

From: [Alison Van Gorp](#)
To: [Molly McGuire](#)
Subject: FW: Call to discuss a project in my neighborhood
Date: Thursday, November 3, 2022 2:09:49 PM

Below is all of my correspondence with Dan Grove since October.

From: Dan Grove <dan@grove.cx>
Sent: Thursday, November 3, 2022 11:08 AM
To: Alison Van Gorp <alison.vangorp@mercergov.org>
Subject: Re: Call to discuss a project in my neighborhood

Perfect - thank you very much for the quick followup!

On Thu, Nov 3, 2022 at 11:05 AM Alison Van Gorp <alison.vangorp@mercergov.org> wrote:

Molly mentioned receiving a couple of emails from you over the last week. She was meeting with her supervisor yesterday afternoon to discuss this project and determine next steps. She then will be in a position to follow up with you – I think you can expect to hear from her this week.

-Alison

From: Dan Grove <dan@grove.cx>
Sent: Thursday, November 3, 2022 10:18 AM
To: Alison Van Gorp <alison.vangorp@mercergov.org>
Subject: Re: Call to discuss a project in my neighborhood

Hi Alison-

The main reason that I wrote to you is that I have not heard anything from Molly on the materials that were submitted.

I had submitted some additional information to her by email on October 26th, and wrote to get confirmation that she had received it on October 31.

I didn't receive any replies, but will try again.

Thanks for talking with her about this!
Dan

On Thu, Nov 3, 2022, 10:08 AM Alison Van Gorp <alison.vangorp@mercergov.org> wrote:

Hi Dan – I connected with Molly McGuire yesterday, who is actually doing the land use review for this project. I understand you have been in touch with her recently as well. She is your best contact for technical questions of this nature as she is the one evaluating the plans and other

materials submitted by the applicant.

I believe Molly was planning to follow up with a response to your questions, below.

Thanks,
Alison

From: Dan Grove <dan@grove.cx>
Sent: Wednesday, November 2, 2022 8:24 AM
To: Alison Van Gorp <alison.vangorp@mercergov.org>
Subject: Re: Call to discuss a project in my neighborhood

Hi Alison-

I would love to touch base with you to understand how the information that was submitted on existing grade is being used, and whether any clarification is needed.

Do you know if enough has been evaluated to make a call useful? If so, do you have time for a call this week?

Thank you,
Dan Grove

On Tue, Oct 11, 2022 at 4:46 PM Dan Grove <dan@grove.cx> wrote:

On Tue, Oct 11, 2022, 4:42 PM Alison Van Gorp <alison.vangorp@mercergov.org> wrote:

Hi Dan – the land use planner will analyze the site characteristics and verify all of the calculations on the site development worksheet (completed by the applicant), including the calculation of average building elevation, maximum building height, gross floor area, lot coverage, etc. See here for details:

https://www.mercerisland.gov/sites/default/files/fileattachments/community_planning_a mp_development/page/1791/sitedevelopmentworksheet.pdf

The existing grade is determined from reviewing a combination of data sources, including the survey submitted by the applicant, the [City's GIS data](#) (including topographic contours established by satellite lidar), as well as any other data sources that may be available for given site (such as additional surveys, etc).

Thanks Alison - I will keep an eye out for updates on this.

A great deal of data was submitted on this topic, and this will be something that we watch closely. I will aim to set up some time with you once we are closer to November 8.

I really appreciate the information you've provided!

Dan

-Alison

From: Dan Grove <dan@grove.cx>
Sent: Tuesday, October 11, 2022 7:45 AM
To: Alison Van Gorp <alison.vangorp@mercergov.org>
Subject: Re: Call to discuss a project in my neighborhood

Thanks very much for getting back to me, Alison (and I am sure there is a lot to process early in the process here).

At this point, I just have one area of questions:

- There are significant questions about the existing grade of the site (which I'm guessing may be an unusual aspect of this permit request)
 1. Who determines the official existing grade?
 2. What is the process for determining this?

Thank you very much!

