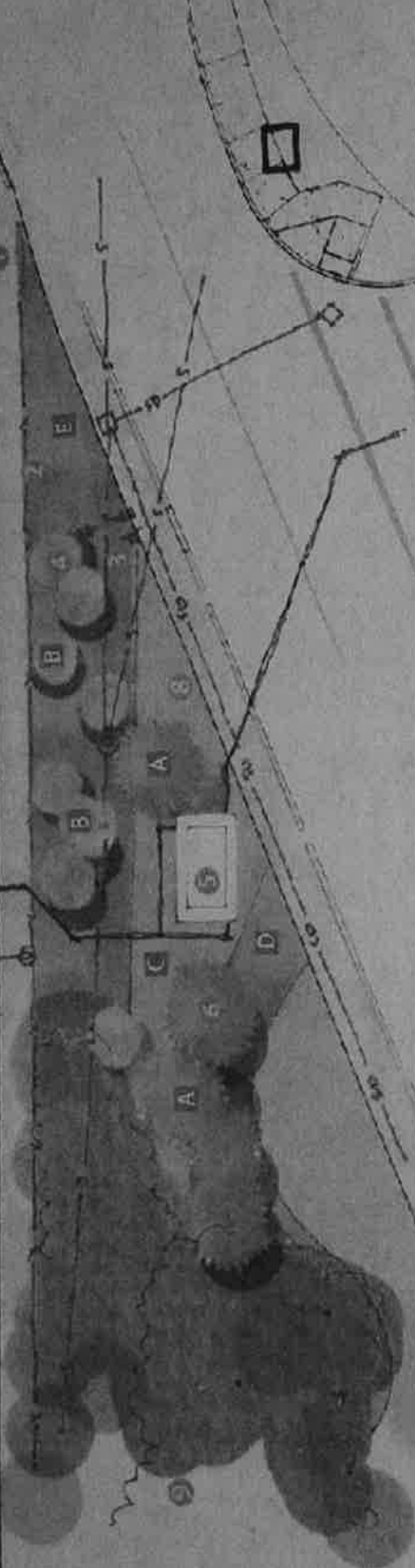
8 Additional
sword
Japanese
gateway

9 Provide
screen

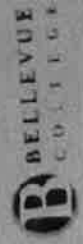
A land
meet
a screen
appe
offer
from
mo
be



SE 24th STREET



KEISEY CREEK ROAD



Screen Planting Concept







1
2
3
4
5
6
7
8 **IN THE KING COUNTY SUPERIOR COURT
FOR THE STATE OF WASHINGTON**

9 PAUL E. SIMMERLY,

10 Plaintiff,

11 v.

12 BELLEVUE COLLEGE,
13 CORPORATIONS AND LLC'S 1-10 and
14 JOHN DOES AND JANE DOES 1-10 and
their marital communities,

Defendants.

NO. 18-2-55670-8 SEA

DEFENDANT'S RESPONSE TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT
BELLEVUE COLLEGE

15 TO: BELLEVUE COLLEGE, Defendant

16 AND TO: DEFENDANT'S ATTORNEYS

17 YOU ARE HEREBY SERVED with the original and one copy of Interrogatories and
18 Requests for Production in accordance with Civil Rules 33 and 34 of the Washington Rules for
19 Civil Procedure. These Interrogatories and Requests for Production are intended to draw upon
20 the combined knowledge of Defendant, Defendant's attorneys and other agents of the
21 Defendants, including their insurance company or companies, and their agents and employees,
22 and are to be answered fully and completely in writing by the Defendant within thirty (30) days
23 from the date of service of this discovery. Your responses must be complete or state the reason
24 for your inability to give a complete response and include the documentation, information or
25 knowledge you have.
26

DEFENDANT'S RESPONSE TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT

1 These Interrogatories and Requests for Production are continuing in nature, and in the
2 event new or additional information becomes known to the Defendant, their attorneys, agents,
3 or employees, Plaintiff requests that the answers be promptly supplemented. Insofar as experts,
4 Plaintiff will object to their testimony if their names, addresses, subject matter of testimony and
5 short statements of factual information which they possess are not furnished at least ninety (90)
6 days prior to trial.

7 With respect to these Interrogatories and Requests for Production, use of the pronoun
8 "you" is intended to include all information known to Bellevue College and its agents,
9 employees, former employees and attorneys, and your attorney's agents, investigators,
10 accountants, appraisers and employees.

11 With respect to these Interrogatories and Requests for Production, the term "document"
12 or "record" means any letter, email, photograph, drawing, book, pamphlet, periodical, report,
13 memorandum, notation, message, telegram, cable, note, study, working paper, chart, graph,
14 index tape, sale, correspondence, whether electronic or in the form of transcriptions, or any and
15 all other written, printed, typed, punched, taped, filmed or graphic matter, however produced or
16 reproduced.

17 When any document is withheld by reason of your assertion of a statutory or common
18 law privilege, please identify the document, location and custodian, and the basis of the
19 privilege asserted.

20
21 **GENERAL OBJECTIONS.** Defendant objects to plaintiff's prefatory instructions and
22 definitions, to the extent they purport to require more than the superior court civil rules for
23 discovery. Defendant neither agrees nor stipulate to the preceding definitions and procedures.
24 All answers are provided pursuant to CR 26(g). Defendant further objects to the extent these
25 prefatory instructions seek the disclosure of privileged attorney client communications or
26 attorney work product.

1
2 **INTERROGATORY NO. 1:** State the full legal name, home address, occupation,
3 employer, business address and job description for all persons participating in any way in
4 answering this discovery.

5 **ANSWER:**

6 **OBJECTION.** This interrogatory is not reasonably calculated to lead to the discovery of
7 admissible evidence under CR 26 and the request intrudes on privileged Attorney Work Product
8 to the extent it seeks information about persons who participated in answering this discovery
9 requests. *See Board of Evanston v. Admiral Heating*, 104 F.R.D. 23 (N.D. Ill. 1984). The
10 interrogatory is also overbroad to the extent it seeks the identities of persons who do not have
11 factual information regarding the disputes at issue in this case, and, therefore, is not reasonably
12 calculated to lead to the discovery of admissible evidence.

13 Without waiving this objection, information regarding persons with factual information
14 that may be relevant to this lawsuit may be found in the responses to Interrogatories Nos. 2 - 4,
15 7 and 8.

16 **INTERROGATORY NO. 2:** List all State of Washington, City of Bellevue, King County or
17 federal government employees and agencies who participated in any way in the design of the
18 dormitory project, review of the project, inspection of the project, approval of the project or
19 construction of the project. For each employee or agency so listed, state the name, title, address,
20 phone number and role of employee or agency.

21 **ANSWER:**

22 **Objection.** This interrogatory is overbroad, vague, unduly burdensome, and not reasonably
23 calculated to the discovery of admissible evidence.

24 Without waiving any objections, and in an effort to cooperate in discovery, Defendant
25 believes the following information and documents may be relevant.
26

1 **Bellevue College – Project Owner**

2 3000 Landerholm Cr. SE
3 Bellevue, WA 98007
(425) 564-1000

- 4 a. Vidya Ramachandran
5 Former Director of Capital Projects
6 3000 Landerholm Cir. SE
7 Bellevue, WA 98007

8 Ms. Ramachandran had overall budget authority over the student dormitory
9 project. In this position, she was responsible for reviewing and processing
10 construction related invoices, ensuring that they conformed to the project
11 budget. After approving the invoices, she then forward them to the College's
12 finance department for payment.

- 13 b. William Tribble
14 Executive Director of Physical Plant
15 3000 Landerholm Cir. SE
16 Bellevue, WA 98007
17 (425) 564-3343

18 During construction of the project, Mr. Tribble served as the College
19 Construction Project Supervisor. In this position, he was responsible for
20 representing the college at weekly meetings with the contractor and answering
21 questions from the contractor regarding site conditions.

- 22 c. Dexter Johnson
23 Former Executive Director of Physical Plant
24 3000 Landerholm Cir. SE
25 Bellevue, WA 98007

26 As the Executive Director of Physical Plant, Mr. Johnson was the Responsible
Official for issuing the project's Determination of Non-Significance. He was
also responsible for ensuring that the project was compatible and properly
integrated with other capital facilities on campus.

- d. Ray White
Former Vice President of Administrative Services
3000 Landerholm Cir. SE
Bellevue, WA 98007

As the Vice President of Administrative Services, Mr. White was responsible
for communicating the college's program needs to the project design team,

1 serving as the College's representative during community outreach events, and
2 overseeing the College's Capital Projects team.

3 **Department of Enterprise Services**
4 Engineering and Architectural Services
5 PO Box 41476
6 Olympia, WA 98504-1012

7 a. Robert T. Colasurdo
8 Senior Architect
9 Department of Enterprise Services
10 Engineering and Architectural Services
11 PO Box 41476
12 Olympia, WA 98504-1012
13 (206) 510 8147

14 Mr. Colasurdo is employed by DES Engineering and Architectural Services,
15 which is the contracting authority for State Agencies, including Bellevue
16 College. He was responsible for general project management services. DES was
17 responsible for soliciting Requests for Qualifications (RFQs) and Requests for
18 Proposals (RFPs) from design consultants and General Contractor/Construction
19 Managers (GCCMs), and drafting agreements for consultants and contracts on
20 the contractor side. He assisted with general budget forecasting, reviewed
21 construction documents and progress, and signed off on invoicing to be
22 processed and paid by the College.

