



**June 26, 2023**

City of Mercer Island  
Attn: Paul West  
9611 SE 36<sup>th</sup> St  
Mercer Island, WA 98040  
Via: Email

RE: **SHL22-023, SHL22-024, SHL22-025, CAO22-018, SEP22-019** SUB2 Review Letter; 2048 84<sup>th</sup> Ave SE, Mercer Island, WA 98040

Dear Paul West,

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 Shoreline Substantial Development Permit, Shoreline Variance Permit, Shoreline Conditional Use Permit, Critical Areas Ordinance Review Type 2 Permit, and SEPA Threshold Determination applications. The following issues need to be addressed in your resubmission:

Geotech:

1. Review the comments published by Geotechnical Peer Review ([michele.lorilla@mercerisland.gov](mailto:michele.lorilla@mercerisland.gov)) on CAO22-018 SUB2. Prepare responses to each comment and resubmit the application following the instructions below.

Planning:

1. SHL22-025 Shoreline Conditional Use Permit
  - a. The applicant must demonstrate compliance with all applicable sections of the SMP regarding the new hard shoreline stabilization measure, including: MICC 19.13.050(B)(2) *New structures for existing primary structures*, (B)(4) *New structural stabilization measures in support of water-dependent development*, (B)(5) *New structural stabilization measures to protect projects for the restoration of ecological function*, (B)(6), (B)(7), (B)(8) unless the applicant sufficiently demonstrates that any of the above sections do not apply.

## 2. SHL22-024 Shoreline Variance Permit

- a. The above permit must be revised to include only one of the requested variances. Three separate Shoreline Variance Permits must be applied for to include the other three remaining requested variances. Each Shoreline Variance Permit must be a stand-alone permit with their own analysis and demonstration of compliance with WAC 173-27-170 *Review criteria for variance permits*. The applicant must demonstrate extraordinary circumstances for each Shoreline Variance Permit, specific to the requested variance.
- b. DOCK WIDTH VARIANCE
  - i. The current hardship is stated in the application materials as “For the dock structures variance requests, wide decking, a solid wave attenuation float, and wider piles are proposed to protect the structure and its users against higher wave action”. Provide more information on how this is a hardship specifically pertaining to the maximum allowed dock width of 6 feet. The application materials also state that the dock width variance is requested for sufficient access for first responders and providing adequate ADA compliance. Tie these reasonings into the demonstration of hardship. For your reference, the hardship must be specifically related to the property, and is a result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant’s own actions.
  - ii. One of the reasons stated for justifying the requested variance is that the standards for public access docks is more restrictive than residential standards due to the fact that residential docks may be replaced or repaired so that the area, width, or length of the structure is not increased, HOWEVER if structural repair of the residential dock is involved that results in the repair of more than 50% of the structures framing elements, the new dock must comply with additional standards, including width in Table D. This section is for legally nonconforming structures to allow them to maintain legal nonconforming status, and to maintain usability of the dock. Legally nonconforming docks, including public access docks can be repaired and replaced so long as the nonconformity is not increased. If you wish to replace the existing dock as it is, this is a viable option, therefore, the standards for public access docks are NOT more restrictive than the residential dock standards and this cannot be a demonstration that the strict application of the bulk, dimensional or performance standards preclude or significantly interfere with the reasonable use of the property.

c. DOCK GRATING VARIANCE

- i. Provide more specific information for this variance request, and which portion of the standard you are varying from.
- ii. The current hardship is stated in the application materials as “For the dock structures variance requests, wide decking, a solid wave attenuation float, and wider piles are proposed to protect the structure and its users against higher wave action”. Provide more information on the hardship as it pertains to the required grating standard. Refer to the hardship criteria above.
- iii. The application materials state that “The City will work with the design engineer to evaluate the feasibility of adding grating to the structure but prefers to use solid decking as currently proposed”. A Shoreline Variance Permit is to request approval to vary from a specific standard, which results in a specific alternative. This proposal would not be approvable due to the vague proposed alternative.

d. FIXED PIER HEIGHT VARIANCE

- i. The hardship stated in the application materials is that “a variance is being requested due to the unique interface between built and natural environments in this area that currently prohibits public access to the water”. Provide more information on the hardship as it pertains to the minimum fixed pier height requirement. Refer to the hardship criteria above. The reasoning in the narrative also describes the protection of degraded nearshore habitat area. Expand on this reasoning.

e. PILE SPACING AND PILE DIAMETER VARIANCE

- i. The application materials state that “less” distance between piles is requested and “greater” pile diameter is requested. Provide specifics of the spacing and diameter variance requested. Numbers and tables would be helpful here.
- ii. The hardship stated in the application materials is “this requirement presents an undue hardship due to the unique design of the dock to be replaced and the need to reconstruct the dock in a similar manner to support public programs at the park”. Refer to the hardship criteria above. The design of the dock is not a hardship, but geological conditions at the site that require specific pile spacing and diameters may be.

The City’s processing of the Shoreline Substantial Development Permit, Shoreline Variance Permit, Shoreline Conditional Use Permit, Critical Areas Ordinance Review Type 2 Permit, and SEPA Threshold Determination applications have been put on hold until these issues

are resolved. Pursuant to MICC 19.15.110, all requested information must be submitted within 60 days or a request for extension requested. The deadline for a complete response or request for extension is August 23, 2023. If a complete response is not received or an extension response has been received prior to that date, the application will expire and be canceled for inactivity. No additional notification regarding this deadline or expiration of the application will be provided.

Sincerely,



Molly McGuire, Planner  
City of Mercer Island Community Planning and Development  
[molly.mcguire@mercerisland.gov](mailto:molly.mcguire@mercerisland.gov)  
(206) 275-7712

For ease of review, all shoreline permits are reviewed under SHL22-023, so the below link includes comments for the Shoreline Substantial Development Permit, Shoreline Variance Permit, and Shoreline Conditional Use Permit. When you resubmit, please upload the revised plan set to each permit application number listed in the subject line of this letter.

**Download the Correction Drawing File to Review and Respond to Comments:**

<[https://MlePlan.mercergov.org/adobe/eplan/~CurrentSharedReviews/SHL22-023-SUB2-PLANS-041823\\_review.pdf](https://MlePlan.mercergov.org/adobe/eplan/~CurrentSharedReviews/SHL22-023-SUB2-PLANS-041823_review.pdf)>.

<[https://MlePlan.mercergov.org/adobe/eplan/~CurrentSharedReviews/CAO22-018-SUB2-PLANS-041823\\_review.pdf](https://MlePlan.mercergov.org/adobe/eplan/~CurrentSharedReviews/CAO22-018-SUB2-PLANS-041823_review.pdf)>.

1. To access the file, enter the following credentials into your web browser:

Username: [eguest@mercergov.org](mailto:eguest@mercergov.org)

Password: @mercer123

2. To view comments, download the file to your hard drive and open in an Adobe Reader or Adobe Acrobat.
3. The first time you access this system, you will enter the same credentials two times. Once to open the plan in your web browser, and then again to open the plan in Adobe.

Please note, you can forward this link to your sub-consultants for their review, input, and replies.

**Responding and Resubmitting: [Click for More Detailed Instructions](#)**

1. Reply to all plan review comments within the correction drawing file.
2. Update your drawings, and any necessary supplemental documents or forms.
3. Upload updated drawings to the [Mercer Island Permit Submittal Portal](#).

**Having Trouble? Please Review the Following:**

[Accessing, Reviewing, and Responding to MlePlan Comments](#)

[Troubleshooting MlePlan](#)

[MlePlan Overview](#)

**Thank you for your participation in the MlePlan review process.**