

February 16th, 2024

To: Grace Manahan

Re: **Sobel Comments on permit 2206-099**

1. The claim of a prescriptive easement or adverse possession is a legal conclusion to be litigated in a court. The Sobels have not brought any such legal action. Public comments are not the proper forum to attempt to establish such.

In the event that such an argument is entertained, both a prescriptive easement and adverse possession requires adverse/hostile, continuous, open and notorious use of the property for a period of 10 uninterrupted years. In the case of a prescriptive easement, this use must also have occurred over a uniform route. In the case of adverse possession, the use of the property must be exclusive by the adverse possessor and the period may be shortened to 7 years if they pay the taxes on it.

The Sobels do not show how they have met these requirements. At a minimum, a one-time use of the property to install irrigation and landscaping is not continuous.

2. The issues of erosion on the proposed lot have been examined by our geotechnical firm, architects, and engineers and considered in this construction. A retaining wall and pin pile reinforced foundation help mitigate erosion. The files pertaining to this have already been submitted, including Geotech Report -05-17-2019.pdf, Combined plans for West lot.pdf, Geotech Pin Pile Addendum West Lot.pdf, and Altman West Lot Wall Calculations 4-5-22.pdf. Where studies by the Sobels' geotechnical firm are not available to us, we would welcome any additional information they choose to provide.

Addressing Sobels' concerns of erosion on their property, the plans incorporate storm drain easements on the border with and through Sobel's property to move water away from their property and minimize erosion. These are illustrated in Combined plans for West lot.pdf.

3. Addressing surface water flow and groundwater seep through proper stormwater drainage and retaining structures is a natural part of any construction project and has already been incorporated. This is discussed in LE Altman West Lot SFR Drainage Report 6-19-20.pdf and Combined plans for West lot.pdf.

4. We are aware of the wetland on and around the property and have designed around them. We are similarly aware of the eagle's nest, and the proposed design is in accord with the restrictions imposed by such. These are both addressed in Wetland Report Rev 8.26.20.pdf.

5. We have no control over where the public notice was placed. We assume that all was done in accordance with city ordinance as the location(s) was chosen by the city. It would be unfair to penalize us for where the notices were or were not placed.

6. Washington State law (WAC 173.60) and King County ordinance (Title 12.86) provides restrictions on when construction can occur, limiting loud noise to between 7am and 10pm. These laws will be observed. It is recognized that this may be an inconvenience for some individuals and may not be able to accommodate everyone's sleeping schedule. Once construction is ready to begin, it is best if neighbors who sleep during the day to have open about their hours so that the use of loud, heavy equipment can be arranged around that as best as possible without slowing down construction, which is another of the neighbor's concerns. Everyone wants a construction project to wrap as quickly as possible. Not only does more time cost more money, but it protracts any return on investment that the sale of the completed construction would yield.

The size of the proposed house is within code. It could not be approved otherwise. Where concern of a new building not matching the design of an adjacent home is an understandable human reaction, there are no neighborhood ordinances, outside of Mercer Island City Code 19.12, that requires that all homes look the same, only that they are architecturally compatible, which we are. Additionally, Mercer Island has long been home to a diverse array of houses. This medley of architectural designs is one of Mercer Island's more interesting features. On East Mercer Way alone you can find an alpine lodge and a Mediterranean villa. This tradition of architectural diversity was lauded as recently as 2018 <https://mymercerisland.com/mercer-islands-legacy-of-mid-century-modern-architecture/> and should be continued.

Should the construction project begin and not complete, effort will be made to restore to the property to its natural state.

Thank you,

The property owners

Myerson's Comments

1. The concern of the proposed house being an overbearing intrusion is a feature unique to the property because the city has an easement for its road over the property. This road leads to Pioneer Park and gives the false impression that it is part of the park when it is not. To be clear, the house is being built upon private property, not within Pioneer Park. The property does not even border Pioneer Park. Even still, the plan retains trees between both the house and the access road that goes over the property to the park and the adjacent property.

2. We have submitted plans that note the diameter of each tree (Combined plans for West lot) and a full inventory of trees, including their species, diameter, comments on their condition, and more (Arborist Inventory Altman Lot 7.pdf). Plans were adjusted to maintain as many trees as possible. The claim that the removal of any trees would be prohibited by Mercer Island tree ordinance is an unsupported legal conclusion and needlessly inflammatory.

3. Storm drainage is a term of art. The plans for how to deal with surface and subsurface water have been developed with the property's unique characteristics in mind. For instance, a wetland was identified on the property and the plans adjusted accordingly. Please see Wetland Report Rev 8.26.20.pdf, LE Altman West Lot SFR Drainage Report 6-19-20.pdf and Combined plans for West lot.pdf.

4. A member of the Altman family, William Altman, was part of the city of Mercer Island's ad hoc committee to discuss the issues of Drainage Basin #42 in the mid 90's. The issue of erosion and its impact was voiced early in the development process, even before the Geotech survey (Geotech Report -05-17-2019.pdf) was performed, which identified the erosion hazard of the area. Permanent erosion control measures include the incorporation of vegetation and landscape plants, such as the retained trees, as well as hardscape, such as the planned retaining wall, detention pipes and catch basins - Combined plans for West lot.pdf.

5. This concern is a continuation of item #4 and addressed therein. Again, the Geotech survey identified the potential landslide hazard and the house has been designed with those concerns in mind, not only with measures to mitigate erosion but also using pin piles to anchor the foundation.

Thank you,

The property owners

Holbrook's Comments

1. The concern of how the house might impact the look of Pioneer Park's trail is a feature unique to the property because the city has an easement for its road over the property. This road leads to Pioneer Park and gives the false impression that it is part of the park when it is not. To be clear, the house is being built upon private property, not within Pioneer Park. The property does not even border Pioneer Park. Even still, the plan retains trees between both the house and the access road that goes over the property to the park and the adjacent property.

2. Concerns regarding the treatment of trees by builders are understandable; however, they also illustrate a misunderstanding of the process. An arborist investigated all the trees in and around the property and prepared a report, the findings of which can be scrutinized and contested, most notably by the city's own arborist. Replacement trees are further regulated by MICC 19.10, which requires that replacement trees shall primarily be those species native to the Pacific Northwest and be of a minimum size.

Thank you,

The property owners