23 **The City of Bellevue**
24 450 110th Avenue NE
25 Bellevue, WA 98004
26 (425) 452-6800

The City of Bellevue was responsible for issuing building permits for the project
and ensuring that the project complied with the permit requirements and local
and state land use laws.

Names and contact information for Bellevue City employees involved in the
project can be found documents produced in response to RFP 1. See also
https://development.bellevuewa.gov/UserFiles/Servers/Server_4779004/File/pdf/Development%20Services/Development-Services-Organizational-Chart.pdf

27 **Washington State Department of Health**
28 111 Israel Rd. SE
29 Tumwater, WA 98501

30 See RFP 1 – 000707.

31 The College's investigation and discovery on this issue is ongoing.

1 **INTERROGATORY NO. 3:** Were any landscape screening mitigation measures, building
2 modulation measures or lighting down shielding for the dormitory project discussed or
3 addressed with the City of Bellevue at any time? If so, what, when and with whom?

4 **ANSWER:**

5 **Objection.** This interrogatory is vague, overbroad, unduly burdensome, and not reasonably
6 calculated to result in the discovery of admissible evidence.

7 Without waiving any objections, and in an effort to cooperate in discovery, Defendant
8 believes the following information and documents may be responsive.

9 Yes. The Environmental Checklist, which identifies all three types of mitigation
10 identified in the interrogatory, submitted to the City of Bellevue in support of the project permit
11 application. The Environmental Checklist stated that "the proposed building would provide
12 landscaping and building modulation to soften the impact to the nearby residential homes." The
13 Checklist also stated that "Lighting would be down shielded so as to not impact neighboring
14 properties."

15 Although not specifically called out as mitigation, the project plans submitted to the City
16 for project permitting included modulation of the building's exterior design, information
17 regarding exterior lighting, and landscape designs that contained depths and heights of
18 landscaping to buffer the exterior view of the building.

19 After the building permits issued, the College was involved in communications with the
20 City about the addition of landscape screening to the utility vault area. These communications
21 include email from Plaintiff that were copied to City officials, as well as email exchanges the
22 College had with City officials about Plaintiff's dissatisfaction with the "Screen Planting
23 Concept" for the utility vault area and the landscaping installed in that area. *See, e.g.*, RFP 2 –
24 000059-60, 000067-68, 000076-85, 000089, 000097.

25 The College's investigation and discovery on this matter is ongoing.
26

1 **INTERROGATORY NO. 4:** Were any landscape screening mitigation measures, building
2 modulation measures or lighting down shielding measures for the dormitory project
3 incorporated into the Building Permit issued by the City of Bellevue at any time? If so, what
4 measures and when were they incorporated and identify all persons involved.

5 **ANSWER:**

6 **Objection.** This interrogatory is overbroad, unduly burdensome, vague, and unlikely to lead to
7 the discovery of admissible information to the extent it seeks the identity of persons who do not
8 have factual knowledge of or information relating to issues in this case.

9 Without waiving any objections, and in an effort to cooperate in discovery, Defendant
10 believes the following documents may be responsive.

11 The building permit application for the project was submitted to the City of Bellevue on
12 September 2, 2016. Materials supporting the application included the Environmental Checklist,
13 the Determination of Non-significance (DNS), and the project building plans (Permit
14 Submittal), which incorporated mitigation called for in the Checklist, including building
15 modulation, landscape buffering, and exterior lighting. The following pages from Permit
16 Submittal contain design elements addressing landscape screening, building modulation, and
17 lighting down shielding identified in the Environmental Checklist.

- 18 • Building Modulation: RFP 1 0000087-92, 000109-111.
- 19 • Landscape Screening: RFP 1 000048-50, 000052, 000057, 000070-80.
- 20 • Exterior Lighting: RFP 1 000269.

21 The City and its consultants reviewed the permit application and, issued building
22 permits based on the submitted project design, the DNS, and the Environmental Checklist. *See*
23 RFP 1 – 000580-771. Additional information about the permitting process and persons involved
24 in the permitting process can be found in documents produced in response to RFP No. 1.

25 Additional information regarding City Employees may be found at:
26 [https://development.bellevuewa.gov/UserFiles/Servers/Server_4779004/File/pdf/Development](https://development.bellevuewa.gov/UserFiles/Servers/Server_4779004/File/pdf/Development%20Services/Development-Services-Organizational-Chart.pdf)

1 The College's investigation and discovery relating to this matter is ongoing.

2
3 **REQUEST FOR PRODUCTION NO. 1:** Produce all documents you sent or provided to the
4 City of Bellevue, or received from the City of Bellevue, in connection with this dormitory
5 project including, but not limited to, the following:

- 6 a) all Building Permit application materials;
7 b) all emails and correspondence;
8 c) all documents, records, reports and studies; and
9 d) the complete Building Permit issued to you by the City of Bellevue.

10 **RESPONSE:**

11 **Objection.** This request for production is overbroad, unduly burdensome, and not likely to
12 result in the discovery of admissible evidence.

13 Without waiving these objections, and in an effort to cooperate in discovery, please see
14 documents marked as responsive to RFP No. 1.

15 **REQUEST FOR PRODUCTION NO. 2:** Produce all records and documents Bellevue
16 College and the State of Washington produced to Paul E. Simmerly in response to his Public
17 Records Requests and produce the Public Records Requests themselves.

18 **RESPONSE:**

19 Please see documents marked as responsive to RFP No. 2.

20
21 **INTERROGATORY NO. 5:** State the total amount that Bellevue College spent on
22 landscaping for the dormitory project.

23 **ANSWER:**

24 \$531,322.58
25
26

1 **REQUESTS FOR PRODUCTION NO. 3:** Produce all documents and budgets verifying your
2 answer to the preceding Interrogatory.

3 **RESPONSE:**

4 See documents marked as responsive to RFP No. 3 & RFP 2 – 000004, 000011-14.
5

6 **INTERROGATORY NO. 6:** For the document prepared by communita atelier for Bellevue
7 College entitled "Landscape Screen Concept" and dated September 11, 2017, state the amount
8 paid for that document.

9 **ANSWER:**

10 **Objection.** This interrogatory is vague and ambiguous.

11 The College is not aware of receiving an itemized invoice for costs associated with
12 preparation of the Landscape Screen Concept and assumes this cost was incorporated within
13 NAC/Architecture's overall billing for the project design.

14 The College's investigation and discovery related to this matter is ongoing.

15 **REQUEST FOR PRODUCTION NO. 4:** Produce all documents, emails, communications
16 and contracts sent to, or received from, communita atelier, and all documents mentioning or
17 relating to the Landscape Screen Concept in any way.

18 **RESPONSE:**

19 **Objection.** This request for production is overbroad, unduly burdensome, vague and seeks
20 information that is not likely to result in the discovery of admissible evidence.

21 Without waiving any objections, and in an effort to cooperate in discovery, Defendant
22 believes the following documents may be responsive.

23 See documents responsive to RFP No. 2 and RFP No. 4.

24 The College's investigation and discovery related to this matter is ongoing.
25
26

1 **INTERROGATORY NO. 7:** List all persons or entities participating in any way in the
2 preparation of the SEPA Environmental Checklist, Determination of Non-Significance and
3 Landscape Screen Concept for the dormitory project. For each such person or entity so listed,
4 state the following:

- 5 a) Full name of person or entity;
- 6 b) If an individual, his/her employer;
- 7 c) Address and phone number;
- 8 d) Occupation or business;
- 9 e) Job title and description;
- 10 f) Nature of participation;
- 11 g) Dates of participation;
- 12 h) Amounts paid to the person or entity for this participation; and
- 13 i) Professional certifications or licenses held.

14
15 **ANSWER:**

16 **Objection.** This interrogatory is overbroad, unduly burdensome, vague, and not likely to result
in the disclosure of admissible evidence.

17 Without waiving any objections, and in an effort to cooperate in discovery, Defendant believes
18 the following information and documents may be responsive.

- 19 a. Bellevue College
- 20 b. N/A
- 21 c. 3000 Landerholm Cir. SE
Bellevue, WA 98007
(425) 564-1000
- 22 d. Washington State Community College
- 23 e. Project Owner
- 24 f. Project Owner
- 25 g. 2015-present
- 26 h. N/A
- i. N/A

- 1 a. Dexter Johnson
- 2 b. Bellevue College
- 3 c. See address for Bellevue College
- 4 d. Former Executive Director of Physical Plant
- 5 e. Former Executive Director of Physical Plant & SEPA Responsible Official
- 6 f. Worked with SEPA consultant to develop and issue the Determination of Non-significance for the project.
- 7 g. 2015-18
- 8 h. Not known
- 9 i. B.S., Psychology
- 10 a. Ray White
- 11 b. Bellevue College
- 12 c. See address for Bellevue College
- 13 d. Former Vice President of Administration
- 14 e. Former Vice President of Administration
- 15 f. Lead cabinet member responsible for overseeing the Administration Department, which includes capital works projects. He initially identified the budget for Screen Planting Concept, reviewed the concept on behalf of the College, and addressed community feedback on the Concept and the landscaping installed in the utility vault area.
- 16 g. 2015-18
- 17 h. Not known
- 18 i. MBA
- 19 a. Vidya Ramachandran
- 20 b. Bellevue College
- 21 c. See address for Bellevue College
- 22 d. Former Director of Capital Projects
- 23 e. Former Director of Capital Projects
- 24 f. Ms. Ramachandran had overall budget authority over the student dormitory project. In this position, she was responsible for reviewing and processing construction related invoices, ensuring they conformed to the project budget. After approving the invoices, she would then forward them to the College's finance department for payment.
- 25 g. 2015-18
- 26 h. Not known.
- i. Masters in Architecture
- a. Shockey Planning Group
- b.. N/A
- c. <https://www.shockeyplanning.com/>
- d. Land Use Planners

