



CITY OF MERCER ISLAND

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February 16, 2021

Brad Kaul
Kaul Design Architecture
1733 Ferndale Ave SE
Renton WA 98058
Via Email

RE: DSR20-010 & SEP20-005 Request for Information 1, 7833 SE 28th St--*revised*

Dear Brad,

The City of Mercer Island Community Planning and Development Department has completed a review for compliance with the zoning code, Title 19 of the Mercer Island City Code (MICC) for the above Design Commission Design Review and SEPA Review applications. The following issues need to be addressed before processing of the application can continue:

Planning:

1. Please provide information about the proposed lighting for the store and fuel canopy, documenting how the standards in MICC 19.11.090 are met. These include standards requiring pedestrian-scale light fixtures, the use of LED or similar minimum wattage light sources, the use of light shielding, and limited use of neon lighting.
2. Sheet A2.1 shows a blank wall on the east façade that exceeds the size allowed by MICC 19.11.100(B)(5). Please revised the design to meet this standard. (Note that MICC 19.11.100 encourages transparent facades; adding transparency would be a way to fulfill both code standards.)
3. Please provide information (e.g. in the form of a project narrative) describing how EIFS is high quality and durable, meeting the standards in MICC 19.11.110(B) – Materials and Color. Note that EIFS is specifically called out as an undesired materials in MICC 19.11.110(B)(7).
4. Please document how the parking standard in MICC 19.11.130 are met, even with the addition of new retail area.
5. Please describe the how issues raised in the comment letters from the Department of Ecology and Puget Sound Clean Air Agency will be addressed.

Engineering:

1. Please revise the SEPA Checklist to address the following: First, in answering the questions under Section 7, the Applicant twice cites the Remedial Investigation and Feasibility Study Report that the Washington Pollution Liability Insurance Agency issued on April 20, 2020 (“PLIA Report”), for purposes of describing both any known or possible contamination at the site from present or past uses, and existing hazardous chemicals that might affect project development and design. As related to our comments and questions, the PLIA Report provides in relevant part as follows:

- Defining the Site for purposes of the Model Toxics Control Act as including “the King County tax parcel number 5452300380 and portions of the public right-of-way (ROW) of 80th Ave. SE to the east and to the north, portions of SE 28th Street, and is defined by the nature and extent of contamination associated with petroleum hydrocarbon releases in the soil, groundwater, and vapor,” citing Figures 2-5 (emphasis supplied).
- Similarly, the report describes the site as “includ[ing] portions of the public right of way (ROW) 80th Ave SE to the east and to the north, portions of SE 28th Street and is defined by the nature and extent of the contamination associated with the following release: Total petroleum hydrocarbons in the gasoline, oil and diesel ranges (TPH-g, TPH-o & TPH-d) BTEX and potentially naphthalene and other organics impact into the soil/groundwater/air-vapor,” citing Figures 2-6 (emphasis supplied)
- “Based on the depth to groundwater and the soil type and depth to impact, dewatering and removal of impacted groundwater will likely be needed during excavation and removal of impacted soil to be conducted in conjunction with UST replacement,” citing Figures 2-6 (emphasis supplied).
- at least two of the cited figures (Figures 3 and 4) show that the extent of the groundwater plume impacted by both gasoline and benzene extend well into the City’s right-of-way on both SE 28th Street and 80th Avenue S.E.

Notwithstanding the foregoing, there is nothing in the work description or accompanying Scope of Work submitted with the project application that indicates any intent to remove the impacted soil or the groundwater that the PLIA Report shows extends into the City’s right-of-way. In fact, the Scope of Work states that its price assumes soil is not contaminated and also does not include dewatering. As noted above, however, the PLIA Report advises that dewatering and removal of the impacted groundwater likely need to be done in conjunction with replacement of the USTs, which the project does expressly include. Consequently, the City seeks clarification on whether the applicant intends to carry out the necessary dewatering to remediate impacted groundwater that extends into its right-of-way as a part of the project and, if so, to provide details on how such work would be performed given that it does not appear to be included in the original proposal. Alternatively, if the proposed project does not intend to accomplish dewatering of the impacted groundwater, the City would respectfully request an explanation for the exclusion of such work, in particular if the project is designed to serve as the Independent Remedial Action under MTCA for which the PLIA Report was prepared.