Dan

On Mon, Oct 10, 2022, 4:15 PM Alison Van Gorp <alison.vangorp@mercergov.org> wrote:

Hi Dan – I've touched base with a few other staff members to learn more about this permit application (#2207-019). I also see the many comment letters that you and others have submitted. City plan review staff are just getting ready to begin reviewing the permit documents. Our plan review process includes review of the permit documents by a land use planner, the City Arborist, a civil engineer, a structural engineer as well as the Fire Marshall. I see that a Geotech report has been submitted as a part of the application package – this report will also be routed for peer review by a geotechnical engineer. The comment letters that have been submitted will also be considered as a part of the City's review.

Before scheduling a meeting, I would like to allow our plan review team the time they need to understand the proposed plans and make determinations about next steps in the review process. Once the plan review team has finished their initial reviews, we will

have a better understanding of the proposed project and be at a point where there's more information to share. The target date for the City's review to be complete is November 8. Can we tentatively plan to touch base around that time? In the meantime, if specific questions come up, feel free to reach out.

Thanks,
Alison

From: Dan Grove <dan@grove.cx>
Sent: Thursday, October 6, 2022 7:31 PM
To: Alison Van Gorp <alison.vangorp@mercergov.org>
Subject: Call to discuss a project in my neighborhood

Hello Alison-

A project proposed in my neighborhood (at 6950 SE Maker) is of great concern to me and my neighbors. We have filed extensive comments on violations of city code, and we would like to set up a call with you in your role as ombudsperson to understand process from here. Would that be possible?

Thanks!
Dan Grove

Dear Ms. McGuire:

I'm writing to provide additional input on Mercer Island Permit Application 2207-019's recent [submission response memo](#) (SUB2) and corresponding revised [plans](#). On October 25, 2022, I and my attorney, Zach Davison, submitted comments during the public comment period on the initial plan set. This letter supplements those comments in response to the revised plans submitted by the applicant on March 1, 2023.

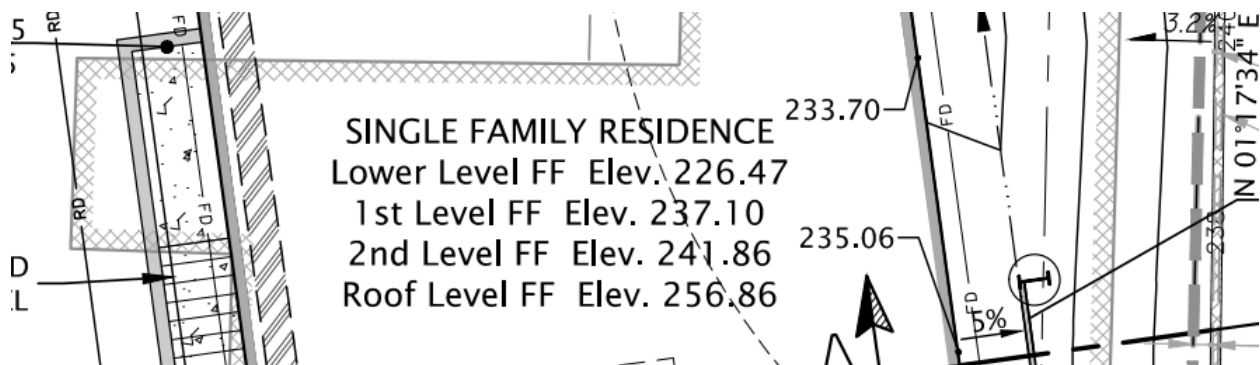
The revised plans cannot be fully understood due to numerous errors and omissions, but I will try to respond to the more glaring points in SUB2 as best I can. In light of these deficiencies, I cannot address all of the points in the response memo in this letter, and reserve the right to show further noncompliance with MICC later in the process.

1. Elevations shown in the revised plans are incomplete and contradictory

As an example of these errors and omissions, elevations shown in the plan are both incomplete and contradictory.

