



TO:

City of Mercer Island

Community Planning and Development Department of Construction and Inspections

DATE:

March 9, 2021

SUBJECT:

Request for Information 1, 7833 SE 28th St--revised
Project #DSR20-010 & SEP20-005

Dear Robin Proebsting,

Per the comment letter dated February 16, 2021, below is the response to this comment letter along with the revised and updated plan set.

Robin Proebsting at (206) 275-7717

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.
 - a. A site lighting plan has been provided. See attached. Site lighting consists of recessed fuel canopy lighting and building lighting. The building lighting is small wall packs that are shielded and located at 8'-0" above ground. All lighting is LED. No neon is used.
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. See updated east elevation with increased window area.
4. 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).
 - a. EIFS has had a bad wrap for years. In high traffic areas, the foam can get damaged. Therefore, we are restricting the EIFS to areas above 10' from ground

level. EIFS is a high quality material and is durable especially when outside of high traffic areas.

4. Please document how the parking standard in MICC 19.11.130 are met, even with the addition of new retail area.
 - a. Initially, we designed this space to meet the Mercer Island regulations for 2-3 stalls per 1,000 s.f. This puts us in a range of 3.4-5.1 stalls required. We are providing a total of 14 stalls (see site plan for descriptions and locations). We have also requested a study by Heath Engineers to verify that proper parking has been provided based on their experience. See attached letter from Heath Engineers.

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.

The City's assessment is correct. Dewatering will be required as an element of the cleanup effort. Aspect Consulting is preparing an Interim Cleanup Action Plan on behalf of the applicant to outline the elements and supplemental engineering recommendations to meet environmental cleanup objectives.

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 be related to specific, adverse environmental impacts attributable to the proposal under review. In addition, the City recognizes that, before mitigation measures may be required, consideration must be given as to whether local, state, or federal requirements and enforcement would mitigate an identified significant impact. That further supports the City's interest in ascertaining whether the proposed project is designed to serve as an independent remedial action under MTCA and intends to follow the guidance for such an action as laid out in the PLIA Report. In addition, although the City would not of course impose mitigation under SEPA on the basis of past actions for which the applicant bears no responsibility, at the same time it 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 project impacts are wholly segregable from the existing impacted groundwater at the site as defined in that report.

The proposed project is intended to serve as an independent remedial action under MTCA. More specifically, this remedial action is considered an "interim cleanup action" in the context of MTCA. The extents of soil and groundwater contamination have been defined as described in the PLIA-approved report, with some uncertainty with respect to the precise extent of soil contamination extending under the building and into the ROW.

The objective for the planned interim cleanup action is to remove the USTs and contaminated soil from the source property (to the extent practicable, the existing building may be a limiting factor). Dewatering is anticipated during excavation to facilitate soil removal. Pending soil confirmation sampling results at the property lines following the source removal, it is anticipated that limited soil impacts may remain in the ROW. Groundwater impacts will also likely persist following the source removal on the property. Residual soil or groundwater impacts exceeding MTCA Method A cleanup levels for unrestricted use will require an exposure pathway assessment under MTCA to demonstrate that they do not pose a risk to human health or the environment. Additionally, while we have presently assumed that excavation of the ROW and roadways is impractical given the extensive number of utilities in the ROW and impacts to the local community/economy, a disproportionate cost analysis will be required following the interim cleanup action (if soil and groundwater impacts persist above cleanup levels) to demonstrate that the cost for further cleanup does not provide a proportional benefit versus managing the residual contamination in-place with institutional and/or engineering controls (e.g. an environmental covenant and/or capping). This is all in accordance with MTCA process. The final remedy for the Site will ultimately be detailed in a draft Cleanup Action Plan for PLIA's and the City's review. If soil and groundwater impacts are below cleanup levels following the interim action, then a closure report will be prepared instead. Given this approach, is the City amenable to accepting an environmental covenant for potential residual impacts in the ROW pending the outcome of the source removal activities?

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.
 - a. See demolition site plans which shows the worst case 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.
 - a. See demolition site plan which overlays the tree protection area. It is clear that more than 15% of the tree protection area will be disturbed. We show the trees being removed and replanted.
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.

- a. The existing and proposed soil volume within the plater beds containing the replanted trees will be reconstructed identical to what is currently provided. The only existing trees on site are the street trees to be removed.
4. Please provide a replanting plan showing replacement trees, mitigating for trees removed as part of excavation, MICC 19.10.070.
- a. See the new planting plan. We proposed replanting with similar trees to those being removed.

Have a great day! We appreciate your time and help on this project,

Bradley Kaul, AIA

Principal Architect