

Greater Maple Valley Unincorporated Area Council
P.O. Box 101
Maple Valley, WA 98038

November 3, 2014

Subject: King County Dept. of Permitting and Environmental Review's (DPER's) "Technical Review" Letter for CMST14-0001

Mr. Peterson,

Please accept the attached review of King County Department of Permitting and Environmental Review's (DPER's) October 3, 2014, "Technical Review" Comment Letter to the Applicant for Commercial Site Development Permit (CSDP) Application CMST14-0001.

We applaud many issues DPER has delineated, including several raised by concerned citizens. However, we do have several concerns in the areas of Traffic, Wetlands, Geotechnical, and Public Safety. In those areas we have provided suggestions we request you consider as the process proceeds with the Applicant.

Should you have any questions regarding the attached review, please contact the Chair of our Growth Management Committee, Peter Rimbo, at 425-432-1332 or primbos@comcast.net.

Thank you.

Herein, please find the GMVUAC review of King County Department of Permitting and Environmental Review's (DPER's) October 3 "Technical Review" Letter for Commercial Site Development Permit (CSDP) Application CMST14-0001. DPER numbered comments are given first, followed by the GMVUAC review of those comments.

SEPA/Zoning, Landscaping, and Parking Issues

1. The CSDP proposal has generated a tremendous amount of public comment and raised significant complex environmental issues related to site ecology, resulting in additional staff review and research. As such, this technical screening letter will focus on the most significant code and ordinance issues identified to date while we continue to perform additional environmental research and analysis related in part to the SEPA process, and additional comments may be forthcoming. A SEPA Threshold Determination (TD) will follow.

It is good KC DPER has held off on any SEPA threshold determination and that it remains open to further comments received from the Public.

2. We are currently reviewing a public request to invalidate your innocent purchaser agreement and a response is forthcoming.

KC DPER approval of the Innocent Purchaser Affidavit was premature, as it appears the lot may not have been properly subdivided and sold. This directly impacts the legality of the lot itself.

3. Attached to this letter for your review and response are three public agency comments received during the public notice period. These are from the Covington Water District, Tahoma School District, and Puget Sound Clean Air Agency.

We support the comments from the Tahoma School District. We would expect further comments from other public agencies, as well as the nearby cities of Maple Valley and Covington.

4. Revise the Project Scope narrative on the title sheet CS to indicate the CSDP project does not include the future building permits. Future building permits will be required to construct the buildings and will be subject to the configuration approved under the subject CSDP.

The fact that CSDP does NOT include building permit application is made very clear here, and should be most helpful in any final determination by the KC Prosecutors Office regarding the Vesting issue. We believe RCW 19.27.095 controls here in light of recent appellate court decisions regarding Vesting of certain types of development applications not accompanied by a building permit application:

RCW 19.27.095 — Building permit application — Consideration — Requirements.

(1) A valid and fully complete building permit application for a structure, that is permitted under the zoning or other land use control ordinances in

effect on the date of the application shall be considered under the building permit ordinance in effect at the time of application, and the zoning or other land use control ordinances in effect on the date of application.

>5. *Incorporate the Rural Industry Development Standards in the Zoning Code information block on the title sheet CS and call out these special requirements on the site plan sheet A0.1 (KCC 21A.14.280). This will demonstrate how the CSDP is in compliance with the special development standards.*

KCC 21A.14.280 Rural industry development standards are good on basic setback, lighting, impervious surfaces, etc., yet they are inadequate when applied to the proposed Industrial Production facilities to be placed in a rural residential neighborhood. When placing out-size industrial facilities in such settings, we cannot see how **KCC 21A.14.280A**. "... Site and building designs, buffering, compatible commercial and industrial uses are required to maintain rural character" can possibly be met.

6. *The building information contained in sheets CS, T1.1/T1.2, and A0.1 is informative but not necessary to the review and approval of the CSDP and might be misconstrued as building approval. Please add notes to the plan sheets indicating the building information is for reference only and not for approval under the CSDP.*

See comments made under 4 above, regarding vesting.

7. *The architectural site plan sheet (A0.1) reference to processing and production of marijuana is informative but not necessary for the review and approval of the CSDP. It is informative in the overall review of site parking standards for the CSDP and SEPA review; however, the land use label might be misconstrued for occupancy approval. Please add notes to the plan sheets indicating the building information is for reference only and not for approval under the CSDP. The site development standards for a CSDP are based on a range of uses permitted in the zone it is located (KCC21A.18.030A and C), like a "shell" permit. Once a CSDP is approved, the subsequent "shell" building permits will be allowed subject to the parking established in the CSDP and site layout.*

No comment.