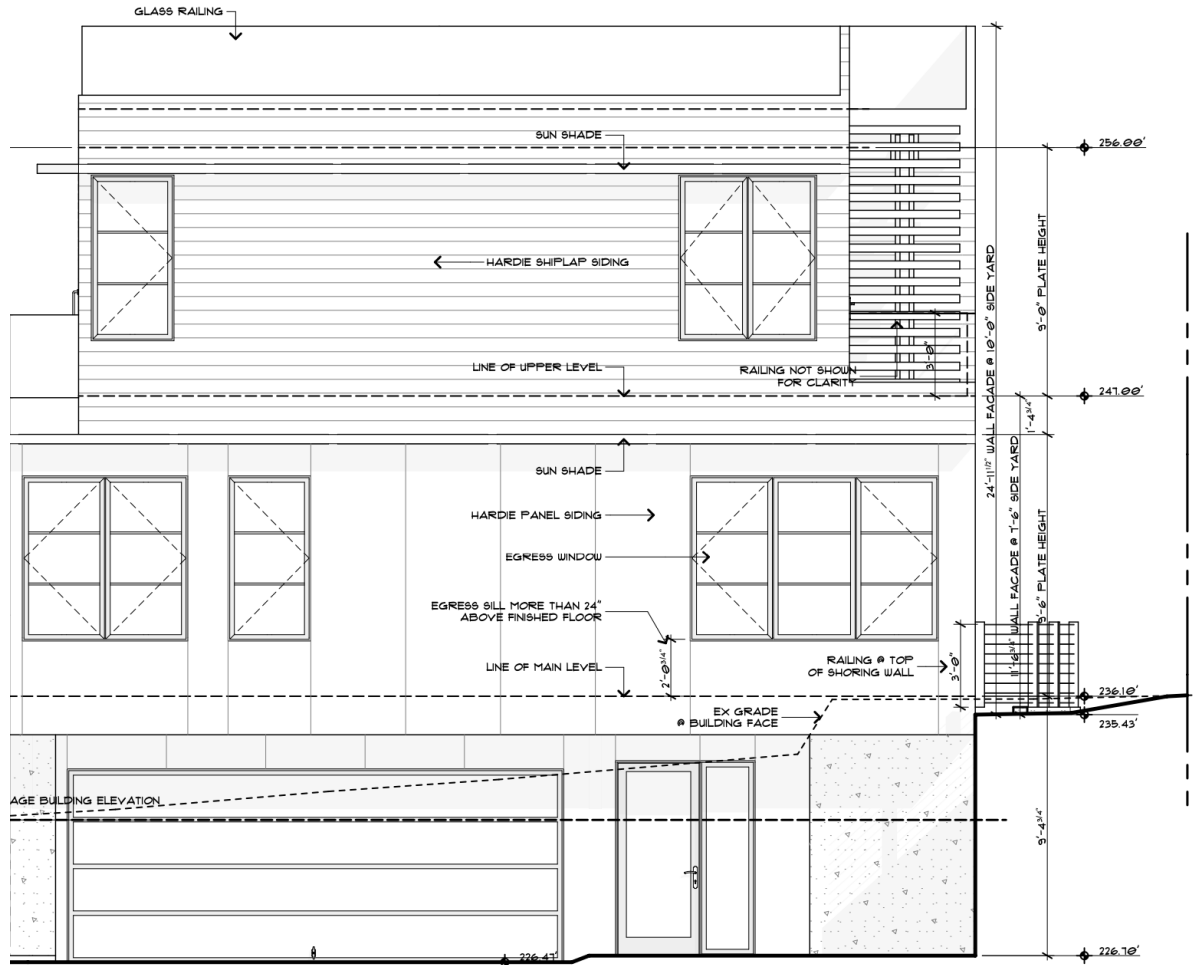
The diagram on Sheet C-2 (below) shows:

- Lower level FF of 226.47'
- 1st level FF of 237.10'
- 2nd level FF of 241.86' (only 4.7' above the 1st level FF)
- Roof level FF of 256.86'



While Sheet A3.1 (below) shows:

- Lower Level FF varies between 226.47' and 226.70' (differs from C-2)
- 1st Level FF of 236.10' (differs by 1.0' from C-2)
- 2nd Level FF of 247.0' (differs by 5.1' from C-2)
- Does not show Roof level FF
- Does not show elevation of the top of the railings.



