CAO24-003
04/30/2024
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Criteria Compliance Narrative:

Critical Area Review 2: Per sections MICC 19.07.090, MICC 19.07.160, MICC 19.07.170, MICC 19.07.180 and/or MICC 19.07.190.

MICC 19.07.090 (A): Critical Area Review 1:

Answer: Not applicable

MICC 19.07.090 (B): Critical Area Review 2:

1. The purpose of a critical area review 2 *is to review critical area studies and mitigation plans in support of proposed buffer averaging and reduction of wetland and watercourse buffers.*

2. Review timing and sequence.

a. *When development and/or activity within a wetland, watercourse, fish and wildlife habitat conservation area or buffer associated with these critical area types is proposed, a critical area review 2 is required to be reviewed and approved prior to construction authorization.*

Answer: Not applicable

b. *When development and/or activity is proposed on a site containing only geologically hazardous areas, an applicant has the option of either:*

i. *Applying for a critical area review 2 in advance of construction permits, using the procedures required for a Type 3 land use review; or*

Answer: Not applicable

ii. *Requesting consolidation of the review of geologically hazardous areas together with construction permit review.*

Answer: A concurrent review request form has been submitted at Intake screening for a construction permit and a land use application for Critical Area Review 2.

c. *When development and/or activity is proposed on a site containing geologically hazardous areas and one or more of the critical area types listed in subsection (B)(2)(a) of this section or the associated buffer of one of those critical areas, a critical area review 2 reviewing all critical areas is required to be reviewed and approved prior to construction authorization, using the procedures required for a Type 3 land use review.*

Answer: Not applicable

3. Requirements for a complete application include:

a. *A completed development application coversheet;*

Answer: A completed development application coversheet has been submitted at intake screening.

b. *A critical area study, meeting the requirements of section 19.07.110, critical area study; and*

Answer: A critical area study has been prepared by Cobalt Geosciences LLC, licensed Geotech dated 08/22/2023. Compliance with section 19.07.110 as stated below.

19.07.110 - Critical area study.

A. *A critical area study shall be required when a development proposal will result in an alteration to one or more critical areas or critical area buffers or when required to determine the potential impact to a critical area.*

Answer: Per City of Mercer Island GIS Mapped Hazards, the eastern portion of the site is within an erosion and potential landslide hazard area. A critical area study has been prepared by a licensed Geotech to assess potential impacts on critical areas.

B. *The critical area study shall be in the form of a written report supported by graphic information prepared by a qualified professional using guidance based on the best available science consistent with the standards in WAC Chapter 365-195 and shall contain the following items, as applicable to adequately evaluate the proposal, proposed alterations, and mitigation:*

1. *Disclosure of the presence of critical areas, including a delineation and type or category of critical area, on the development proposal site and any mapped or identifiable critical areas on or off site within the distance equal to the largest potential required buffer applicable to the development proposal area on the applicant's property;*

Answer: A “Critical Areas Notice on Title” has been recorded with King County Recorder’s office dated 04/25/2024. Proof of recorded document has been submitted for land use review along with this compliance narrative.

2. *A topographic and boundary survey;*

Answer: A topographic and boundary survey has been prepared by Terrane LLC, licensed Surveyor - dated 09/08/2023. See Survey in the application plan set on sheet A002.

3. *A statement specifying the accuracy of the report and all assumptions made and relied upon;*

Answer: Per Geotech report page #10, section "statement of general conditions” - “The information, opinions, and/or recommendations made in this report are in accordance with Cobalt Geosciences present understanding of the site-specific project as described by the Client. The applicability of these is restricted to the site conditions encountered at the time of the investigation or study.”

4. *A description of the methodologies used to conduct the critical area study, including references;*

Answer: Per Geotech report, pages #1-2, “Soil & groundwater conditions”. This section details the testing methods used to conduct the critical area study. Reference hand boring logs on pages #13-15.

5. *A scale map of the development proposal site;*

Answer: Per Geotech Report page #11. This page includes a preliminary design site plan drawn to scale provided by the designer. Reference Sheet A100 of the application plan set for the current site plan.

6. *Photographic records of the site before the proposed alteration occurs;*

Answer: Refer to the intake screening submittal document “Critical Area Site Images” containing Images of the site before any alteration occurs.

7. *An assessment of the probable effects to critical areas and associated buffers, including impacts caused by the development proposal and associated alterations to the subject property and impacts to other properties and any critical areas or buffers located on them resulting from the development of the site and the proposed development;*

Answer: Per Geotech report pages #2-3, sections “City of Mercer Island GIS Mapped Hazards” and “Statement of Risk”. These sections assess the effects of the critical areas mapped at the development site and nearby sites.

8. *A description of mitigation sequencing implementation described in section 19.07.100 including steps taken to avoid and minimize critical areas impacts to the greatest extent feasible;*

Answer: Per Geotech report page #2, section “City of Mercer Island GIS Mapped Hazards” - “It is our opinion that the risk of erosion and landslide activity at this site is very low and will not be affected by the proposed construction provided erosion control measures are in place during construction and all areas are landscaping following construction...Mitigation for these hazards is not currently warranted”.