8. *The CSDP application is vested to the codes in effect at the time the project is deemed complete. This approval of the proposed commercial site development, however, shall not provide the applicant with a vested right to build without regard to subsequent changes in the building and fire codes listed in K.C.C. 16.04 and 17.04 regulating construction (KCC21A.41.070C).*

See comments under 4 above regarding vesting.

9. *Include the proposed CSDP phasing timeline on the Title sheet CS and A0.1. The SEPA checklist reference a range of 5-8 years but it was not clear. The phasing plan must be clear and exact. The purpose of the CSDP is to provide site development coordination and project phasing occurring over a period of years. A commercial site development permit approved without a phasing plan shall be null and void if the applicant fails to file a complete building permit application(s) for all buildings within three years of the approval date, or by a date specified by the director; and fails to have all valid building permits issued within four years of the commercial site development permit approval date; or a commercial site development permit approved with a phasing plan shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved phasing plan (KCC 21A.42.100).*

No comment.

10. *Delineate the proposed CSDP building envelopes around the building(s) on sheet A0.1. Envelopes can be as minimal as 5 feet out from building(s) or further out to encompass the parking spaces. The envelopes are important to allow future building permits the flexibility in accommodating minor modifications (KCC 21A.41.110 A-B).*

No comment.

11. *Add note to sheets C2.1 and C2.2 that the interior building design and details are subject to future building permits; CSDP's only approve site layout.*

No comment.

12. *Revise the CS and landscape sheets to incorporate and reference the Rural Industry Development Standards.*

No comment.

13. *Sheet L-1 shows a monument sign which appears to be located in the street setback. Signs are not included in a CSDP and require a separate construction permit, and only when the building permit(s) are applied for, or are approved, after CSDP issuance. Remove the sign from the permit plans.*

No comment.

Traffic Engineering Issues

King County Dept of Transportation (KCDOT), Engineering Services Section, Traffic Engineering Unit, has reviewed the Level 1 traffic impact analysis (TIA)

prepared by Jake Traft Engineering Inc. and conducted a field visit on Monday, September 8, 2014. What follows are observations and recommendations:

14. From a KCDOT Traffic Engineering standpoint, the TIA provides all necessary information regarding trip generation, trip distribution, traffic volumes, and level of service.

15. Traffic counts were conducted at the SE 240th Street/SE Wax Road/200th Avenue SE intersection on April 30, 2014. King County traffic counts from 2008 and 2012 for the intersection of SE 240th Street and 196th Avenue SE (closest intersection that is counted on yearly basis by King County) were included to illustrate the fact that traffic volumes in this part of the County are decreasing.

16. KCDOT Traffic Engineering concurs with the TIA that no King County intersections meet the KCC 14.80 "Intersection Standards" thresholds of 30-peak hour and 20% of the peak hour trips and operating at a level of service worse than "E." Therefore, the project will not result in any significant adverse impacts from an operational or level of service (LOS) standpoint.

17. KCDOT Traffic Engineering obtained the individual collision reports from WSDOT for the time period of January 1, 2007, through August 1, 2014, for the intersection of SE 240th Street/SE Wax Road/200th Avenue SE. This data shows that there were 0 collisions in 2007, 0 collisions in 2008, 1 collision in 2009, 1 collision in 2010, 2 collisions in 2011, 1 collision in 2012, 2 collisions in 2013, and 1 collision in 2014. This amounts to a grand total of 8 collisions in 8 years. A collision in early September is not yet on the database but the inclusion of this incident would make for a total of 2 collisions in 2014.

a. Per KCDOT Road Services Division, Engineering Services Section, Traffic Engineering Unit methodology, an intersection with 8 or more documented collisions in any 3-year time period is considered for additional study. Since this intersection does not meet the 8 collisions in any 3-year period criteria for additional study, the intersection is not considered a high accident location (HAL) or a high accident roadway segment (HARS).

No comment, as these four comments are from KCDOT's "TIA & Plan Review Comments" memo dated August 14, prior to KCDOT's September 8 site visit to inspect the road geometry, integrity, etc.