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2. Comments on Submission Response Memo

In this document, **yellow highlights** are taken directly from the SUB2 response memo.

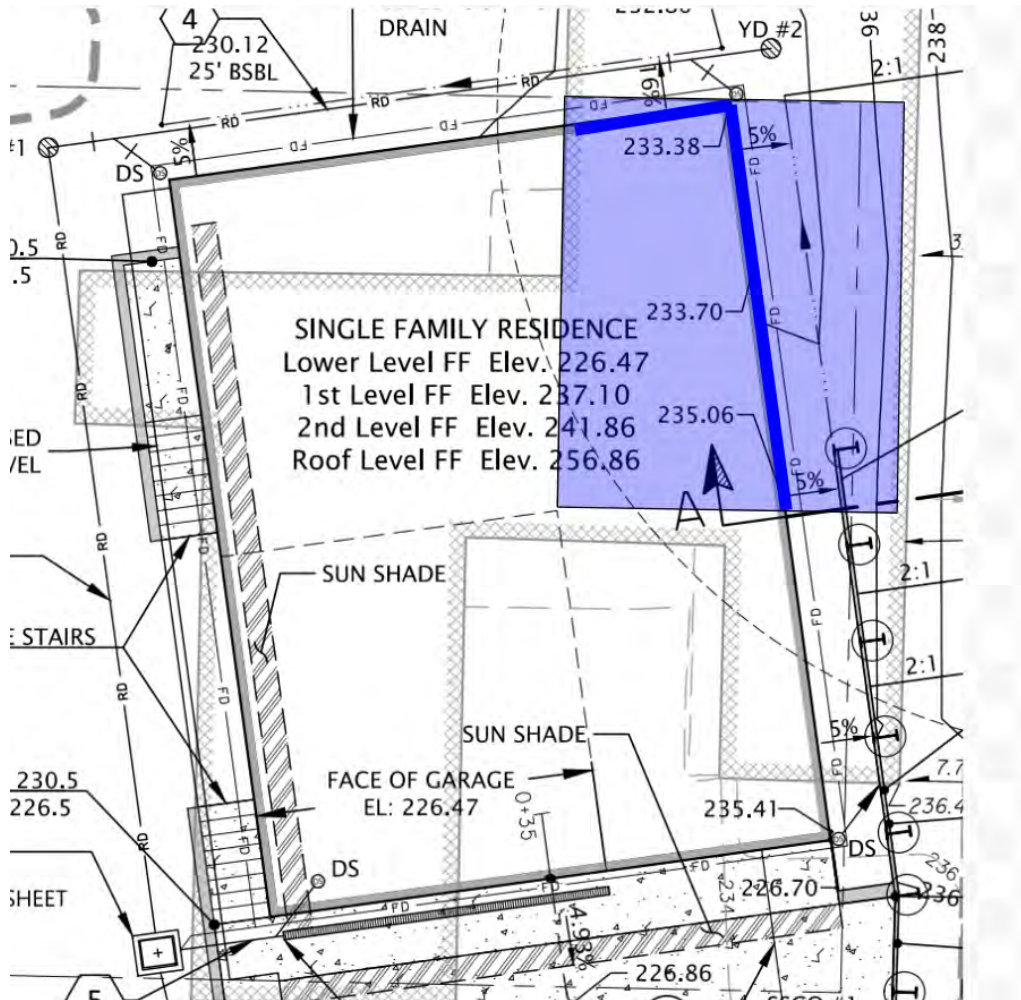
Regarding letter from Elisabeth Green-

We understand the accepted City of Mercer Island interpretation of 'existing grade' is "the grade of the lot as it currently sits" more specifically the surveyed grade prior to start of this proposed project (5/27/2021).

This contradicts MICC 19.02.020(E), as described in original comments from Dan Grove and Zachary Davison.