- 1 e. N/A
- 2 f. SEPA Consultant
- 3 g. 2016
- 4 h. Not known.
- 5 i. N/A
- 6 a. Camie Anderson
- 7 b. Shockey Planning Group
- 8 c. <https://www.shockeyplanning.com/>
- 9 d. Land Use Planner
- 10 e. Senior Associate
- 11 f. Prepared the SEPA checklist and provided consulting services on the DNS.
- 12 g. 2016
- 13 h. Not known
- 14 i. Not known
- 15 a. Communita Atelier
- 16 b. N/A
- 17 c. <http://comm-aps.com/>
- 18 d. Landscape Architect
- 19 e. N/A
- 20 f. Landscape Architecture firm that employed the landscape architect who designed the Landscape Screen Concept.
- 21 g. 2015-18
- 22 h. Not known.
- 23 i. N/A
- 24 a. Alex Shkerich, PLA
- 25 b. Communita Atelier
- 26 c. <http://comm-aps.com/>
- 27 d. Landscape Architect
- 28 e. Principal
- 29 f. Landscape Architect for project. Responsible for developing the Landscape Screening Concept
- 30 g. 2016-18
- 31 h. Not known
- 32 i. Professional Landscape Architect
- 33 a. NAC\Architecture
- 34 b. N/A
- 35 c. <https://nacarchitecture.com/>
- 36 d. Architecture Firm
- 37 e. N/A
- 38 f. Lead Design Professional on project

- 1 g. 2015-18
2 h. \$6,050 for SEPA consulting services, include assistance with preparation of the DNS
3 and the Environmental Checklist.
4 i. N/A
5 a. Jason Bentley, LEED AP
6 b. NAC\Architecture
7 c. <https://nacarchitecture.com/>
8 d. Architect
9 e. Project Architect
10 f. Oversaw day to day design and coordination issues for the project. Assigned
11 development of Landscape Screen Concept to communita atelier.
12 g. 2015-18
13 h. Not known
14 i. Licensed Architect, Masters of Business Administration

15 Other persons with knowledge of the DNS, Environmental Checklist, and/or Plant
16 Screen Concept may be found in documents responsive to RFP Nos. 1-4.

17 The College's investigation and discovery relating to this matter is ongoing.

18 **INTERROGATORY NO. 8:** List all persons or entities participating in any way in
19 determining Bellevue College's compliance with the SEPA Environmental Checklist,
20 Determination of Non-Significance and Landscape Screen Concept for the dormitory project.
21 For each such person or entity listed, state the following:

- 22 j) Full name of person or entity;
23 k) If an individual, his/her employer;
24 l) Address and phone number;
25 m) Occupation or business;
26 n) Job title and description;
o) Nature of participation;
p) Dates of participation;
q) Amounts paid to the person or entity for this participation; and
r) Professional certifications or licenses held.

1 **ANSWER:**

2 **Objection.** This interrogatory is overbroad, vague, unduly burdensome, and not reasonably
3 calculated to result in the discovery of admissible evidence.

4 Without waiving any objections, and in an effort to cooperate in discovery, Defendant
5 believes the following information and documents may be responsive.

6 The City of Bellevue is responsible for determining whether the project was in
7 compliance with the DNS and the SEPA Checklist. Information responsive to this request may
8 be found in documents produced in response to RFP No. 1.

- 9 a. City of Bellevue, Development Services
10 b. N/A
11 c. <https://development.bellevuewa.gov/permits-and-inspections>
12 d. Municipal Development Services Office
13 e. N/A
14 f. Project Permit Review, including SEPA compliance
15 g. 2016-2018
16 h. Not known
17 i. N/A

18 Additional information responsive to this request may be found in documents produced
19 in response to RFP No. 1.

20 The College's investigation and discovery on this issue is ongoing.

21 **REQUEST FOR PRODUCTION NO. 5:** Produce all invoices received from each individual
22 or entity identified in your answers to Interrogatories 7 and 8, all curriculum vitae or resumes
23 for each individual and all emails, contracts, records and documents sent to, or received from,
24 each individual or entity.

25 **RESPONSE:**

26 **Objection.** This Request for Production is overbroad, burdensome, and vague, and not
reasonably calculated to result in the discovery of admissible evidence.

1 Without waiving any objections, and in an effort to cooperate in discovery, Defendant
2 believes the following information and documents may be responsive: See documents produced
3 in response to RFP No. 5, as well as documents produced in response to RFP Nos. 1 through 4
4 and 6 through 8.

5 The College's investigation and discovery related to this matter is ongoing.
6

7 **INTERROGATORY NO. 9:** State the cost of preparation for the SEPA Environmental
8 Checklist.

9 **ANSWER:**

10 **Objection.** This interrogatory is vague and ambiguous.

11 Without waiving these objections, and in an effort to cooperate in discovery, the College paid
12 \$3,850 to NAC\Architecture for the preparation of the Environmental Checklist.
13

14 **INTERROGATORY NO. 10:** State the cost of preparation of the Determination of Non-
15 Significance.

16 **ANSWER:**

17 **Objection.** This interrogatory is vague and ambiguous.

18 Without waiving these objections, and in an effort to cooperate with discovery, the
19 College paid \$2,200 for SEPA support services used to prepare the Determination of Non-
20 significance to the project architect, NAC\Architecture. This amount does not include the salary
21 that the College paid to Dexter Johnson for the work he performed as the Responsible Official
22 for the DNS or other associated expenses incurred by Mr. Johnson in the fulfillment of his
23 responsibilities in this position.
24
25
26

1 **INTERROGATORY NO. 11:** Identify how much funding for the dormitory project was
2 provided by the federal government and what it was used for.

3 **ANSWER:**

4 None.

5
6 **INTERROGATORY NO. 12:** Does Bellevue College contend that it complied with provision
7 10.c. in its SEPA Environmental Checklist that: "The proposed building would provide
8 landscaping and building modulation to soften the impact to the nearby residential homes"? If
9 so, state each and every way Bellevue College has so complied.

10 **ANSWER:**

11 Bellevue College contends that the completed project complies with provision 10(c) of
12 the Environmental Checklist. The exterior of the completed building is modulated.
13 Landscaping has been installed that softens views of the project from surrounding development.
14 Existing trees and vegetation have been selectively retained to screen and soften views of the
15 project from surrounding development. Additional responsive information can be found in
16 documents produced in response to RFP No. 6.

17
18 **REQUEST FOR PRODUCTION NO. 6:** Produce all documents supporting your answer to
19 the preceding Interrogatory or mentioning provision 10.c. or mentioning landscaping or
20 building modulation in any way.

21 **RESPONSE:**

22 **Objection:** This request for production is overbroad, vague, and seeks information that is not
23 likely to result in the discovery of admissible evidence.

24 Without waiving these objections, see documents marked as responsive to RFP No. 2
25 and 6.

26 The College's investigation and discovery related to this request are ongoing.

1
2 **INTERROGATORY NO. 13:** Does Bellevue College contend that it complied with provision
3 l l.d. in its SEPA Environmental Checklist that: "Lighting would be down shielded so as to not
4 impact neighboring properties"? If so, state each and every way Bellevue College has so
5 complied.

6 **ANSWER:**

7 The College contends that the completed project complies with l.d. of the environmental
8 checklist. Down-shielded exterior light have been installed in conformance with the permit
9 plans and requirements. Additional responsive information can be found in documents
10 produced in response to RFP No. 7.

11
12 **REQUEST FOR PRODUCTION NO. 7:** Produce all documents supporting your answer to
13 the preceding Interrogatory or mentioning provision l l.d. or mentioning the down shielding of
14 lighting in any way.

15 **RESPONSE:**

16 **Objection:** This request for production is overbroad, vague, and seeks information that is not
17 likely to result in the discovery of admissible evidence.

18 Without waiving these objections, and in the interest of cooperating with discovery,
19 please see documents responsive to RFP No. 7.

20 The College's investigation and discovery related to this matter is ongoing.

21
22 **INTERROGATORY NO. 14:** List all of Bellevue College's screening/buffer goals as stated
23 in the Landscape Screen Concept.: ". . . A landscape solution is the preferred option for meeting
24 the screening/buffer goals...."

25 **ANSWER:**

26 **Objection:** This interrogatory is vague and ambiguous.

1 Without waiving these objections, and in the interest of cooperating with discovery, the
2 College responds as follows: The College's goals for the Landscape Screen Concept included
3 developing a design concept for landscaping and beautifying the utility vault parcel with the
4 intention of partially screening and buffering views of the dormitory project from the north;
5 complying with City building permit requirements and directives from the City inspectors;
6 avoiding conflicts with existing utilities, property lines, and rights-of-way; and accomplishing
7 these goals at a reasonable present and future cost.

8 Regarding landscape screening and buffering, the College's goal for the design concept
9 was to identify design elements that would provide some immediate visual softening and
10 screening and that would provide greater buffering and screening over time. This was
11 accomplished in part by including California Wax Myrtles and Douglas Firs in the concept.
12 Depending on conditions, California Wax Myrtles grow approximately 5 feet per year and can
13 reach heights of 20 feet at maturity. In comparison, Douglas Firs can grow approximately 24
14 inches per year and can reach a height of several hundred feet at maturity. The concept goal in
15 this regard was to have the California Wax Myrtles provide initial buffering and screening over
16 the short term, and for the Douglas Firs to provide greater buffering and screening as they grow
17 taller and their canopies spread overtime.