18. Based on the number of lots that access 200th Avenue SE, 200th Avenue SE would be classified as a rural subaccess street. SE 248th Street, which the proposed development will access directly, would be classified as a rural minor access street. Looking at 200th Avenue SE and SE 248th Street as a continuous street (which it is), the classification of 200th Avenue SE/SE 248th Street is borderline between a rural subaccess and a subcollector.

KCDOT has determined above the category of the rural local roads according to guidelines in the King County Road Design and Construction Standards, 2007

1. Neighborhood Collectors: Neighborhood collector streets are the highest in the local roadway classification hierarchy. They connect two or more neighborhoods and typically connect to arterials or other neighborhood collectors. Direct driveway connections to neighborhood collectors are restricted.

2. Rural Subcollector Street: Subcollector streets are the second highest in the local roadway classification hierarchy. They are typically two-lane asphalt roadways. They provide circulation within neighborhoods and typically connect to neighborhood collectors. Although subcollectors typically allow direct driveway access there are some project related exceptions.

3. Rural Subaccess Street: Subaccess streets are permanent cul-de-sacs or short loop streets that connect to subcollectors. Subaccess streets are not supportive of through traffic. They are typically internal subdivision roadways that provide circulation within the subdivision. Direct driveway connections are allowed.

4. Rural Minor Access Street: A minor access street is a permanent cul-de-sac or short loop street with low traffic volumes that provides circulation and access to off-street parking within a residential development boundary. Like subaccess streets, a minor access street allows direct driveway connections.

KCDOT, based on the number of lots that access it, classifies 200th Ave SE as a "Rural Subaccess Street" (level 3 above). This sounds reasonable. The KC RD&CS Manual states that "Subaccess streets are not supportive of through traffic." KCDOT further classifies SE 248th Street as a "Rural Minor Access Street" (level 4 above). This also sounds reasonable, given that it is the lowest rural road classification. But then, KCDOT, taking the two roads as one "continuous street," classifies the combination as "borderline between" a "Rural Subaccess" (level 3 above) and "Subcollector" (level 2 above). That does not sound reasonable, because the addition of SE 248th St, a "Rural Minor Access Street" (level 4 above), to 200th Ave SE does not increase the capability of 200th Ave SE, a "Rural Subaccess Street" (level 3 above), up to a "Subcollector" (level 2 above). In fact, clearly SE 248th St contributes nothing to 200th Ave SE. This raises a red flag.

19. The traffic generated by the proposed development (279 daily trips, 37 AM peak and 39 PM peak hour) is roughly equivalent to the traffic generated by 30-35 single family homes. The traffic generated by the proposed development, when added to the existing traffic generated by the current land uses, will more than likely result in 200th Avenue Se/SE248th Street reaching subcollector volumes.

KCDOT, in looking at the Applicant's estimated traffic volumes, determined these coupled with existing volumes would reach volumes expected on "Rural Subcollector Streets." This is probably reasonable.

20. Per the September 8, 2014 site visit, roadway width measurements of 200th Avenue SE/SE 248th Street were taken every one hundred feet, starting at approximately where the proposed development will be constructed and ending at the intersection of 200th Avenue SE and SE 240th Street. These measurements are attached in a separate document. Pavement width varies from 18 to 29 feet (there is a short 100 foot section that is 38 feet wide just north of SE 242nd Place due to widening that was required of a plat). There are effectively no shoulders; in a few locations there are maybe 1-foot wide dirt/grass shoulders.

KCDOT provides the results of its September 8 site visit to determine road widths, shoulders, access points, etc. The observations that road widths are as low as 18 ft and shoulders are nearly nonexistent clearly raise another red flag in terms of what traffic volumes 200th Ave SE can safely carry and illustrate the impact on the residential neighborhood and the safety of pedestrians, bicyclists, children, and pets.

21. Per the site visit, sight distance appears to be adequate for the proposed project driveway to SE 248th Street as well as for the SE 240th Street/SE Wax Road/200th Avenue SE intersection. The applicant's traffic consultant should verify that sight distance is adequate.

This is a routine request for verification on sight distance--both prudent and required.

22. Per the site visit, the pavement condition of 200th Avenue SE/SE 248th Street is in fair to good condition from the proposed development location to approximately 100 feet south of SE 242nd Place. From this location to SE 240th Street, the pavement condition is poor with numerous transverse and longitudinal cracks in the pavement.

