

THE MICA PRE-APPLICATION MEETING

March 7, 2016

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I. EXECUTIVE SUMMARY

On February 2, 2016, the Mercer Island Center for the Arts (“MICA”) submitted a Draft SEPA Environmental Checklist at a pre-application meeting. The Draft SEPA Environmental Checklist was the only document MICA submitted at that February 2, 2016, pre-application meeting.¹

A review of the MICA pre-application meeting files and the Draft SEPA Environmental Checklist reveals numerous problematic issues, including: (i) MICA’s apparent failure to schedule and attend a required pre-design meeting, (ii) MICA’s failure to address development and design review at the February 2, 2016, pre-application meeting, (iii) MICA’s failure to submit required development and design review documents at the February 2, 2016, pre-application meeting, (iv) the inaccuracy of the Draft SEPA Environmental Checklist, (v) the incompleteness of the Draft SEPA Environmental Checklist, (vi) MICA’s failure to comply fully with the Growth Management Act, (vii) MICA’s failure to comply fully with the State Environmental Policy Act (“SEPA”), and (viii) MICA’s failure to comply fully with the Mercer Island City Code.

II. REVIEW OF THE PROPOSED MICA CENTER FOR THE ARTS

A. Required Town Center Development And Design Standards Review

The planning and permitting processes for the proposed MICA Center for the Arts (“MICA Center”) require MICA to comply with, among other things, Chapter 19.11 MICC, Town Center Development and Design Standards. See Mercer Island City Code (“MICC”) 19.05.010(C).

B. Required Pre-Design Meeting

MICC 19.05.040(F)(2)(b)(i) provides that: “A predesign meeting must be scheduled with staff from the development services group (DSG) prior to formal project development and application.” See Exhibit 1.

It appears² that MICA failed to comply with the requirements of MICC 19.05.040(F)(2)(b)(i).

¹ See Exhibit 3 and Exhibit 4.

² Because Mercer Island is in possession of the relevant information, only Mercer Island can confirm this statement to an absolute certainty.

C. February 2, 2016, MICA Pre-Application Meeting

On February 2, 2016, MICA attended a pre-application meeting with Mercer Island. The only document MICA submitted at that February 2, 2016, pre-application meeting was a “Draft SEPA Environmental Checklist.” See Exhibit 3 and Exhibit 4.

D. Environmental Review And Project Review Must Be Combined

Local project review under the Growth Management Act requires Mercer Island to “[c]ombine the environmental review process, both procedural and substantive, with the procedure for review of project permits.” (bold added). See RCW 36.70.B.050(1).

SEPA requires Mercer Island to “[i]ntegrate the requirements of SEPA with existing agency planning and licensing procedures and practices, so that such **procedures run concurrently rather than consecutively**.” (bold added). See WAC 197-11-030(2)(d).

It appears³ that MICA failed to comply with the requirements of RCW 36.70.B.050(1) and WAC 197-11-030(2)(d) by not addressing the Town Center Development and Design Standards at the February 2, 2016, pre-application meeting. See Exhibit 3 and Exhibit 4.

E. Required Pre-Application Meeting

MICC 19.05.040(F)(2)(c)(i) provides that: “A complete application on forms provided by the development services group (DSG) and **all materials pertaining to the project shall be submitted at a formal preapplication meeting with DSG staff**.” (bold added). See Exhibit 1.

It appears⁴ that MICA failed to comply with MICC 19.05.040(F)(2)(c)(i) by not addressing the Town Center Development and Design Standards at the February 2, 2016, pre-application meeting. See Exhibit 3 and Exhibit 4.

F. Required Pre-Application Meeting Materials

Some of the materials that must be submitted at the required pre-application meeting are:

1. Site survey
2. Vicinity maps
3. Site plans
4. Architectural plans—including elevations, sections, roof plans
5. Renderings and/or models
6. Landscaping plan
7. Tree plan
8. Parking plan

³ *Id.*

⁴ *Id.*

9. Photographic examples of colors and materials of the proposed project
10. Site photographs of the existing condition
11. SEPA checklist
12. Traffic study
13. Pedestrian and vehicle circulation plans.
14. Written narrative describing the project proposal and detailing how the project is meeting the applicable design objectives and standards established in Mercer Island City Code 19.11 or 19.12
15. Submittal of lighting and sign master plans may be deferred to final design review.
16. All other information deemed necessary by DSG staff to determine if the proposal complies with Mercer Island City Code

See Exhibit 2. See also MICC 19.05.040(F)(2)(c)(i).

It appears⁵ that MICA failed to submit the materials required by MICC 19.05.040(F)(2)(c)(i) at the February 2, 2016, pre-application meeting. See Exhibit 3 and Exhibit 4. Compare Exhibit 2 with Exhibit 4.

G. Draft SEPA Environmental Checklist

1. Unlawful Parking Proposal

Attachment G to the Draft SEPA Environmental Checklist proposes parking that fails to acknowledge let alone comply with MICC 19.05.010(D) and MICC 19.05.020(B)(4).

2. Omission Of Material Documents

The Draft SEPA Environmental Checklist did not attach important documents such as a Transportation Impact Study and Architectural Plans. See Exhibit 4. Compare Exhibit 2 with Exhibit 4.

3. Evasive Responses

The Draft SEPA Environmental Checklist is evasive and disingenuous.

For example, when asked to describe the “total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.” the Draft SEPA Environmental Checklist provides the following responses: (i) “Excavation: *Will be required at hillside (cubic yards tbd by civil)*” and (ii) “Fill: *Some fill will be used to shape grade below the first floor. (cubic yards tbd by civil; fill source by contractor).*” See Exhibit 4, page 6, at Section B(1)(e). (italics in the original).

⁵ *Id.*

By way of another example, when asked “how many additional parking spaces ... the completed project [would] have,” the Draft SEPA Environmental Checklist provides the following response: “There will be accessible parking available on SE 32nd Street.” See Exhibit 4, page 17, at Section B(14)(d). This response fails to acknowledge let alone address the requirements of MICC 19.05.010(D) and MICC 19.05.020(B)(4).

4. Incorrect Documents

The Draft SEPA Environmental Checklist attached the following eight documents:

1. Attachment A – “Proposed Lease Boundary”
2. Attachment B – “Proposed Building Footprint”
3. Attachment C – Hart Crowser “Geotechnical Engineering Design Report”
4. Attachment D – Hart Crowser “Supplemental Memorandum.”
5. Attachment E – “Wetland Delineation Report”
6. Attachment F – “Conceptual Mitigation Plan”
7. Attachment G – “Parking and Access Sketch”
8. Attachment H – “Phase 1 Environmental Review”

Of the eight documents attached to the Draft SEPA Environmental Checklist, the following five documents did not address the proposed current site but addressed the proposed old site:

1. Attachment C – Hart Crowser “Geotechnical Engineering Design Report”
2. Attachment D – Hart Crowser “Supplemental Memorandum”
3. Attachment E – “Wetland Delineation Report”
4. Attachment F – “Conceptual Mitigation Plan.”
5. Attachment G – “Parking and Access Sketch”

See Exhibit 4.

III. CONCLUSION

The February 2, 2016, pre-application meeting and the Draft SEPA Environmental Checklist exemplify a lack of good faith and impede any meaningful review (environmental or otherwise) of the proposed MICA Center.

IV. LIST OF EXHIBITS

1	Design Commission Process (Highlighted)
2	Submittal Checklist For Design Review
3	February 29, 2016 – E-Mail From City Clerk (Highlighted)
4	February 2, 2016 – Draft SEPA Environmental Checklist