18
19 **REQUEST FOR PRODUCTION NO. 8:** Produce all documents mentioning the
20 "screening/buffer goals" identified in your answer to the preceding Interrogatory and all
21 documents describing what the goals or intentions of Bellevue College were with respect to a
22 landscape screen.

23 **RESPONSE:**

24 **Objection:** This request for production is vague, overbroad, and not reasonably calculated to
25 result in the discovery of admissible evidence.

26 Without waiving these objections, see documents responsive to RFP No. 2 & 6.

1
2 **INTERROGATORY NO. 15:** State the goals and intentions of Bellevue College with regard
3 to planting a landscape screen.

4 **ANSWER:**

5 **Objection:** This interrogatory is vague, overbroad, and not likely to result in the discovery of
6 admissible evidence.

7 Without waiving these objections, Defendant installed landscaping on the utility vault
8 parcel with the intention of improving a property located to the north of the dormitory project
9 for the benefit of its students, employees, campus visitors, neighbors and the public at large;
10 partially screening and buffering views of the dormitory project from the north; complying with
11 City building permit requirements and directives from the City inspectors; doing so in a fashion
12 that avoided conflicts with existing utilities, property lines, and rights-of-way; and
13 accomplishing these goals at a reasonable present and future cost.

14 Regarding screening and buffering, the College's goal for the planting was to provide
15 some immediate visual softening and screening that would develop and increase overtime as
16 the plants matured. This was accomplished in part by planting both California Wax Myrtles
17 and Douglas Firs. Depending on conditions, California Wax Myrtles grow approximately 5
18 feet per year and can reach heights of 20 feet at maturity. In comparison, Douglas Firs can grow
19 approximately 24 inches per year and can reach a height of several hundred feet at maturity.
20 The goal is to have the California Wax Myrtles provide initial buffering and screening over the
21 short term, and for the Douglas Firs to provide greater buffering and screening as they grow
22 taller and their canopies spread overtime.
23

24 **INTERROGATORY NO. 16:** Do you contend that plaintiff Simmerly has failed to comply
25 with any of the requirements for bringing his Tort Claim for Damages or bringing this lawsuit?
26 If so, state in detail how plaintiff has failed to so comply.

1 **ANSWER:**

2 **Objection.** This interrogatory is vague, ambiguous, and seeks disclosure of privileged attorney
3 work product.

4 Without waiving these objections, the College offers the following response: The
5 College is not aware of any failure on Plaintiff's part to comply with Washington's tort claim
6 act. Regarding other "requirements," Defendant's investigation and discovery into the matters
7 alleged in this lawsuit is ongoing, and Defendant will be raising jurisdictional defenses,
8 procedural defects, and affirmative defenses in its responsive documents or through appropriate
9 motions practice as provided for in the Court Rules.
10

11 **REQUEST FOR PRODUCTION NO. 9:** Produce the SEPA Environmental Checklist,
12 Environmental Impact Statement (EIS), Determination of Non-Significance, (DNS) and
13 proposed landscape screen designs, drawings and documents for the softball field
14 installation/construction at the northeast [sic] corner of the Bellevue College campus.
15

16 **RESPONSE:**

17
18 **Objection:** This Request for Production is overbroad and burdensome as it seeks disclosure of
19 information that is not likely to result in the discovery of admissible evidence.

20 Without waiving this objection see Defendant's response to RFP No. 9.
21
22
23

24 **Dated:** _____

25 **PAUL E. SIMMERLY**
26 **Plaintiff Pro Se**

ANSWERS and RESPONSES to these Interrogatories and Requests for Production submitted this 17th day of December, 2018.

WASHINGTON STATE ATTORNEY GENERAL

Name: H. SPURLOCK WSBA#: 25152
Attorney for Defendant

1 STATE OF WASHINGTON)
2 COUNTY OF KING) ss

3
4 Richard Cummins, being first duly sworn on oath deposes and says:

5 I am the Interim Vice President for Admin. of Bellevue College, Defendant in the above-
6 entitled action; I have read the foregoing Answers to Interrogatories and Responses to
7 Requests for Production of Documents and I know the contents thereof and certify under
8 penalty of perjury of the laws of the State of Washington that they are true and correct.

9 Richard Cummins

10 of Defendant Bellevue College

11 GIVEN under my hand and official seal this 14th day of December, 2018.



Name: Lyudmila A. OSHEROVA
Notary Public in and for the State of WA
Washington residing at Renton
My appointment expires December 29, 2019

Cullen, Terry

From: Paul Simmerly <psimmerly@outlook.com>
Sent: Wednesday, January 02, 2019 2:11 PM
To: Chelminiak, John; Robinson, Lynne; Lee, Conrad; Nieuwenhuis, Jared; Robertson, Jennifer; Stokes, John; Zahn, Janice; PlanningCommission; Environmental Services Commission (ESC); PermitTech; Cullen, Terry; Stead, Elizabeth; Kasner, Steve; Hummer, Betsi; Dhananjaya, Hassan; Walter, Stephanie; Gooding, Ross; EBCC
Cc: Sue Sander
Subject: RE: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No. 18-2-55670-8 SEA
Attachments: BC - Claim - Exhibit B - Screen Planting Concept.pdf; BC Claim - Exhibit C - SEPA Checklist.pdf; BC - Claim - Exhibit D - Determination of Non-Significance.pdf; BC - Dormitory 12-17-18 from same viewpoint as Screen Planting Concept.jpg; 3-18-18 BC California Wax Myrtle tree forest.jpg; 3-18-18 BC - Closeup of Wax Myrtle Tree.jpg
Follow Up Flag: Follow up
Flag Status: Completed

It certainly appears to me that a fraud was committed upon the City of Bellevue by Bellevue College to obtain its Building Permit. Or is it OK to lie to the City of Bellevue to get a Building Permit? Are your standards that low?

Sent from Mail for Windows 10

From: Paul Simmerly
Sent: Wednesday, January 2, 2019 12:39 PM
To: jchelminiak@bellevuewa.gov; LRobinson@bellevuewa.gov; clee@bellevuewa.gov; jnieuwenhuis@bellevuewa.gov; jrobertson@bellevuewa.gov; jstokes@bellevuewa.gov; jzahn@bellevuewa.gov; PlanningCommission@bellevuewa.gov; ESC@bellevuewa.gov; permits@bellevuewa.gov; tcullen@bellevuewa.gov; estead@bellevuewa.gov
Subject: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No.

LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY

I reside in the College Hill neighborhood and live in the house closest to the five story, 350 unit student dormitory Bellevue College has just constructed. I have commenced a lawsuit against the College over this construction.

Three more dormitories are planned to go in right next to this one. Would you like a project like this put in next to your house? Even the College and its environmental consultants recognized from the start that this project would have significant environmental impacts, promising to use mitigation and building modulation to lessen its impact and down shielding so the lighting would have "no impact."

Bellevue College was required by the Washington State Environmental Policy Act, RCW 43.21C, et seq. ("SEPA") to create, file and distribute a SEPA Environmental Checklist in conjunction with the planning, design and construction of the new dormitory. That document was authored by Shockey Planning Group, Inc., of Everett, WA, environmental experts hired by Bellevue College at public expense. That document required Bellevue College, among other things, to do the following:

- 1) "The proposed building would provide landscaping and building modulation to soften the impact to the nearby homes." SEPA Environmental Checklist, section 10. AESTHETICS.

- 2) "Lighting would be downshielded so as to not impact neighbors." SEPA Environmental Checklist, section 11. LIGHT AND GLARE, subsection d.

In its Determination of Non-Significance (DNS) under SEPA law dated August 9, 2016, Bellevue College through its Responsible Official, Dexter Johnson, stated and represented as follows: "The proposal includes mitigation measures so the proposal as mitigated has been determined by the Lead Agency to be unlikely to have any probable significant adverse impacts on the environment; therefore an Environmental Impact Statement is not required under RCW 43.2C.030(2)(c)." In other words, the College used the SEPA Checklist to avoid the great effort and expense of an Environmental Impact Statement. The College uses the SEPA Checklist to its advantage, then fails to fulfill the obligations it agreed to undertake and was required to undertake by law. This should concern you greatly.

Bellevue College then commissioned a Seattle landscape architectural firm, communita atelier, to draw a "Screen Planting Concept" to present to its College Hill neighbors and the citizens of Bellevue which showed 30+ foot tall trees largely obscuring the dormitory and going so far as to show specific types of trees and the exact locations where they were to be planted. That document is attached which depicts the outline of the yet to be constructed dormitory. Nice huh? Only problem is the dormitory is drawn 40% of its eventual size. It also does not show the rest of the five-story dormitory to the right (West), which goes on for the length of a football field! I have obtained documents in my lawsuit which show that Bellevue College and its architects, NAC Architecture, knew this and deliberately misrepresented its size to the public. The College failed to provide these documents to me in response to my Public Records Requests and that is the basis for my claim for damages under that law.

Further, the landscape architectural firm that drew this "Screen Planting Concept", communita atelier, has testified in a deposition that the trees and plants in the drawing were what they would look like in 2027! That fact was also never disclosed in the document or in any other communications. No "landscaping or building modulation" of any kind was done and there was no effort whatsoever to "down shield" the lighting and I do not believe the College ever had any intent to fulfil these obligations. See the attached photo I took from the same spot as the viewpoint in the "Screen Planting Concept". At the deposition, the Deputy Attorney General was so taken aback when he saw my photograph that he accused me of altering it!