2. Second, SEPA authorizes the imposition of mitigation measures as a condition to approval of project applications under certain circumstances. WAC 197-11-660. For example, SEPA mitigation measures need to relate to specific, adverse environmental impacts attributable to the proposal under review. In addition, before mitigation measures may be imposed,

consideration must be given to whether local, state, or federal requirements and enforcement would mitigate a project's significant impact. That further supports the City's interest in ascertaining whether the proposed project is intended to serve as an independent remedial action under MTCA and whether the Applicant intends to follow the guidance for such an action in the PLIA Report. Finally, the City would like further information and explanation as to whether and how the proposed project may have impacts that intersect with or could exacerbate existing groundwater contamination in its ROW as described in the PLIA Report, and whether the project impacts are wholly segregable from the existing impacted groundwater at the site as defined in that report.

Arborist:

1. Show the required excavation and underground utilities that need to be accessed. The Arborist described excavation to the property line but did not specify the full extent of excavation. It is understood that the full extent of excavation might not be known at this stage of permitting, since the full extent of potential contamination is not yet known. However, information describing the potential impacts to trees is needed as part of design review. Therefore, please show a "worst-case scenario", showing maximum expected excavation and tree removal. Note that the Design Commission is the decision authority approving tree removal in this scenario.
2. In one of the sheets within the plan set, show tree protection as described in the Arborist report recommendations, together with proposed areas of disturbance. According to the Arborist Report, if more than 15% of the tree protection area is proposed be disturbed, then the trees should be shown on the plan set as removed. Please update the plan set to be consistent with the Arborist Report recommendation.
3. Please include a note and/or detail in the plan set showing the existing and proposed soil volume in the planter beds containing trees. There should be no net loss of soil volume.
4. Please provide a replanting plan showing replacement trees, mitigating for trees removed as part of excavation, [MICC 19.10.070](#).

Building

1. No corrections required at Design Commission Design Review/SEPA Review phase, but please note that there will be comments at the building permit phase, including:
 - a. The effective codes will be the 2018 editions (IEBC, IBC, UPC, etc.)
 - b. Complete plans depicting the removal and installation of fuel tanks along with details of new dispensing equipment shall be submitted at the time of building permit application and shall comply with the applicable 2018 codes (plans/specs shall show full scope of work, including equipment listings, tank type and location, emergency shutoff valve and location, rated electrical equipment, fuel piping type and layout, etc.).

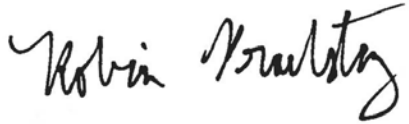
Fire

1. No corrections required at Design Commission Design Review/SEPA Review phase, but please note that there will be comments at the building permit phase. During permit submittal compliance with IFC Chapter 23, and NFPA 30 will be verified. Drawing submitted do not show venting locations or enough detail to review for code compliance at this point. Please verify standards are met prior to permit submittal.

With your resubmittal, please provide a cover letter responding to each of the items above. Please reference page/sheet numbers noting where the requested information can be found. An incomplete resubmittal may delay your project.

The Planning Division's processing of this application is on hold until these issues are resolved. Please do not hesitate to contact me via phone or email if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Robin Proebsting". The signature is written in a cursive, flowing style.

Robin Proebsting, Senior Planner
City of Mercer Island Community Planning and Development
robin.proebsting@mercerisland.gov
(206) 275-7717

Attachments:

1. Comment letter from the Puget Sound Clean Air Agency
2. Comment letter from the Dept. of Ecology