9. *Detailed studies, as required by this chapter, for individual critical area types in order to ensure critical area protection;*

Answer: Per Geotech report page #1, “The purpose of our evaluation was to provide recommendations for foundation design, grading, and earthwork as well as discussion of mapped geologic hazards”. Pages #1-2, “Soil & groundwater conditions”. This section details the testing methods used to conduct the critical area study. Reference hand boring logs on pages #13-15 of the report.

10. *Assessment of potential impacts that may occur on adjacent sites, such as sedimentation or erosion, where applicable; and*

Answer: Per Geotech report pages #2-3, section “Statement of Risk” - “This proposed development can be completed without adversely affecting geologic hazards near or within the site.”

11. *A post-design memorandum prepared by a qualified professional confirming that the proposed improvements comply with the design recommendations.*

Answer: Per Geotech report page #2, section “City of Mercer Island GIS Mapped Hazards” - “Mitigation for these hazards is not currently warranted”. No specific structural design recommendations were warranted to mitigate the development risk. Page #4, section “General” - “The proposed additions may be supported on shallow foundation systems bearing on medium dense or firmer native soils or on structural fill placed on the native soils.”

C. *The critical area study requirement may be waived or modified if the applicant demonstrates that the development proposal will not have an impact on the critical area or its buffer in a manner contrary to the purposes and requirements of this chapter.*

Answer: Noted

19.07.090 (B)(3)(c)

c. *Additional information required by the city to confirm compliance with this title.*

Answer: Noted

19.07.090 (C) Reasonable use exceptions *shall be reviewed using the criteria in section 19.07.140, using the procedures required for a Type 4 land use review.*

Answer: Not applicable

19.07.090 (D) Public agency exceptions *shall be reviewed using the criteria in section 19.07.150, using the procedures required for a Type 3 land use review.*

Answer: Not applicable

MICC 19.07.160 - Geologically hazardous areas:

A. Designation and typing. *Geologically hazardous areas are lands that are susceptible to erosion, landslides, seismic events, or other factors as identified by WAC 365-190-120. These areas may not be suited for development activities because they may pose a threat to public health and safety. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas: landslide hazard areas, seismic hazard areas, and erosion hazard areas.*

Answer: Per City of Mercer Island GIS Mapped Hazards, the eastern portion of the site is within an erosion and potential landslide hazard area.

B. General review requirements*. Alteration within geologically hazardous areas or associated buffers is required to meet the standards in this section, unless the scope of work is exempt pursuant to section 19.07.120, exemptions, or a critical area review 1 approval has been obtained pursuant to section 19.07.090(A).*

Answer: Scope of work is not exempt from this section.

1. *When an alteration within a landslide hazard area, seismic hazard area or buffer associated with those hazards is proposed, the applicant must submit a critical area study concluding that the proposal can effectively mitigate risks of the hazard. The study shall recommend appropriate design and development measures to mitigate such hazards. The code official may waive the requirement for a critical area study and the requirements of subsections (B)(2) and (B)(3) of this section when he or she determines that the proposed development is minor in nature and will not increase the risk of landslide, erosion, or harm from seismic activity, or that the development site does not meet the definition of a geologically hazardous area.*

Answer: A critical area study has been prepared by Cobalt Geosciences LLC, licensed Geotech dated 08/22/2023.

2. *Alteration of landslide hazard areas and seismic hazard areas and associated buffers may occur if the critical area study documents find that the proposed alteration:*

a. *Will not adversely impact other critical areas;*

Answer: Per Geotech report pages #2-3, section “Statement of Risk” - “This proposed development can be completed without adversely affecting geologic hazards near or within the site.”

b. *Will not adversely impact the subject property or adjacent properties;*

Answer: Per Geotech report pages #2-3, section “Statement of Risk” - “This proposed development can be completed without adversely affecting geologic hazards near or within the site.”

c. *Will mitigate impacts to the geologically hazardous area consistent with best available science to the maximum extent reasonably possible such that the site is determined to be safe; and*

d. *Includes the landscaping of all disturbed areas outside of building footprints and installation of hardscape prior to final inspection.*

Answer: Per Geotech page #4, section “General” - “The risk of landslide activity or severe erosion at the site is low to very low. Provided typical temporary erosion control measures are in place during construction and all areas are resurfaced with mulches/bark/compost and plantings or other landscaping, the risk of these hazards will remain low to very low.”

3. *Alteration of landslide hazard areas, seismic hazard areas and associated buffers may occur if the conditions listed in subsection (B)(2) of this section are satisfied and the geotechnical professional provides a statement of risk matching one of the following:*

a. *An evaluation of site-specific subsurface conditions demonstrates that the proposed development is not located in a landslide hazard area or seismic hazard area;*

b. *The landslide hazard area or seismic hazard area will be modified or the development has been designed so that the risk to the site and adjacent property is eliminated or mitigated such that the site is determined to be safe;*

c. *Construction practices are proposed for the alteration that would render the development as safe as if it were not located in a geologically hazardous area and do not adversely impact adjacent properties; or*

d. *The development is so minor as not to pose a threat to the public health, safety and welfare.*

Answer: Per Geotech Report dated 08/22/23, Cobalt Geosciences LLC. Refer to pages #2-3, section “Statement of Risk.” - “The project meets the criteria of c from above. Proper use of erosion control measures and permanent landscaping will result in a condition as if the development is not within a geologic hazard area. This proposed development can be completed without adversely affecting geologic hazards near or within the site.”

