

Ms. Lauren Anderson
Planner
City of Mercer Island, Community Planning and Development

June 15, 2020

Re: Permit No. 2001-188 (building) and No. Sub 18-005 (short plat)
4270 East Mercer Way

Thank you for giving us the opportunity to respond to the comment letter dated June 10, 2020. Below please find the original text and our responses:

1. Order of Consideration. As we understand it, the City's current plan is to consider the building permit (No. 2001-188) in conjunction with the short-plat permit (No. Sub 18-005). We recommend that the City review and resolve the short-plat permit first, because we believe the short-plat application suffers from significant and potentially irremediable shortcomings which could significantly affect the building permit. Some of these shortcomings may affect available building sites, setback requirements, and the preservation of trees for slope stabilization, which may in turn significantly affect the building permit.

Response: No special consideration was granted or asked for in regards to the permitting of these two projects. Although the reviews are concurrent, there is no correlation between the two – While the building permit 2001-188 is being reviewed as if the property were divided, the rules and regulations as applied to the divided property are more stringent than if the property were considered as a whole. The city should consider the bldg. permit irrespective of plat approval, the potential of the property remaining as a whole is understood by the applicant.

2. Short-Plat Permit. We have three comments concerning the proposed short-plat permit.

First, there does not appear to be any survey of the existing storm drain line running from East Mercer Way to SE 42nd Place. As we understand it, such a survey has been requested by the City and is required by MICC 19.08.020.C. There is a proposed storm drain easement on the site plan (sheet 1a) for the building permit, but this does not appear to reflect the path of the existing storm drain.

Response: The primary line and critical points have been surveyed and shows on the latest survey (see SUB 18-005 Sub 3). The existing sub-standard lines (4" diameter), without easements, will be abandoned and a new-engineered system with a 15' maintenance easement will be installed. The new line abandons these insufficient components and a path more conducive to maintaining the upper tree grove and slope have been proposed.

Second, the proposed storm drain line shown on sheet 1a of the building permit meanders, traveling southeast, then southwest, and then again southeast from East Mercer Way to SE 42nd Place, rather than proceeding in a straight line. As we understand it, storm drain lines should proceed in a straight line to allow ease of access for maintenance and repair, as well as to minimize disruption to a critical area in keeping with MICC 19.07.010 and related requirements. In keeping with MICC 19.09.100, moreover, we believe that the storm drain line should be required to track the demising line (discussed in the next paragraph).

Response: The storm drainage system has been design to avoid unnecessary disturbance within the root zones of trees in the upper grove and minimize the extent on a steep slope. For ease of maintenance two catch basins are located on the property within the easement and the lines running between them are straight.

The storm system was designed considering the terrain and vegetation to minimize impacts. There is no requirement that the drainage line or easement follows the property line. Since the area where there is remaining property between the easement and property line are well within the setbacks and outside of building pads of the proposed short plat, access is improved over the situation of the drainage line and property line being identical.

Third, it appears that the demising line between the two proposed lots is neither perpendicular nor radial to a street, but instead meanders in a way that is similar, but not identical, to the proposed storm drain line easement. We do not understand how this complies with MICC 19.08.030.E2, which requires lot side lines to be approximately perpendicular or radial to the center line of the street on which the lot fronts, or with the best practices set forth in MICC 19.09.100 (as discussed in the previous paragraph). If and when the existing storm drain line is surveyed, it may inform whether and/or where a Code-compliant demising line may be established.

Response: The dividing line was determined by starting from an existing known point and roughly following the drainage line as determined by best management practices and dividing the parcel into roughly equal halves, roughly perpendicular given the pentagonal nature of the mother lot. Overall, the stability of the slope, management of storm water and access to storm facilities will be greatly improved by this project.

3. Building Permit. As noted above, we believe that the City should review and decide the short-plat application before deciding the building permit application. If the City decides to consider the building permit concurrently, however, we have the following five comments.

Response: Regarding building permit 2001-188, which is independent from the SUB 18-005 permit or comments:

First, we are concerned that the proposed building will not comply with RDS requirements for a side yard. Under MICC 19.02.020.C.1.c.iii(b), we believe that the minimum side yard depth for the proposed building is 10 feet, as shown on the site plan (sheet 1a). Also as shown on the site plan, the proposed house improperly encroaches into the side yard. We believe this is not appropriate.

Response: Presumably, this is in regard to the Western line, since the Eastern line has a 8'-8.3/8" setback and the building is 11'-0" away from the line. In any event, MICC allows for variable setbacks based on the height of the structure above existing or final grade. Since the structure height at this point is below 25', the setback requirement is 7'-6".

