August 22, 2016

Scott Greenberg
Development Services Group Director
9611 SE Street
Mercer Island, WA 98040

RE: MICA SEPA Checklist Comments

Dear Mr. Greenberg

arts theatre. Based on Concerned Citizens for Mercer Island Parks' (CCMIP) review of these the following reasons: documents, we request that the City withdraw the Determination of Non-significance (DNS) for documents, along with the proposed zoning code amendment for MICA's proposed performance Thank you for the opportunity to comment on the SEPA Checklist and associated environmental

The DNS issuance failed to follow the SEPA procedures for notification

performing arts building may result in probable significant adverse environmental impacts. on key potential environmental impacts and subsequent mitigation measures, the proposed The DNS was procured by lack of material disclosure. With the lack of relevant information

Code (WAC) pursuant to the City's Municipal Code Chapter 19.07.120 Environment Procedures. withdraw the DNS. Please note that we include references to the Washington Administrative The sections below provide detailed information that explains why we request that the City

DNS Issuance Failed to Follow SEPA Procedures

a result of implementation of the proposal, and shall give notice under WAC 197-11-510." tribes, and each local agency or political subdivision whose public services would be changed as environmental checklist to agencies with jurisdiction, the department of ecology, and affected WAC 197-11-340 (2)(b) states that "The responsible official shall send the DNS and

- 0 The City used MICA's mailing list (Exhibit 1) and it does not include the Department of their review and approval. other county and state agencies that should have been notified because MICA will need Fish and Wildlife or another agency, which has jurisdiction over wetlands. There may be
- 0 the development of the City. Please see: of Mercer Island's history describes how Native Americans played an important role in covered Mercer Island and includes Snoqualmie Tribe and Muckleshoot Tribes. A review The affected tribes were not notified. The Treaty of Point Elliott January 22, 1855

http://www.historylink.org/index.cfm?DisplayPage=output.cfm&file_id=3723

group or agency who has requested notice." inform the public," furthermore, examples include (g) Mailing or emailing notice to any person, According to WAC 197 197-11-510 (1), "the lead agency must use reasonable methods to

- notified by the City upon issuance of the SEPA DNS for MICA. Yet, Mr. Zwingle did On multiple occasions Carv Zwingle contacted the City Clerk and requested to be resulted in losing a few precious days to review the environmental documents. not receive the DNS Notice and had to contact the City Clerk to receive a copy. This
- . Overall, the MICA proposal to convert nearly one acre of wooded open space has been the SEPA DNS individuals and groups, including CCMIP, as part of a mailing distribution list to receive controversy, it seems reasonable that the City should have kept a list of interested community members considered the Preserve our Open Space petition. Given this extremely controversial for the City. There were extensive and heated discussions as the
- CCMIP, a grassroots group that was created to encourage public dialogue about MICA's performing arts building proposal, was not notified of the SEPA DNS. Members of given 12 days to respond to this proposal. precious days to review the documents. Instead of the 14 day-comment period, we were CCMIP had to contact the City Clerk for copies of the appropriated documents. We lost

serious flaw in the environmental process. period and without notifying the public, including CCMIP who has interest in the proposal, is a materials in the middle of our analysis. Revising the SEPA documents during the comment commented on the complete document given adequate time to do so and not changing the not. Consequently, we have selected some of the items on which to comment but could have documents with the original documents, but determined that some were different and others were documents only through conversation with city officials. CCMIP members compared the revised documents were revised, including the Checklist. CCMIP members found out about the revised revised 7 days later. The city's SEPA website did not announce to the public that several Moreover, after the SEPA DNS and supporting were issued, several of the documents were

The DNS Procured by Lack of Material Disclosure

Mercerdale Park for a private development. and data to support the sequestration of an acre, and in all likelihood, more than an acre of letter, we believe it is the tip of an iceberg of inadequate study, analysis, and providing the facts MICA in its Environmental Checklist. While only *** items are highlighted in this comment The response below is a partial consideration of the challenges posed by inadequate analysis of

Section A(10) asks for a list of any government approvals or permits that will be needed for that there will be impacts to wetlands, other agencies are involved. Please complete the your proposal. In response, only permits and approvals from the City were provided. Given Checklist by listing all required permits and approvals, along with appropriate mitigation

measures.