C. Development standards—Landslide hazard areas. *Development is allowed within landslide hazard areas and associated buffers, when the following standards are met:*

1. *A critical area study shall be required for any alteration of a landslide hazard area or associated buffer;*

Answer: A critical area study has been prepared by Cobalt Geosciences LLC, licensed Geotech dated 08/22/2023. Landslide hazard buffers have not been identified as applicable to the site.

2. *Buffers shall be applied as follows. When more than one condition applies to a site, the largest buffer shall be applied:*

Answer: Not applicable.

a. *Steep slopes. Buffer widths shall be equal to the height of a steep slope, but not more than 75 feet, and applied to the top and toe of slopes;*

Answer: Not applicable.

b. *Shallow landslide hazard areas shall have minimum 25-foot buffers applied in all directions; and*

Answer: Not applicable.

c. *Deep-seated landslide hazard areas shall have 75-foot buffers applied in all directions.*

Answer: Not applicable.

E. Development standards—Erosion hazard areas.

1. *All development proposals shall demonstrate compliance with chapter 15.09, storm water management program.*

Answer: The proposal is compliant with chapter 15.09. The development scope does not meet the definition of a small project that triggers the small project stormwater minimum requirements #1-5. The description of such developments is listed in subsection 15.09.050 (A)(1)(a-c):

"a. Result in 2,000 square feet, or greater, of new plus replaced hard surface area; or b. Have a land disturbing activity of 7,000 square feet or greater; or c. Result in a net increase of impervious surface of 500 square feet or greater."
Refer to sheet A100.4 "Stormwater Calculations" of the application plan set. This plan shows the calculation for the new plus replaced hard surface area, the total is less than 2,000 sf and the net increase of impervious surface is less than 500 sf. This plan also shows that the land-disturbing activity is less than 7,000 sf.

2. *No development or activity within an erosion hazard area may create a net increase in geological instability on or off site.*

Answer: Refer to Geotech Report pages #2-3, section "Statement of Risk" - "This proposed development can be completed without adversely affecting geologic hazards near or within the site."
Page #3, section "Erosion Hazard" - "It is our opinion that soil erosion potential at this project site can be reduced through landscaping and surface water runoff control."

F. Development standards—Additional criteria for specific activities.

MICC 19.07.160(F)(1) Trail building within geologically hazardous areas:

Answer: Not applicable

2. *Land clearing, grading, filling, and foundation work within: (a) an erosion hazard area, when 2,000 square feet or more of site disturbance is proposed, and/or (b) a landslide hazard area are not permitted between October 1 and April 1.*

a. *The code official may grant a waiver to this seasonal development limitation if the applicant provides a critical area study for the site concluding that:*

i. *Geotechnical slope stability concerns, erosion and sedimentation impacts can be effectively controlled on site consistent with adopted storm water standards; and*

ii. *The proposed construction work will not subject people or property, including areas off site, to an increased risk of associated impacts.*

b. *As a condition of the waiver, the code official may require erosion control measures, restoration plans, an indemnification, a release agreement and/or performance bond.*

c. *If site activities result in erosion impacts or threaten water quality standards, the city may suspend further work on the site and/or require remedial action.*

d. *Failure to comply with the conditions of an approved waiver shall subject the applicant to code compliance pursuant to chapter 6.10, code compliance, including but not limited to civil penalties and permit suspension.*

Answer: The proposal includes less than 2,000 sf of disturbed area within the erosion and landslide hazard area of the site. Refer to sheet A100.4 “Stormwater Calculations” and sheet L101 “Critical Area & Erosion Control” of the application plan set. The proposed addition footprint is 316 sf and the excavation footprint for the foundation work is 557 sf, for a combined site disturbance to the critical area of 873 sf.

It is not yet determined if a seasonal development limitation waiver will be required at the time of this submittal. This may depend on the anticipated approval timeline for the earth disturbance activities. The development will comply with Geotech recommendations. Per Geotech Report page #3, section “Erosion Hazard” - “It is our opinion that soil erosion potential at this project site can be reduced through landscaping and surface water runoff control...Typically, erosion of exposed soils will be most noticeable during periods of rainfall and may be controlled by the use of normal temporary erosion control measures, such as silt fences, hay bales, mulching, control ditches and diversion trenches...Erosion control measures should be in place before the onset of wet weather.”

19.07.170 - Fish and wildlife habitat conservation areas:

Answer: Not applicable

19.07.180 - Watercourses.

Answer: Not applicable

19.07.190 - Wetlands.

Answer: Not applicable