For the past year, Bellevue College representatives have told me that they have no obligation to put in a landscape screen. At one point in our email exchanges, they went so far as to start calling this area a "Utility Planting Area" rather than the "Landscape Screen Area". Now in litigation, they are apparently contending (with a straight face) that they have fulfilled their obligations to put in a landscape screen! They apparently are going to claim that the ten inch high Wax Myrtle seedlings they planted (see attached photo) fulfill their obligations.

Another attached photo shows the five-story tall lighting on the east entrance. I first noticed this about 9:00 PM one night. I went outside to see what it was and I thought it must be 9:00 AM. The lighting lit up the neighborhood for a radius of several blocks. It hurt my eyes to look at it. I have the right as a citizen to expect our environmental laws to be obeyed and the mitigation, modulation and down shielding measures to be carried out as recommended by the College's own experts, as promised and as required by law.

I only want what the College promised, what its own environmental experts said was necessary and what the law requires. That is a very unique litigation position – where a citizen with an environmental complaint is advocating that the recommendations of the State's experts should be followed and the State recommending that the recommendations of its experts, for which the State paid many thousands of public tax dollars, should be disregarded. The College spent \$570,000 of our tax money to plant all sorts of expensive landscaping in the interior of this horseshoe-shaped building. They completely ignored their obligations around the outside of the dormitory.

For the past year, I have made exhaustive attempts to resolve this matter without success. I have been met with bad faith at every turn. The City of Bellevue states that there is nothing it can do and has directed me to the State Department of Ecology for enforcement. The State Department of Ecology also states that there is nothing it can do and has directed me to the City of Bellevue for enforcement. The State Department of Ecology and the City of Bellevue have made serious mistakes by failing to hold Bellevue College to the requirements of the SEPA

Environmental Checklist during construction and they refuse to take any action now because it would require them to admit they made serious mistakes and acted incompetently. So what are we left with? Incredibly, under our ridiculously misguided SEPA law, we are left with Bellevue College determining whether Bellevue College has complied with SEPA unless we want to resort to the Courts.

Over the course of the past year, I have sent at least two hundred emails to Bellevue College representatives, the Governor's Office, the State Department of Ecology, the State Auditor, State Legislators, Bellevue Councilpersons and others, had meetings with Dexter Johnson, Vidya Ramachandran, former Vice President Ray White, President Jerry Weber, Interim VP Richard Cummins and the Bellevue College Board of Trustees, had two meetings with Bellevue Land Use Director Elizabeth Stead and had telephone discussions and an exchange of emails with Tom Buroker, Northwest Region Director of the State Department of Ecology. I spoke at the September 5, 2018 Board of Trustees' Meeting about this matter and was only allowed to speak for three minutes before being cut off. That has been the extent of the involvement of the Board of Trustees. The Bellevue College Trustees have indicated no interest in this matter, which is in violation of their oaths of office and fiduciary obligations. The Washington State Attorney General's Office, legal advisers for the College, has also failed to make any attempt at investigating or resolving this matter, choosing to defend the illegal actions of Bellevue College Administrators rather than enforce the State Environmental Policy Act.

In its Answers to my Interrogatories 2, 3 and 4 and Request for Production 1 (attached), Bellevue College continues to insist that the City of Bellevue has been actively involved in supervising and enforcing these SEPA Checklist matters. This is directly contrary to what I have been repeatedly informed by Elizabeth Stead, City of Bellevue Land Use Director. Please explain this alarming contradiction.

Bellevue College came up with these phony mitigation, modulation and down shielding promises to avoid State environmental laws and avoid doing a costly Environmental Impact Statement. How our government officials can get away with this conduct is beyond me.

I am preparing complaints against the licenses of every professional involved in this conduct.

As I stated above, Bellevue College has three more of these dormitories on the drawing board directly to the south of this one. That will substantially increase the traffic on Kelsey Creek Road. If the City of Bellevue does not step in and properly regulate Bellevue College, I will file a lawsuit each time one comes up for construction and I will name the City of Bellevue as a Defendant.

PAUL E. SIMMERLY
14418 S.E. 24th Street
Bellevue, WA 98007
(425) 830-8218

Sent from Mail for Windows 10



A Douglas Fir



B California Wax Myrtle



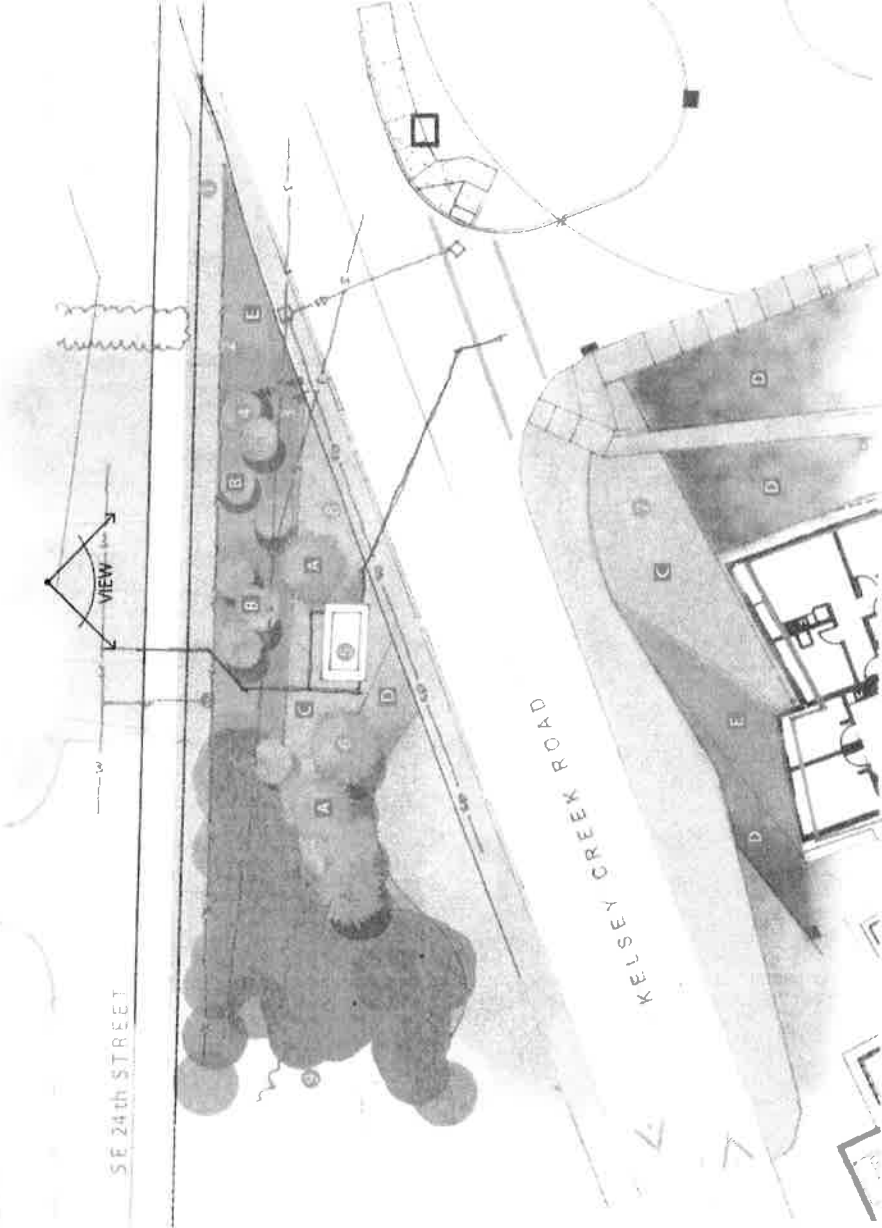
C Japanese Forest Grass



D Creeping Liriope



E Sword Fern



- Existing concrete walkway
- Existing chainlink fence
- Existing underground utility lines limit tree planting opportunities in this area
- California Wax Myrtle plantings soften and buffer views to new housing structure as initial plantings mature over time. Mature height of California Wax Myrtle is approximately 20'
- New water vault
- Douglas fir planting screen views to new structure from SE 24th Street end
- Groundcover plantings of sword fern, creeping liriope, and golden Japanese forest grass per construction contract
- Additional groundcover plantings of sword fern, creeping liriope, and golden Japanese forest grass create a "campus gateway" landscape statement
- Provide 5-6 Douglas fir trees for additional screening to the west

A landscape solution is the preferred option for meeting the screening/ buffer goals. We did consider a screen fence as an option, but felt the fence would appear as a very rigid barrier on the campus site while offering limited screening of the new housing structure from off-site properties. In addition, the fence would most likely create small landscape areas which would be difficult to maintain.

EXHIBIT "B" – Screen Planting Concept – Never accomplished



Screen Planting Concept
Page 2 of 2

- m. **Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:**

There are no nearby agricultural or forest lands, therefore no measures are proposed.

9. HOUSING

- a. **Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

The project will contain approximately 148 student housing units, including those allocated for Resident Advisors (RA's) and one for the Resident Director (RD)..

- b. **Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

No housing units would be eliminated.

- c. **Proposed measures to reduce or control housing impacts, if any:**

No impacts are anticipated, therefore no measures are proposed.

10. AESTHETICS

- a. **What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

The building is estimated to be approximately 60 feet high, but by Code for R-2 occupancy and Type 5A construction is permitted to be as high as 70 feet. Building materials are proposed to be a mix of metal panel siding and cement fiber board soffits.