- 2 sliding on the structure. develop a landscape design around the building that restores and keep the hillside from and mitigated to reduce or control erosion - both during construction and operations. Please the potential impacts and recommends mitigation measures. Only a comprehensive Critical evaluates the project sites' sensitive nature including the slope, soils, wetlands, etc, assesses agents. Please also include information provided by the City at the website edge is subject to a severe risk of erosion due to wind, rain, water, slope and other natural earthquake-induced ground shaking, slope failure, settlement, soil liquefaction or surface identified the entire project site as a "high potential for seismically induced ground failures." Section B(1) asks for information about the conditions of soils and slopes. Please add to the Areas Report will provide the adequate information in order for the project to be designed WAC 365-190-080 4d and MICC 19.16.010. Please prepare a "Critical Areas Report" that faulting (http://www.mercergov.org/files/SeismicHazard2009.pdf). Further information Seismic Hazard areas are those areas subject to severe risk of damage as a result of Checklist the existing information about Seismic Hazard Areas MICC 19.16.010., which http://www.mercergov.org/files/ErosionHazard2009.pdf along with Landslide Hazard Areas, Erosion Hazard Areas MICC 19.16.010, where a portion of the site along the west
- \mathcal{S} location. This amount of soil would typically be hauled by truck. If 10-yard trucks are used add approximately 1300 cubic yards of fill to be brought to the site from an off island streets? What is the environmental impact of the truck emissions? Further, the project would removal and replacement? What is the impact on traffic and what is the impact on our are typical for use on city streets) what is the environmental impact of this excavation, amount of soil would typically be hauled away by truck. If 10 yard trucks are used (which Section B(1)(e) describes that approximately 2000 cubic yards of soil will be removed. The impact on our streets? What is the environmental impact of the truck emissions? Checklist missed to disclose environmental impact of removing this amount of soil. This (which are typical for use on city streets), what is the impact on traffic and what is the
- 4 dust, automobile, odors, industrial wood smoke) during construction and when the project is what is the plan by MICA to mitigate these emissions consistent with emissions guidelines. is needed in order to evaluate the impact on the City of Mercer Island and given that impact, quantify these emissions. This is inadequate and a gross generalization. More precise detail response purports that "typical emissions" during construction, but fails to identify or completed? If any, generally describe and give approximate quantities if known." Section B(2)(a) asks "What types of emissions to the air would result from the proposal (i.e.,
- S here "None needed" is also inadequate and appears to be an effort to brush aside these impacts to air, if any"? Given, the lack of tangible response to Section B(2)(a) the response Section B(2)(c) asks what the "Proposed measures to reduce or control emissions of other
- 6. site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, Section B(3)(a) asks "Is there any surface water body on or in the immediate vicinity of the

not there is a spring on the project site, as illustrated by the City's information resource. mitigation would be provided for the encroachment of this wetland. Moreover, The City of and believe the evidence does not support that "the proposed project meets the intent of both not acknowledging the importance of the wetlands. We disagree with the conclusion of WC to be partially located within a small area of wetland", and then goes on to make a case for describe type and provide names. If appropriate, state what stream or river it flows into." project site, which is not identified in the WC Report. MICA needs to research whether or Mercer Island GIS critical areas map shows that there is a spring on the north end of the MICC 19.07.030.A13 and 19.07.080.D. No evidence is provided regarding what on-site Watershed Company (WC) provides a response saying that "...the center is currently planned Delineation Report, Mercer Island Center for the Arts. The Watershed Company." The MICA responded that "wetlands are in the vicinity, as described in Attachment E. Wetland