In addition, the 5/27/21 survey shows that a substantial amount of this project (and its foundation walls) sits within an existing basement that is at a 5/27/21 grade ("2021 Grade") of

228', as shown below (the existing basement at 228' is in light blue, and the proposed foundations that sit on a current grade of 228' are in dark blue).



Regarding the letter from Zachary Davison (through Dan Grove) -

2. The project has been modified and the Gross Floor area Calculations are shown in updated permit response documents showing compliance with Mercer Island Code.

GFA calculations are incorrect. in part, this is because SUB2 computes both Existing Grade and Finished Grade incorrectly.

An elevation-by-elevation review shows the following:

- West elevation:
 - Covered wall surface at Finished Grade shown in gray, uncovered in red. this shows coverage of ~33% based only on Finished Grade. Precise computation requires clear elevations for the ground floor ceiling and Level 1 FF, which are unavailable.
 - Existing Grade is incorrect, as shown earlier.
 - 2021 Grade appears to be correct.
 - Coverage is incorrectly computed.



North Elevation:

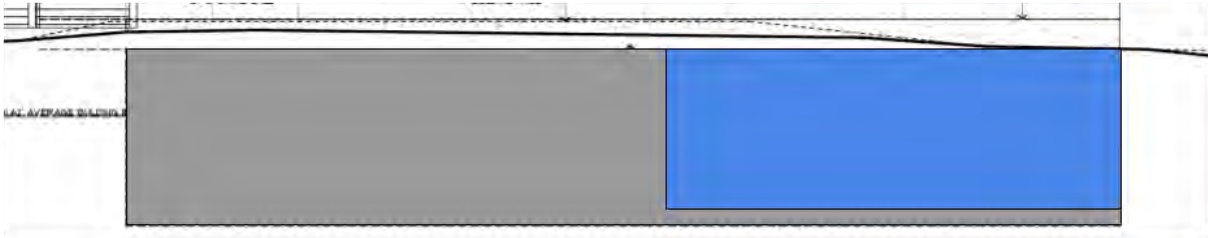
- Finished Grade appears correct.
- Existing Grade is incorrect, as shown earlier.
- 2021 Grade does not match SUB2. The blue area below shows the actual exposed wall in 2021, because part of this wall sits on top of an existing basement.
- Coverage is incorrectly computed.



East Elevation:

- Finished Grade appears correct.
- Existing Grade is incorrect, as shown earlier.
- 2021 Grade does not match SUB2. The blue area below shows the actual exposed wall in 2021, because part of this wall sits on top of an existing basement.

- Coverage is incorrectly computed.



South Elevation:

- Finished Grade appears to be correctly computed.
- Existing Grade is incorrect, as shown earlier.
- 2021 Grade appears to be correct.
- Coverage is correctly computed as 0%.

As a result of these errors, the Basement Exclusion is incorrectly computed. The incorrect Basement Exclusion contributes to errors in the GFA.

Further, additional space allowed for an ADU is incorrectly computed.

The proposed ADU is approximately 600 square feet, with claimed coverage of the basement is 58.2% (as a result, the ADU is only using net ~250 square feet [$\sim 600 * (1 - .582)$] in the design). An accessory dwelling unit may not be used to increase the GFA of the remainder of the proposal (MICC 19.2.020.D.3.b).

3. Average Building Calculations are shown in the updated permit response documents showing compliance with Mercer Island Code.

This is computed incorrectly, as shown in original comments from Dan Grove and Zachary Davison (and others). SUB2 claims the 2021 Grade as the Existing Grade, which is incorrect. SUB2 omits the fact that the northeast portion of the project is built on a grade that was 228' in the 2021 survey.

In addition, as shown above, the Finished Grade is incorrectly computed for the Western Elevation.

4. Maximum Building Height on Downhill Façade is shown on the South Elevation of the updated drawings and is measured at 29'-6" to the top of the wall supporting the roof framing per MICC

SUB2 incorrectly excludes the deck railing and the area at the top of the wall from the Facade Height.

MICC 19.16.010 defines facade as:

Facade: Any exterior wall of a structure, including projections from and attachments to the wall. Projections and attachments include balconies, decks, porches, chimneys, unenclosed corridors and similar projections.