- b. **What views in the immediate vicinity would be altered or obstructed?**

Views in the immediate vicinity would not be obstructed, however they would be altered. The project area is currently a parking lot. A residential building would change the current views of primarily the single family residential lots to the north.

- c. **Proposed measures to reduce or control aesthetic impacts, if any:**

The proposed building would provide landscaping and building modulation to soften the impact to the nearby residential homes.

11. LIGHT AND GLARE

- a. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

EXHIBIT "C" – SEPA Environmental Policy Act
Checklist excerpts promising mitigation
and modulation measures

There would be site lighting for safe access along accessible routes between the east and west wings through the interior courtyard space, in addition there would be building mounted lighting. Lighting would be used during the evening, night and early morning hours.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?**

Light or glare from the finished project would not be a safety hazard or interfere with views.

- c. What existing off-site sources of light or glare may affect your proposal?**

Off-site sources of light or glare would not impact the proposal.

- d. Proposed measures to reduce or control light and glare impacts, if any:**

Lighting would be down shielded so as to not impact neighboring properties.

12. RECREATION

- a. What designated and informal recreational opportunities are in the immediate vicinity?**

Bellevue Robinswood Regional Park is located east of the site. There are on-site sports fields associated with Bellevue College.

- b. Would the proposed project displace any existing recreational uses? If so, describe.**

No displacement of existing recreational uses would occur.

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

No impacts area anticipated, therefore no mitigation is proposed.

13. HISTORIC AND CULTURAL PRESERVATION

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.**

There are several homes in the area that are older than 45 years. Of note is the "Robinswood House" located at 2432 148th Avenue SE that was originally constructed in 1895. According to the Washington Information System for

**EXHIBIT “D” – Bellevue College
Determination of Non-Significance –
No EIS needed because of mitigation and
modulation measures (which were never
accomplished)**

Bellevue College

**Notice of SEPA Action for Determination of Non-Significance (DNS) for Bellevue College Student Housing
Phase 1**

File No. BC-16-06

Project Proponent and SEPA Lead Agency: Bellevue College Department of Facilities and Construction

Description of Proposal: The Bellevue College (BC) Student Housing Phase 1 project will be the first residential building on the BC campus. It is designed as an approximately 133,000 SF building with 361 beds consisting of a mix of studios, 2-bedroom, 2-bedroom / 4-bed (double-occupancy) apartments, one unique 3-bedroom apartment, and 4-bedroom apartments. The project includes a public main level café and lounge with second level multi-purpose meeting space, as well as private study areas and community floor lounges for residents. The building is designed as a five-story, one-hour fire rated, wood frame load bearing structure with concrete slab-on-grade floors. A portion of the building over the public space is to be steel framed composite metal deck. Outdoor spaces include lawn and plaza areas for dining, informal gathering, and events. The landscape design incorporates low impact strategies such as rain gardens, a terraced amphitheater (with integrated bioretention planters), and screened service and loading areas. A section of new private road will be constructed on the eastern edge of the site to provide fire and service access. This section of new roadway is intended to reconnect 145th Avenue SE to Kelsey Creek Road in the future. Part of this future realignment of the roadway involves a right-of-way vacation of the dead-end section of 145th Avenue SE. The site design accommodates a significant grade change of about 24'-0" sloping downhill from east to west, with multiple entry lobbies provided at different levels for universal accessibility. Accessible van parking is available at an existing adjacent surface parking lot to be reconfigured as a part of the roadway extension. Additional parking for residents will be located in the existing parking garage to the south. Utility extensions will also be provided to the site, including water, gas, data, and electricity. Stormwater will be conveyed to a nearby athletic field, where it will be detained in a vault under the fields as part of a concurrent resurfacing project. The student housing project is designed to be highly sustainable, with LEED Gold certification sought. Overall the project is intended to be the first student housing project on campus and achieve the following:

1. form a new residential district on campus;
2. activate a pedestrian-friendly streetscape along Kelsey Creek Road that connects the campus to this new residential district;
3. integrate commuter and residential students in main level public spaces; and
4. frame views of downtown Bellevue and Seattle to enhance the public realm with quality architecture and landscape design for campus stakeholders and the community at large.

A new parking lot consisting of approximately 40 parking stalls to serve the Early Learning Center is also proposed to replace some that are being lost by the placement of the student housing. The location would be to the southwest of the existing Early Learning Center. A pedestrian path is intended to connect between this new surface parking lot and the adjacent shared Early Learning Center lot to the north.

Location: The site is located at 3000 Landerholm Circle SE, Bellevue Washington. The King County Tax Parcel Number is 1024059003 and it is located in the NE quarter of Section 10, Township 24 N, Range 5 E, W.M.



Bellevue College is the SEPA Responsible Agency: The SEPA lead agency for this project (Bellevue College Department of Facilities Planning & Construction) has made a final determination of a determination of non-significance about the proposal following the 21 day public comment period ending July 21, 2016. The proposal includes mitigation measures so the proposal as mitigated has been determined by the Lead Agency to be unlikely to have any probable significant adverse impacts on the environment; therefore an Environmental Impact Statement is not required under RCW 43.2C.030(2)(c). City of Bellevue Permitting staff performed an intake for plan review of required Type 1 land use permits for the proposal. In making a final SEPA Threshold Determination following the public comment period, the responsible official reviewed the completed environmental checklist and environmental information on file with the City of Bellevue and Bellevue College, including permit site plan, environmental checklist and geotechnical report available during the public comment period. A public meeting was held May 26, 2016 to discuss the proposal with adjacent residents.

Public and Agency Comments: The lead agency is issuing a public Notice of SEPA Action to issue a Determination of Non-Significance (DNS) following the 21 day comment period June 30 through July 21, 2016. Five comments were received from property owners receiving mailed notice within 500 feet of the property, or members of the public or public agencies or tribes.

Appeal Procedure: The Clearing and Grading Permit for the Bellevue College Student Housing Phase 1 and associated Building Permits are all Type 1 land use decisions subject to review under the Washington State Environmental Policy Act (SEPA). If a petitioner wishes to appeal the permit decision made by Bellevue College, the process and timing of the judicial appeal procedure detailed in Revised Code of Washington (RCW) 36.070C. 040 shall be followed after decisions on the Type 1 permits are issued by the City of Bellevue. Proceedings for review require filing a land use petition in King County Superior Court. There is no separate administrative SEPA appeal for this type of land use decision.

Signed by Responsible Official: Dexter Johnson on August 9, 2016
Title: Executive Director of Physical Plant Operations

Mailing Address: Bellevue College
3000 Landerholm Circle SE
Bellevue, WA 98007-6484

Date of publication in the Seattle Daily Journal of Commerce and SEPA Register, August 9, 2016.

Cullen, Terry

From: Paul Simmerly <psimmerly@outlook.com>
Sent: Friday, January 04, 2019 3:50 PM
To: Buroker, Thomas (ECY); Chelminiak, John; Robinson, Lynne; Lee, Conrad; Nieuwenhuis, Jared; Robertson, Jennifer S.; Stokes, John; Zahn, Janice; PlanningCommission; Stead, Elizabeth; Environmental Services Commission (ESC); PermitTech; EBCC; Cullen, Terry; Kasner, Steve; Hummer, Betsi; Dhananjaya, Hassan; Walter, Stephanie; Gooding, Ross; Lisa.Wellman@leg.wa.gov ; Tana.Senn@leg.wa.gov ; Judy.Clibborn@leg.wa.gov
Subject: RE: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No. 18-2-55670-8 SEA
Attachments: BC - Dormitory 12-17-18 from same viewpoint as Screen Planting Concept.jpg; BC - Fraudulent Screen Planting Concept Drawing.jpg; BC - Fraudulent Plan for Screen Planting Concept.jpg
Importance: High
Follow Up Flag: Follow up
Flag Status: Completed

THE STATE OF WASHINGTON/BELLEVUE COLLEGE/GOV. JAY ("Mr. Environment") INSLEE:

In response to the substantial public concern about the impact of our dormitory to be built, let's commission Landscape Architects and Architects, licensed by the State of Washington, to draw a highly deceptive drawing of our dormitory to be built and the landscape screen we have pledged to be installed, but make the dormitory 40% of its eventual actual size and draw it so that it does not include ¾ of the eventual dormitory to be built and put in a landscape screen that was required by SEPA and our environmental experts with landscaping as it will exist ten years in the future that we have no intention of ever installing. This will allow us to avoid doing an Environmental Impact Statement and string along the public so they won't raise any objections. But do not tell the public or the City of Bellevue about any of this.

This about summarizes my case Ladies and Gentlemen. Jessie Jones of KIRO-TV and every other consumer reporter and media outlet that I can think of get this next week and I will be giving out your phone numbers.

PAUL E. SIMMERLY
14418 S.E. 24th Street
Bellevue, WA 98007
(425) 830-8218

Sent from Mail for Windows 10

From: Paul Simmerly <psimmerly@outlook.com>
Sent: Friday, January 4, 2019 3:02:14 PM
To: Buroker, Thomas (ECY)
Subject: FW: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No. 18-2-55670-8 SEA

Mr. Buroker: It is truly bizarre how this kind of government conduct can be allowed to go on.

PAUL E. SIMMERLY
14418 S.E. 24th Street
Bellevue, WA 98007
(425) 830-8218

Sent from Mail for Windows 10

From: Paul Simmerly <psimmerly@outlook.com>

Sent: Wednesday, January 2, 2019 2:23:06 PM

To: 'Simmerly JOEL'

Subject: FW: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No.