7. addressed. It seems to indicate that there will be 3,000 square feet of wetland creation and Section B(3)(d) requires "Proposed measures to reduce or control surface ground and runoff parkland while at the same time expanding the amount of land needed for MICA. MICA area is being expanded by at least 25% and if so, it has reduced the amount of prepared by the WC. Water from impervious surfaces will be handled per item C.1. above." addressed in Attachment F: Mercer Island Center for the Arts Conceptual Mitigation Plan, minimize impacts to the existing vegetation. Wetland mitigation for buffer reduction is will be intercepted by the proposed swale that will be strategically graded into the hillside to water impacts, if any:" MICA's response to this issue is that "Surface runoff from the hillside 10,458 sq. ft. of buffer restoration. If this is true then it appears that the footprint for the We find Attachment F unclear in clarifying how wetland mitigation for buffer reduction is

that the Department of Army Corps of Engineers guidelines be used as a basis for context in where will it be located? Is this then a further expansion of the MICA footprint. We suggest water before discharge into a proposed detention vault" is confusing. What bioretention area explaining the proposed mitigation plan. is being referred to here and what is the proposed detention vault, what will be its size and Moreover, when referring back to item C.1., the definition of the "bioretention area to treat

- 00 section of the park. been seen in all of the parks that deer should be considered as one of the animals in this small mammal species are likely to be on the site". We suggest that given that deer have site or are known to be near the site:" MICA's response is that there are "typical bird and Section B(5)(a) asks: "State any birds and animals which have been observed on or near the
- 9 survival as wildlife habitat conservation areas the City designates those areas used by these species for nesting, breeding, feeding and endangered or threatened non-aquatic wildlife species known to inhabit Mercer Island and site. The response is that there are "None known" Please refer to the City's 19.07.090 Section B(5)(b) asks: "List any threatened or endangered species known to be on or near the Wildlife habitat conservation areas. According to the City, bald eagles are the only

The US Fish and Wildlife department of Ecology has specific guidelines for management of https://www.fws.gov/northeast/ecologicalservices/eagleguidelines/constructionnesting.html

claim of "None known" wild life, specifically Bald eagles. We believe that additional study is required to verify this

Section B(8) asks for information regarding land use. The proposed lease boundary fails to the detention pond? add a drawing that identifies the temporary construction easements. And, who will maintain associated pipes will require additional land area that is outside the current lease line. Please an existing Mercerdale hillside as mitigation site. Also, the design for the detention vault and acknowledge that the actual land disturbed is larger than proposed. The project will disturb

In terms of allowing the performing arts as an allowed use under Public Institution – and only on Mercerdale Park. This zoning approach is called "spot zoning" and we question whether Public Institution zones equally. zones. The environmental review would have to be done on all such zones and treat all a Public Institution zone, the City would have to allow such use on all Public Institution this is legal or not. To appropriate evaluate the environmental impacts of allowing theatres in

from such action? It's not currently addressed or acknowledged As directed by the City, a short plat is required. What environmental impacts could result

11. Section B(10)(b), asks "What views in the immediate vicinity would be altered or structure will dominate Mercerdale Park. We request a more realistic visualization, showing of a football field, with heavily glazed facades, the views will be very different. This wooded hillside. With MICA built, a three story, 35-foot-tall, building that is close to the size park users, residences living along 78th Ave SE, and commuters in adjacent streets. The obstructed?" MICA's response is that "the building itself will not alter or obstruct any be evaluated by area constituents, as well as the community at large. how the building will actually appear midst the open space and wooded backdrop and that it views of the Mercerdale Hillside will be substantially obstructed. Presently one sees a views," This is disingenuous. This building will alter, obstruct and diminish the view of

removal of trees from the Mercerdale hillside for the MICA development, from both an ecological and aesthetic perspective. is unclear and needs to be clarified. Moreover, what is the evaluation of the impact of the The number of trees of an area is an important attribute. The number of trees to be removed

Section B(11) (a), asks "What type of light or glare will the proposal produce? What time of the normal use of Mercerdale Park. The National Institute of Building sciences has design particularly at night. This would impact the City's Summer Outdoor Movie nights as well as seems reasonable given the purported plans for MICA that it will be busy at all hours and glare of the glaze materials will not degrade the park environment and the neighborhood. It most visible façade will be heavily glazed." If the building is heavily glazed, it seems that it day would it mainly occur?" MICA stated that the building will "not significantly contribute guidelines for visual glare. These guidelines should be used to evaluate glare of the MICA would significantly contribute to glare. An analysis should be undertaken to verify that the to glare." However, MICA's response on B(10) (a) is that "exterior building materials on the

building.

