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Via Email

Nathan Torgelson, Director
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July 19, 2023

Re: Demand for City Action to Protect Culturally Modified Tree Located at 3849 NE
88th Street

Dear Director Torgelson-

We represent the Snoqualmie Indian Tribe, a federally-recognized sovereign Indian tribe with inherent sovereign rights and reserved rights as a signatory to the Treaty of Point Elliott of 1855.

On behalf of the Tribe, we are writing to provide formal notice to the City of Seattle that the “exceptional” western red cedar located at 3849 NE 88th Street is a culturally modified tree (“CMT”) that delineated an ancient indigenous trail system connecting Puget Sound to Lake Washington, and an archaeological site subject to special protections under Washington State law. The Tribe has two specific asks in this letter. First, and most pressingly, we demand the City permanently withdraw or cancel development permit issued for the site that would allow this “exceptional” CMT to be felled as part of the proposed construction project by Legacy Capital. Second, we further demand consultation with the Tribe related to this CMT and the development of comprehensive measures to protect other CMTs within the City at the highest levels of City government.¹ We also discuss the disappointing call we had with you earlier today about this issue.

The focus of this letter is the “exceptional” CMT that is about to be felled on the City’s watch and because of the City’s negligence and incompetence. As you are aware, the Tribe reached out to the City last week expressing its grave concerns about removing this tree, which the Tribe believed to be a CMT of archaeological and cultural significance based on review of photographic evidence. The City took no action to address the Tribe’s concerns or assist the Tribe in gaining access to the site for the formal assessment. Indeed, but for the action of the

¹ We understand from State DAHP that there are 188 identified land-based archaeological resources within Seattle. Only 13% of the City has been surveyed for archaeology. Clearly, there is much work to be done to ensure protections for archaeological resources within the City, including CMTs.

tree removal company to pull out of the project and the efforts of concerned neighbors and citizens, the CMT may have already been removed.

Yesterday, July 18, 2023, representatives from the Tribe's Department of Archaeology and Historic Preservation, joined by a representative from the Washington Department of Archaeology and Historic Preservation (State DAHP), conducted a formal in-person assessment of the "exceptional" tree with access-related assistance from neighbors. Based on the in-person assessment, the Tribe has conclusively determined that the tree at issue is, in fact, a CMT. Independently, the State DAHP reached the same conclusion.

The site has now been recorded by a professional archaeologist. This morning, the Tribe declared the CMT to be significant under Tribal law. A copy of the Tribe's paperwork is attached. The Tribe also submitted the necessary paperwork to declare the CMT and the area directly surrounding it as an archaeological site under Washington State law. The project number is 2023-07-04377 and the resource has been assigned as KI01684. An archaeological permit under State law is now required before any action can be taken by the developer.

Archaeological sites require additional permitting, separate from any City process, by the private landowner under State law. Any alteration to an archaeological site requires a permit from the State DAHP RCW 27.44 and RCW 27.53. Archaeological sites are defined under RCW 27.53 .030(3) as places that contain archaeological objects. All sites with objects that pre-date the historic era (prehistoric) require a permit, regardless of the level of "disturbance." Alterations to a site including removing trees or using heavy equipment on, compacting, or other activities that would change or potentially impact the site. There are civil and potential criminal penalties for failing to obtain a permit, or failing to comply with the conditions on a permit. The Tribe will work with State DAHP to ensure that State law is fully complied with by the developer Legacy Group Capital LLC (Bellevue).

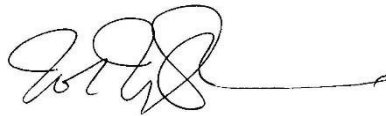
Earlier today, the Tribe's representatives spoke with you, Mr. Reynon and Daniel Mitchell from the City Attorney's office to discuss the CMT and to hear from the City what the City planned to do to protect the tree. You informed us that the City's "hands are tied" because the final development permit has issued, even in a scenario where, as here, the CMT was inadvertently discovered by the Tribe through public awareness communications late last week. The identification of the archaeological site represents a materially changed circumstance with respect to the proposed development. The Tribe is shocked that you informed us that the City lacks a review process or other means for the City to take action to protect the newly discovered and identified archaeological site and the CMT. The Tribe is also surprised to learn from the City that there was no process when the permit was issued in the first instance to conduct an environmental analysis which would have included a cultural resource review. You further informed us that the City does not even know what cultural resource laws apply now that the tree has been identified as a CMT. It strains credulity to believe that the City will not take any action to protect tribal cultural resources or take any action to ensure that State law is followed with respect to the required DAHP permit process. You told us that State DAHP must work directly with the developer to ensure compliance with State law, without any assistance from the City,

even though the City permitted the project. You further inexplicably suggested that the Tribe consider litigation against the City. Essentially, you told us the City is powerless to do anything.

The Tribe could not be more disappointed by today's meeting and the City's repeated failures to work with the Tribe or protect this archaeological site. The lack of concern over this issue highlights the City's naked hypocrisy on saving trees and respecting native peoples. Given that this tree was already classified as "exceptional" by the City itself, providing greater protections under municipal law; the formal assessment of CMT status; and, the archaeological site designation, we believe the City has no choice but to take action on the development permit issued for the site because of this CMT. To be clear, the Tribe is not opposed to responsible development or the rights of property owners to undertake construction activities on their property in accordance with all applicable laws and regulations.² However, the Tribe will not allow archaeological and culturally important trees to be removed for private economic gain, nor will the Tribe turn a blind eye to the City's attempts to sidestep its responsibilities.

The Tribe will not cease efforts to ensure protections for this CMT and working to develop, in consultation, a policy that will protect similar CMTs from removal within the City. The Tribe reserves all legal rights.

Sincerely,



Attorneys for the Snoqualmie Indian Tribe

cc: WA DAHP State Historic Preservation Officer / Director Dr. Allyson Brooks (Allyson.Brooks@dahp.wa.gov)
City Councilmember Alex Pedersen (Alex.Pedersen@seattle.gov)
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Director Gael D. Tarleton (gael.tarleton@seattle.gov)
Executive Director GASP Jaime Martin (jaimemartin@snoqualmietribe.us)

Attachment

² The Tribe believes other, non-CMT trees located at 3849 NE 88th Street may have been removed in violation of City permitting. Moreover, on July 18, 2023, the Tribe observed that the new public notice related to tree removal was not clearly posted on the property and was hidden behind a fence, well behind the property line.