Sent from Mail for Windows 10

From: Paul Simmerly

Sent: Wednesday, January 2, 2019 12:39:50 PM

To: jchelminiak@bellevuewa.gov; LRobinson@bellevuewa.gov; clec@bellevuewa.gov; jnieuwenhuis@bellevuewa.gov; jrobertson@bellevuewa.gov; jstokes@bellevuewa.gov; jzahn@bellevuewa.gov; PlanningCommission@bellevuewa.gov; ESC@bellevuewa.gov; permits@bellevuewa.gov; tcullen@bellevuewa.gov; estead@bellevuewa.gov

Subject: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No.

LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY

I reside in the College Hill neighborhood and live in the house closest to the five story, 350 unit student dormitory Bellevue College has just constructed. I have commenced a lawsuit against the College over this construction.

Three more dormitories are planned to go in right next to this one. Would you like a project like this put in next to your house? Even the College and its environmental consultants recognized from the start that this project would have significant environmental impacts, promising to use mitigation and building modulation to lessen its impact and down shielding so the lighting would have "no impact."

Bellevue College was required by the Washington State Environmental Policy Act, RCW 43.21C, et seq. ("SEPA") to create, file and distribute a SEPA Environmental Checklist in conjunction with the planning, design and construction of the new dormitory. That document was authored by Shockey Planning Group, Inc., of Everett, WA, environmental experts hired by Bellevue College at public expense. That document required Bellevue College, among other things, to do the following:

- 1) "The proposed building would provide landscaping and building modulation to soften the impact to the nearby homes." SEPA Environmental Checklist, section 10. AESTHETICS.
- 2) "Lighting would be downshielded so as to not impact neighbors." SEPA Environmental Checklist, section 11. LIGHT AND GLARE, subsection d.

In its Determination of Non-Significance (DNS) under SEPA law dated August 9, 2016, Bellevue College through its Responsible Official, Dexter Johnson, stated and represented as follows: "The proposal includes mitigation measures so the proposal as mitigated has been determined by the Lead Agency to be unlikely to have any probable significant adverse impacts on the environment; therefore an Environmental Impact Statement is not required under RCW 43.2C.030(2)(c)." In other words, the College used the SEPA Checklist to avoid the great effort and expense of an Environmental Impact Statement. The College uses the SEPA Checklist to its advantage,

then fails to fulfill the obligations it agreed to undertake and was required to undertake by law. This should concern you greatly.

Bellevue College then commissioned a Seattle landscape architectural firm, communita atelier, to draw a "Screen Planting Concept" to present to its College Hill neighbors and the citizens of Bellevue which showed 30+ foot tall trees largely obscuring the dormitory and going so far as to show specific types of trees and the exact locations where they were to be planted. That document is attached which depicts the outline of the yet to be constructed dormitory. Nice huh? Only problem is the dormitory is drawn 40% of its eventual size. It also does not show the rest of the five-story dormitory to the right (West), which goes on for the length of a football field! I have obtained documents in my lawsuit which show that Bellevue College and its architects, NAC Architecture, knew this and deliberately misrepresented its size to the public. The College failed to provide these documents to me in response to my Public Records Requests and that is the basis for my claim for damages under that law.

Further, the landscape architectural firm that drew this "Screen Planting Concept", communita atelier, has testified in a deposition that the trees and plants in the drawing were what they would look like in 2027! That fact was also never disclosed in the document or in any other communications. No "landscaping or building modulation" of any kind was done and there was no effort whatsoever to "down shield" the lighting and I do not believe the College ever had any intent to fulfil these obligations. See the attached photo I took from the same spot as the viewpoint in the "Screen Planting Concept". At the deposition, the Deputy Attorney General was so taken aback when he saw my photograph that he accused me of altering it!

For the past year, Bellevue College representatives have told me that they have no obligation to put in a landscape screen. At one point in our email exchanges, they went so far as to start calling this area a "Utility Planting Area" rather than the "Landscape Screen Area". Now in litigation, they are apparently contending (with a straight face) that they have fulfilled their obligations to put in a landscape screen! They apparently are going to claim that the ten inch high Wax Myrtle seedlings they planted (see attached photo) fulfill their obligations.

Another attached photo shows the five-story tall lighting on the east entrance. I first noticed this about 9:00 PM one night. I went outside to see what it was and I thought it must be 9:00 AM. The lighting lit up the neighborhood for a radius of several blocks. It hurt my eyes to look at it. I have the right as a citizen to expect our environmental laws to be obeyed and the mitigation, modulation and down shielding measures to be carried out as recommended by the College's own experts, as promised and as required by law.

I only want what the College promised, what its own environmental experts said was necessary and what the law requires. That is a very unique litigation position – where a citizen with an environmental complaint is advocating that the recommendations of the State's experts should be followed and the State recommending that the recommendations of its experts, for which the State paid many thousands of public tax dollars, should be disregarded. The College spent \$570,000 of our tax money to plant all sorts of expensive landscaping in the interior of this horseshoe-shaped building. They completely ignored their obligations around the outside of the dormitory.

For the past year, I have made exhaustive attempts to resolve this matter without success. I have been met with bad faith at every turn. The City of Bellevue states that there is nothing it can do and has directed me to the State Department of Ecology for enforcement. The State Department of Ecology also states that there is nothing it can do and has directed me to the City of Bellevue for enforcement. The State Department of Ecology and the City of Bellevue have made serious mistakes by failing to hold Bellevue College to the requirements of the SEPA Environmental Checklist during construction and they refuse to take any action now because it would require them to admit they made serious mistakes and acted incompetently. So what are we left with? Incredibly, under our ridiculously misguided SEPA law, we are left with Bellevue College determining whether Bellevue College has complied with SEPA unless we want to resort to the Courts.

Over the course of the past year, I have sent at least two hundred emails to Bellevue College representatives, the Governor's Office, the State Department of Ecology, the State Auditor, State Legislators, Bellevue Councilpersons and others, had meetings with Dexter Johnson, Vidya Ramachandran, former Vice President Ray White, President Jerry Weber, Interim VP Richard Cummins and the Bellevue College Board of Trustees, had

two meetings with Bellevue Land Use Director Elizabeth Stead and had telephone discussions and an exchange of emails with Tom Buroker, Northwest Region Director of the State Department of Ecology. I spoke at the September 5, 2018 Board of Trustees' Meeting about this matter and was only allowed to speak for three minutes before being cut off. That has been the extent of the involvement of the Board of Trustees. The Bellevue College Trustees have indicated no interest in this matter, which is in violation of their oaths of office and fiduciary obligations. The Washington State Attorney General's Office, legal advisers for the College, has also failed to make any attempt at investigating or resolving this matter, choosing to defend the illegal actions of Bellevue College Administrators rather than enforce the State Environmental Policy Act.

In its Answers to my Interrogatories 2, 3 and 4 and Request for Production 1 (attached), Bellevue College continues to insist that the City of Bellevue has been actively involved in supervising and enforcing these SEPA Checklist matters. This is directly contrary to what I have been repeatedly informed by Elizabeth Stead, City of Bellevue Land Use Director. Please explain this alarming contradiction.

Bellevue College came up with these phony mitigation, modulation and down shielding promises to avoid State environmental laws and avoid doing a costly Environmental Impact Statement. How our government officials can get away with this conduct is beyond me.

I am preparing complaints against the licenses of every professional involved in this conduct.

As I stated above, Bellevue College has three more of these dormitories on the drawing board directly to the south of this one. That will substantially increase the traffic on Kelsey Creek Road. If the City of Bellevue does not step in and properly regulate Bellevue College, I will file a lawsuit each time one comes up for construction and I will name the City of Bellevue as a Defendant.

PAUL E. SIMMERLY

14418 S.E. 24th Street

Bellevue, WA 98007

(425) 830-8218

Sent from Mail for Windows 10

Cullen, Terry

From: Paul Simmerly <psimmerly@outlook.com>
Sent: Friday, January 04, 2019 3:50 PM
To: Buroker, Thomas (ECY); Chelminiak, John; Robinson, Lynne; Lee, Conrad; Nieuwenhuis, Jared; Robertson, Jennifer S.; Stokes, John; Zahn, Janice; PlanningCommission; Stead, Elizabeth; Environmental Services Commission (ESC); PermitTech; EBCC; Cullen, Terry; Kasner, Steve; Hummer, Betsi; Dhananjaya, Hassan; Walter, Stephanie; Gooding, Ross; Lisa.Wellman@leg.wa.gov ; Tana.Senn@leg.wa.gov ; Judy.Clibborn@leg.wa.gov
Subject: RE: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No. 18-2-55670-8 SEA
Attachments: BC - Dormitory 12-17-18 from same viewpoint as Screen Planting Concept.jpg; BC - Fraudulent Screen Planting Concept Drawing.jpg; BC - Fraudulent Plan for Screen Planting Concept.jpg
Importance: High
Follow Up Flag: Follow up
Flag Status: Completed

THE STATE OF WASHINGTON/BELLEVUE COLLEGE/GOV. JAY ("Mr. Environment") INSLEE:

In response to the substantial public concern about the impact of our dormitory to be built, let's commission Landscape Architects and Architects, licensed by the State of Washington, to draw a highly deceptive drawing of our dormitory to be built and the landscape screen we have pledged to be installed, but make the dormitory 40% of its eventual actual size and draw it so that it does not include ¾ of the eventual dormitory to be built and put in a landscape screen that was required by SEPA and our environmental experts with landscaping as it will exist ten years in the future that we have no intention of ever installing. This will allow us to avoid doing an Environmental Impact Statement and string along the public so they won't raise any objections. But do not tell the public or the City of Bellevue about any of this.