http://c.ymcdn.com/sites/www.nibs.org/resource/resmgr/LVDC/design_guideline_visual_env

13. Section B(12)(b) asks: "Would the proposed project displace any existing recreational uses? join with other elements of this document in challenging the feasibility of MICA. years, this could impact use of Mercerdale Park. We believe that all three of these concerns unavailable and for how long? Given that the projection of construction is presently at 7 construction." that "Bicentennial Park will be removed. Part of what was once referred to as the native established in 1976 to commemorate the bicentennial celebration of the nation. MICA states Part of Mercerdale Park will be unavailable for use. How much of the park will be plant garden will be removed. A portion of the park will be unavailable during If so, describe." The MICA project will remove Bicentennial Park. Bicentennial Park was Bicentennial Park and the native plant garden are being sacrificed for MICA

and open space and 2) Rehabilitate pedestrian trails in all city parks. space inventory is a significant impact that warrant mitigation. CCMIP recommends the construction, the final converted parklands would likely be more. Reducing the City's open following mitigation measures: 1) Create a new funding program to replace converted parks The proposed building converts nearly one acre of parks and opens space. At the end of

To mitigate for removing the Bicentennial Park, please relocate and reinstall the Bicentennial Park prior to constructing the MICA building

- 14. Section B(13) (b), asks "Generally describe any landmarks or evidence of historic, consultation with DAHP regarding an inadvertent discovery plan that may or may not be Consistent with c B(13)(c), "Proposed measures to reduce or control impacts, if any:" indicates moderate probability for cultural/archaeological resources at the project site. response was "None known". The flagpole celebrating the bicentennial celebration of the archaeological, scientific, or cultural importance known to be on or next to the site. MICA's required during construction, as a mitigation measure. Department of Archaeology and Historic Preservation's (DAHP) predictability model United States is of "cultural importance" to the community. Moreover the Washington State
- 15. private owners. Through independent consultation it was determined that Farmers Insurance Section B(14)(c) asks "How many parking spaces would the completed project have? How many would the project eliminate. MICA's response is that "The project will not eliminate street it appears that this is a show-stopper. likely no off-street parking would be available, and even with the proposed restriping of 77th amendments that impose conditions that are arbitrary, capricious, and onerous. Given that it's questionable that private property owners would agree with the proposed text code was not notified of the plan and had no knowledge of the propose parking plan. It is and nearby private owners." MICA provides no evidence that it has engaged with nearby parking. Parking will be available on nearby streets and through arrangements with MICA

suspect. A serious gap in meeting parking demand for MICA seems evident auditoriums that seat 500 people plus employees and volunteers, the estimate is highly for every 200 square feet. This would mean, based on a building of 34,000 square feet that It appears that the metric being used to determine the number of parking spaces needed is one 170 parking spaces would be needed. Whether this metric is practical given that there are

capacity. parking continues to consume on-street space supply as MI park and ride lot demand is over near streets surveyed. Its presence is likely to consume parking. Commuter (including RPZ) spring break week of April 11-15. A new grocery store, New Seasons, is opening very soon street parking evaluation. What two days was on street parking study done? MIHS was on We have additional serious concerns and questions about the methodology used about the on-On street parking should not be assumed as part of the MICA parking supply.

impacts to commuters, shoppers, and other users of the on-street spaces? supply? Is this allowed by state and City law? If this occurs, how will the City mitigate street parking spaces for MICA if on-street parking demand exceeds on-street parking the suggested Parking Management Plan (PMP) to a TMP. Will the City be reserving onusers to facility in modes other than SOV, e.g. walk, bike, shuttle service, etc. Please change The MICA project needs to have a Transportation Management Plan (TMP) to get MICA

tighter in the Town Center and surrounding streets to meet future MICA parking demand year misleading or false? page 7 of the parking study about the high activity scenario expected to occur only 2 times a Will the MICA facility be rented to other groups when not in use? If so, is the statement on to build its own off-street parking supply. Parking supply (on and off street) will only get parking spaces; if this guarantee cannot be provided (in advance of permitting), MICA needs developments, they must have at least a 30 year agreement guaranteeing the off-street and recommendations. If MICA is meeting its parking demand by sharing parking with other We have additional concerns about the methodology used about off-street parking evaluation