By not correctly using the Existing Grade (which is lower than the Finished Grade), the height of Facade is further incorrectly computed.

Mercer Island City Council's view that rooftop decks are not excluded from height requirements are made clear in this [Council Meeting](#) starting at 1:46:00, which reviewed and rejected proposals to allow rooftop decks to exceed Maximum Building Height limits in 2020.

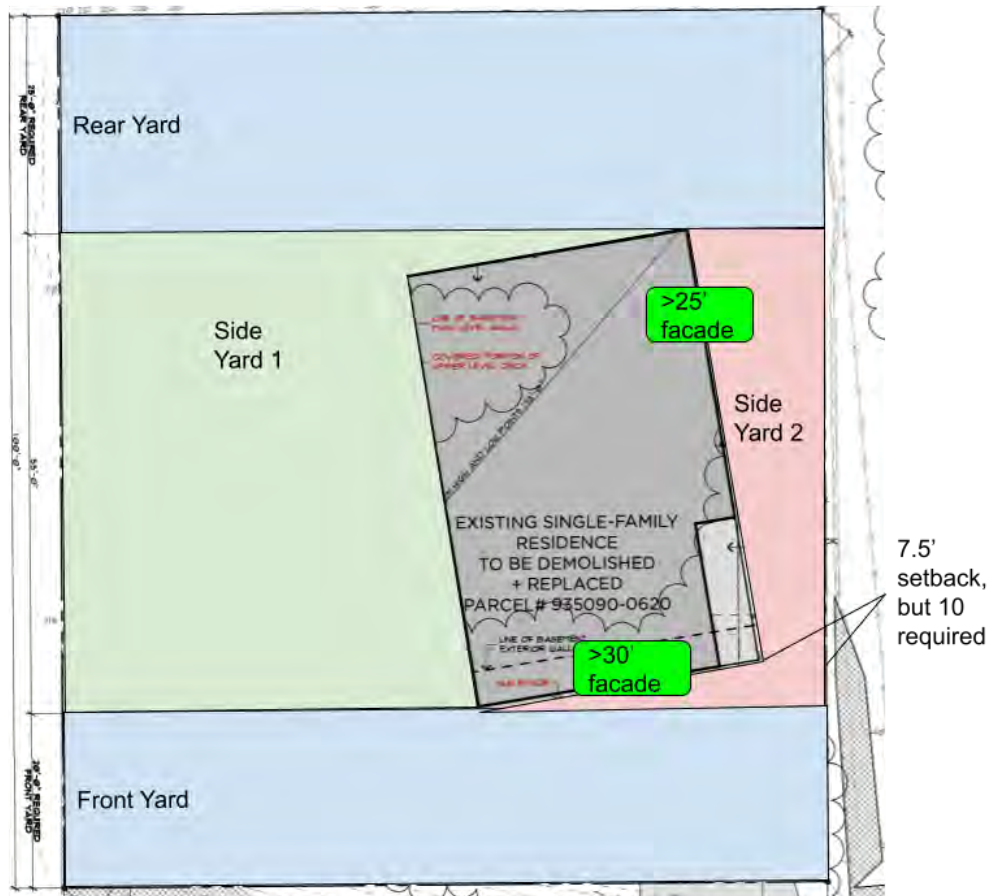
3. Issue Not Addressed in SUB2

The following issue (submitted during public comment period [here](#)) is not addressed in SUB2.

SUB2 also violates MICC 19.2.020.C.1.c.iii - "Single-family dwellings with a height of more than 25 feet measured from the existing or finished grade, whichever is lower, to the top of the exterior wall facade adjoining the side yard shall provide a minimum side yard depth of ten feet."

The ">25" facade shown below is because SUB2 incorrectly computes the "lower of Existing Grade or Finished Grade" on the East side of the structure.

Note that the Southern elevation facade is a facade onto Side Yard 1 (Side Yard 1 has the facades from both the Eastern and Southern Elevations).



Thank you for your careful consideration of these issues.

Dan Grove
 3515 72nd Ave SE
 Mercer Island