This about summarizes my case Ladies and Gentlemen. Jessie Jones of KIRO-TV and every other consumer reporter and media outlet that I can think of get this next week and I will be giving out your phone numbers.

PAUL E. SIMMERLY
14418 S.E. 24th Street
Bellevue, WA 98007
(425) 830-8218

Sent from Mail for Windows 10

From: Paul Simmerly <psimmerly@outlook.com>
Sent: Friday, January 4, 2019 3:02:14 PM
To: Buroker, Thomas (ECY)
Subject: FW: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No. 18- 2-55670-8 SEA

Mr. Buroker: It is truly bizarre how this kind of government conduct can be allowed to go on.

PAUL E. SIMMERLY
14418 S.E. 24th Street
Bellevue, WA 98007
(425) 830-8218

Sent from Mail for Windows 10

From: Paul Simmerly <psimmerly@outlook.com>
Sent: Wednesday, January 2, 2019 2:23:06 PM
To: 'Simmerly JOEL'
Subject: FW: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No.

Sent from Mail for Windows 10

From: Paul Simmerly
Sent: Wednesday, January 2, 2019 12:39:50 PM
To: jchelminiak@bellevuewa.gov; LRobinson@bellevuewa.gov; clee@bellevuewa.gov; jnieuwenhuis@bellevuewa.gov; jrobertson@bellevuewa.gov; jstokes@bellevuewa.gov; jzahn@bellevuewa.gov; PlanningCommission@bellevuewa.gov; ESC@bellevuewa.gov; permits@bellevuewa.gov; tcullen@bellevuewa.gov; estead@bellevuewa.gov
Subject: LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY; Simmerly vs. Bellevue College, et al.; King County Superior Court Cause No.

LAWSUIT FILED AGAINST BELLEVUE COLLEGE OVER ITS NEW DORMITORY

I reside in the College Hill neighborhood and live in the house closest to the five story, 350 unit student dormitory Bellevue College has just constructed. I have commenced a lawsuit against the College over this construction.

Three more dormitories are planned to go in right next to this one. Would you like a project like this put in next to your house? Even the College and its environmental consultants recognized from the start that this project would have significant environmental impacts, promising to use mitigation and building modulation to lessen its impact and down shielding so the lighting would have "no impact."

Bellevue College was required by the Washington State Environmental Policy Act, RCW 43.21C, et seq. ("SEPA") to create, file and distribute a SEPA Environmental Checklist in conjunction with the planning, design and construction of the new dormitory. That document was authored by Shockey Planning Group, Inc., of Everett, WA, environmental experts hired by Bellevue College at public expense. That document required Bellevue College, among other things, to do the following:

- 1) "The proposed building would provide landscaping and building modulation to soften the impact to the nearby homes." SEPA Environmental Checklist, section 10. AESTHETICS.
- 2) "Lighting would be downshielded so as to not impact neighbors." SEPA Environmental Checklist, section 11. LIGHT AND GLARE, subsection d.

In its Determination of Non-Significance (DNS) under SEPA law dated August 9, 2016, Bellevue College through its Responsible Official, Dexter Johnson, stated and represented as follows: "The proposal includes mitigation measures so the proposal as mitigated has been determined by the Lead Agency to be unlikely to have any probable significant adverse impacts on the environment; therefore an Environmental Impact Statement is not required under RCW 43.2C.030(2)(c)." In other words, the College used the SEPA Checklist to avoid the great effort and expense of an Environmental Impact Statement. The College uses the SEPA Checklist to its advantage,

then fails to fulfill the obligations it agreed to undertake and was required to undertake by law. This should concern you greatly.

Bellevue College then commissioned a Seattle landscape architectural firm, communita atelier, to draw a "Screen Planting Concept" to present to its College Hill neighbors and the citizens of Bellevue which showed 30+ foot tall trees largely obscuring the dormitory and going so far as to show specific types of trees and the exact locations where they were to be planted. That document is attached which depicts the outline of the yet to be constructed dormitory. Nice huh? Only problem is the dormitory is drawn 40% of its eventual size. It also does not show the rest of the five-story dormitory to the right (West), which goes on for the length of a football field! I have obtained documents in my lawsuit which show that Bellevue College and its architects, NAC Architecture, knew this and deliberately misrepresented its size to the public. The College failed to provide these documents to me in response to my Public Records Requests and that is the basis for my claim for damages under that law.

Further, the landscape architectural firm that drew this "Screen Planting Concept", communita atelier, has testified in a deposition that the trees and plants in the drawing were what they would look like in 2027! That fact was also never disclosed in the document or in any other communications. No "landscaping or building modulation" of any kind was done and there was no effort whatsoever to "down shield" the lighting and I do not believe the College ever had any intent to fulfil these obligations. See the attached photo I took from the same spot as the viewpoint in the "Screen Planting Concept". At the deposition, the Deputy Attorney General was so taken aback when he saw my photograph that he accused me of altering it!

For the past year, Bellevue College representatives have told me that they have no obligation to put in a landscape screen. At one point in our email exchanges, they went so far as to start calling this area a "Utility Planting Area" rather than the "Landscape Screen Area". Now in litigation, they are apparently contending (with a straight face) that they have fulfilled their obligations to put in a landscape screen! They apparently are going to claim that the ten inch high Wax Myrtle seedlings they planted (see attached photo) fulfill their obligations.

Another attached photo shows the five-story tall lighting on the east entrance. I first noticed this about 9:00 PM one night. I went outside to see what it was and I thought it must be 9:00 AM. The lighting lit up the neighborhood for a radius of several blocks. It hurt my eyes to look at it. I have the right as a citizen to expect our environmental laws to be obeyed and the mitigation, modulation and down shielding measures to be carried out as recommended by the College's own experts, as promised and as required by law.

I only want what the College promised, what its own environmental experts said was necessary and what the law requires. That is a very unique litigation position – where a citizen with an environmental complaint is advocating that the recommendations of the State's experts should be followed and the State recommending that the recommendations of its experts, for which the State paid many thousands of public tax dollars, should be disregarded. The College spent \$570,000 of our tax money to plant all sorts of expensive landscaping in the interior of this horseshoe-shaped building. They completely ignored their obligations around the outside of the dormitory.

For the past year, I have made exhaustive attempts to resolve this matter without success. I have been met with bad faith at every turn. The City of Bellevue states that there is nothing it can do and has directed me to the State Department of Ecology for enforcement. The State Department of Ecology also states that there is nothing it can do and has directed me to the City of Bellevue for enforcement. The State Department of Ecology and the City of Bellevue have made serious mistakes by failing to hold Bellevue College to the requirements of the SEPA Environmental Checklist during construction and they refuse to take any action now because it would require them to admit they made serious mistakes and acted incompetently. So what are we left with? Incredibly, under our ridiculously misguided SEPA law, we are left with Bellevue College determining whether Bellevue College has complied with SEPA unless we want to resort to the Courts.

Over the course of the past year, I have sent at least two hundred emails to Bellevue College representatives, the Governor's Office, the State Department of Ecology, the State Auditor, State Legislators, Bellevue Councilpersons and others, had meetings with Dexter Johnson, Vidya Ramachandran, former Vice President Ray White, President Jerry Weber, Interim VP Richard Cummins and the Bellevue College Board of Trustees, had

two meetings with Bellevue Land Use Director Elizabeth Stead and had telephone discussions and an exchange of emails with Tom Buroker, Northwest Region Director of the State Department of Ecology. I spoke at the September 5, 2018 Board of Trustees' Meeting about this matter and was only allowed to speak for three minutes before being cut off. That has been the extent of the involvement of the Board of Trustees. The Bellevue College Trustees have indicated no interest in this matter, which is in violation of their oaths of office and fiduciary obligations. The Washington State Attorney General's Office, legal advisers for the College, has also failed to make any attempt at investigating or resolving this matter, choosing to defend the illegal actions of Bellevue College Administrators rather than enforce the State Environmental Policy Act.

In its Answers to my Interrogatories 2, 3 and 4 and Request for Production 1 (attached), Bellevue College continues to insist that the City of Bellevue has been actively involved in supervising and enforcing these SEPA Checklist matters. This is directly contrary to what I have been repeatedly informed by Elizabeth Stead, City of Bellevue Land Use Director. Please explain this alarming contradiction.

Bellevue College came up with these phony mitigation, modulation and down shielding promises to avoid State environmental laws and avoid doing a costly Environmental Impact Statement. How our government officials can get away with this conduct is beyond me.

I am preparing complaints against the licenses of every professional involved in this conduct.

As I stated above, Bellevue College has three more of these dormitories on the drawing board directly to the south of this one. That will substantially increase the traffic on Kelsey Creek Road. If the City of Bellevue does not step in and properly regulate Bellevue College, I will file a lawsuit each time one comes up for construction and I will name the City of Bellevue as a Defendant.

PAUL E. SIMMERLY

14418 S.E. 24th Street

Bellevue, WA 98007

(425) 830-8218

Sent from Mail for Windows 10





Screen Planting Concept

Page 2 of 2

B BELLEVUE
COLLEGE

A

SE 24th STREET

VIEW

KELSEY CREEK ROAD

Screen Planting Concept

Page 1 of 2



A land
meet
a scre
appe
offer
from
mo
be

9 Provit
scre

3 Addition
sword
japan
gatew

7 Ground
creeping
forest gr

6 Douglas fir
new struc

5 New water

4 California Wax
and buffer vlt
as initial plan

2 Mature height
approximat

1