increased need for parking? residents. Where will workers park during construction? How will the City mitigate the Parking during construction is an important concern for the surrounding businesses and

reasons but the absence of a parking solution is indicative. the Mercerdale neighborhood. This proposal does not merit serious consideration for many As a result, there would be spill over parking occurring on adjacent residential streets such as

of the MICA project: the following intersection in its Level-of-Service (LOS) analysis to identify potential impacts Regarding the MICA transportation impact analysis, the evaluation absolutely must include

- North Mercer Way and 77th Avenue SE
- SE 27th Street and 80th Avenue SE

intersections that are forecasted to fail in the near future. [Note: the specific pages of these documents showing intersection LOS analysis can be provided if needed) for the Mercer Island Comprehensive Plan update identify these two intersections as critical Both the Sound Transit East Link Environmental Impact Statement and recent traffic analysis

significant operations impacts by MICA. 28th Avenue and 80th Avenue SE; it is another intersection determined by recent In addition, the MICA intersection LOS analysis should also evaluate the intersection of SE Comprehensive Plan update analysis as an intersection that could experience

transportation engineers and planner to be 3 p.m. to 7 p.m. on weekdays. It should be noted that PM peak period is considered by many, if not all, Puget Sound area

activity and the negative impacts a large performing arts center will contribute to the degradation of Mercer Islander residents' and businesses' mobility and accessibility impacted by the I-90 East Link construction project. There is absolutely no mention of this impact. In 2019, Mercer Island streets in the Town Center/I-90 area will be radically Finally, the MICA transportation impact analysis uses a 2019 horizon for analyzing its future

- 16. Section B(15)(a), asks "Would the project result in an increased need for public services (for people walking at night, there would be the potential for increased need to provide police and about the MICA project and subsequent increases in people activities at night. With increased understanding from the City's Police and Fire chiefs is that they have not been consulted significantly increase the need for public service." MICA's response is inadequate. Our example, fire protection, police protection, health care, schools, other)? If so, generally from the city and the region itself, with attractions such as the Russian musicians and potential fire department staff. There would be more people traveling to the Town Center for the facility. The city will also provide police protection. describe. MICA responded that "Mercer Island Fire Department will provide fire protection potential others. The project does not
- 17. Section B(16)(b) is about utilities and we are concerned about the location and size of that catch basins for water runoff. How will MICA ensure that the design for waster runoff is

and the DNS was procured by lack of material disclosure proposed performance arts theatre. Based on our comments above, we respectfully request that environmental documents, along with the proposed zoning code amendment for MICA's the City withdraw the DNS because the City failed follow the SEPA procedures for notification Again, thank you for the opportunity to comment on the SEPA Checklist and associated

Sincerely,

Yackie Dunbar

protectmiparks@gmail.com Concerned Citizens for Mercer Island Parks

www.protectmiparks..org

Cc: Kari Sand, City Attorney Ali Spitz, City Clerk Scott Greenberg

RECEIVED

AUG 22 2016

CITY OF MERCER ISLAND DEVELOPMENT SERVICE GROUP

EXHIBIT #1

Attachment to

MICA SEPA Checklist Comments

Submitted on

August 22, 2016

by

Jackie Dunbar

Concerned Citizens for Mercer Island Parks

Doris J Rodney D Jane White	Kevin A & Springwater Ro Lucille	Stephen J Peter & Nancy E	Dariush	Alba Christina	George H & Holley Gera	Connie J	Paula L	Pascal	Phillip & Frances	Gholam A & Zohreh	Royce C	Sam S	G A	Kristi L	Debbie	Andra & Celms John	Wenjie & Xiaolan Ye	Samantha L	Kam-Shing	Rosemary Kathlee	Pravinbhai & Pramila P S	Michael E & Cheryl	Ali Hasan & Aisha O Ju	Robert O & Valerie W	Catherine Loyd	*	Field	TaxpayerFirstName
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