Second, the proposed excavation on the east edge of Lot B appears to require a detailed grading plan under MICC 19.08.020.C.8 and to create a significant grade differential with the adjacent lot to the east. We are not aware of any detailed grading plan or any proposal to mitigate the impact of the grade differential on the adjacent lot. We believe that a detailed plan including mitigation is necessary and should be required. See generally MICC 19.02.020.

Response: A detailed temporary grading plan has been prepared, submitted and reviewed by the project and third-party geotechnical engineers. A final grading plan was requested and will be

submitted as part of SUB2. Note that except for the driveway area, all the proposed final grades will be roughly the same as the existing.

Third, we are concerned that construction of the proposed building will require the removal of two large Lawson Cypress trees (trees #1 and #2) which are important for stabilizing the lot's critical slope. The proposed excavation plan for the building and the storm drain line, as shown in sheet 15, appears to overlap the trees' root area; if excavation is permitted, therefore, the trees will be destroyed. The City Arborist appears to agree that this would be the case and that it is unacceptable, as reflected in his intake comments: "Trees 1 and 2 have new 8" storm pipe and grading within Arborist given limits of disturbance. Either move utilities and grading. Or have air excavation give final limits of excavation. This air excavation to be supervised and memo produced by Project Arborist." Given the significant size of trees # 1 and #2, the nature of the slope and the trees' importance in stabilizing it, as well as the availability of other building sites on the lot, we believe the permit should not be granted in its present form under MICC 19.09.090.A.1.a.

Response: The stability of the slope will be determined by geotechnical analysis and subject to 3rd party reviewer and is not contingent on the maintenance of trees 1 and 2. Because of the proximity to the lines, John Kenny is correct in noting that should they remain they would be unlikely to survive, which is why we opted for removal. Despite the fact that we are removing less than half of the trees allowed by development rules (30% are required to remain, we have maintained over 74%) we will be adding 36 new trees.

Fourth, the Line of Disturbance shown in the permit application (required by MICC 19.10.090.C.1.e) appears not to protect trees #8 and #9 which, as we understand it, are to be preserved.

Response: Protection to trees 8 and 9 were added in the most recent submittal

Fifth, we also have concerns about the adequacy of the driveway and garage near SE 42nd Place. We do not believe it will be easy to maneuver cars in and out of the garage and have concerns either that the plans will need to change or that the homeowners will need to park on the narrow street.

Response: The property is served by a 20'x43' Auto-court which should provide adequate maneuverability and will provide 4 parking spaces within the setbacks in addition to the 3 garage spaces. This is over double the code minimum requirements.

Overall, we believe that the approach most consistent with the MICC's requirements, including the new RDS requirements and code protections for large trees on a critical slope, is to require the proposed building to be built on the same site as the home that is currently on the property. Under MICC 19.01.010, the code is fundamentally "designed to consider light, air and access; to conserve and protect natural beauty and other natural resources; to provide coordinated development; to avoid traffic congestion; to prevent overcrowding of land; to facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements." In our view, those considerations all strongly counsel in favor of requiring the new home to be built on the same site as the home that is currently on the property.

Response: Overall, The location of the building on the property will improve pedestrian and EV access over the current location, and improve the stability of the existing slope. Mercer Island Code is preferential to interior access, to avoid residential driveways on busy arterial streets. The

driveway and house location were chosen to reduce the impervious area (over 1000sf less than allowed), increase slope stability, and provide safe access for EV's and residents.

4. Building Permit Conditions. On the present state of the record, we do not believe that the short-plat permit or the building permit can be granted. If at some point a building permit is to be granted, however, we respectfully request that it include the following conditions:

a. Access by construction vehicles to the building site should be via East Mercer Way, not SE 42nd Place. The existing driveway for the property is on East Mercer Way, and SE 42nd Place is a narrow road that cannot easily accommodate large vehicles.

Response: Unfortunately, the existing driveway is not currently suitable as a construction entrance because of steepness and width – any improvement of this approach would greatly impact the trees and slope. However, it is reasonable that worker's vehicles and light deliveries could be made via this entrance and every effort will be made to minimize the impacts to SE 42nd Pl, including notification of any potential disturbances.

b. As a matter of local knowledge, there is a water storage tank just outside the southwest corner of Proposed Lot 1 (Lot A in the site plan), identified with a "T" on the survey. Attachment 1 to this letter, "Shoreridge Addition," shows a 15' easement for lines to and from the tank. We believe any building permit should require that these lines remain undisturbed.

Response: The easement for the water storage tank will be added to the permit documents

Thank you for your consideration.

Farzad Ghazvinian
Sam Ardekani
Chris Luthi
Ebrahim Askari