This raises another red flag. 200th Ave SE is a KCDOT Tier 4 road and, as such, will receive little maintenance going forward. If portions of it already are in poor condition, then the Applicant must be required to improve it to meet the expected traffic volumes, which are high for this classification of road (see 19. above).

23. Other than a short 300 foot section of 200th Avenue SE just south of SE 244th Street and a short section just east and north of the proposed development, 200th Avenue SE is constructed within a 30-foot right-of-way corridor.

This implies, for part of the length of 200th Ave SE, there is less than a "30-foot right-of-way corridor." This is further discussed in 24. through 26. below.

24. King County Road Design and Construction Standards for the following road classifications are as follows:

- a. Rural minor access street - minimum 20-foot traveled way, 2-foot shoulders, 40-foot R/W
- b. Rural subaccess street - minimum 20-foot traveled way, 4-foot shoulders, 48-foot R/W
- c. Rural subcollector - minimum 22-foot traveled way, 6-foot shoulders, 60-foot R/W

25. Per the above standards, almost half of 200th Avenue SE/SE 248th Street does not meet the rural minor access street standard. Only approximately 600 feet meets the rural subaccess standard.

26. Lack of right-of-way makes the construction of 200th Avenue SE/SE 248th Street to a rural subcollector standard impossible.

KCDOT provides the standards for each rural road classification in play here. In all cases the KCDOT September 8 site visit described in 20. above shows 200th Ave SE does not meet these standards and, thus, improvements would be required. Further, KCDOT states--for the road classification it determined in 18. above (i.e., "Rural Subcollector") for the combined continuous street--the "60-foot ROW" standard cannot be met! This raises another red flag.

27. If right-of-way and topography allow, we would recommend that 200th Avenue SE/SE 248th Street be improved to the King County Standard for a rural subaccess road. As a minimum, we would recommend that 200th Avenue SE/SE 248th Street be improved to the King County Standard for a rural minor access road.

KCDOT is hedging on its previous comments and appears to be bending over backwards to accommodate the Applicant:

1. In 18. above KCDOT determines the continuous road is "borderline between a Rural Subaccess and a Subcollector."
2. In 27. above, KCDOT recommends it be "improved" to a "Rural Subaccess" road, even though in 19. above it classifies the expected traffic volumes to be of "Subcollector" levels.
3. Again in 27. above, KCDOT hedges even further by recommending "as a minimum," it be "improved" to a "Rural Minor Access" road, the lowest classification, meaning that it cannot handle much traffic volume.

This raises the biggest red flag.

28. We also recommend that 200th Avenue SE be overlaid from the intersection of SE 240th Street to approximately 100 feet south of the 200th Avenue SE and SE 242nd Place intersection.

This KCDOT recommendation for improvements to be made to correct the existing deficiencies it saw during its September 8 site visit is necessary, but not sufficient to overcome the red flags raised in 18., 20., 22., 26., and 27. above.

Site Drainage Issues

29 through 59

These comments all request detailed engineering specifications, design, and data. Each appears to be trying to ensure all site drainage issues will be addressed per design standards and code.

Wetland Issues

The following comments are from Laura Casey, DPER Environmental Scientist who evaluated the pre-application and CSDP application materials, investigated the property, and performed a site visit September 4, 2014:

60. *The Department of Permitting and Environmental Review (DPER) performed a partial Critical Areas Designation CADS 13-0308 in December 2013 for this property, excluding the southwest corner of the site. A staff geologist reviewed the Critical Areas Designation, but no staff ecologist investigated the site.*

We recommend a staff ecologist investigate the site.

61. *Staff reviewed the Critical Areas Designation and iMAP for the pre-application PREA14-0122 held for this project. According to iMAP, Jenkins Creek and an associated large wetland are located offsite to the southwest, and a smaller creek is offsite to the east. Comments provided at the pre-application meeting noted that the proposed site development would probably be outside all likely buffers for the mapped offsite aquatic areas and wetlands.*

This is consistent with maps reviewed for the project area.

Staff reviewed the Wetland and Stream Reconnaissance prepared by Altmann Oliver Associates, LLC, dated November 25, 2013, located within the Technical Information Report by Decker Consulting Engineers, dated May 28, 2014. Staff also reviewed the Geotechnical Engineering Study by Earth Solutions NW, LLC, dated May 7, 2014. The online National Cooperative Soil Survey was also reviewed, which show the southwestern corner of the site is underlain by Norma soils, a hydric soil that is an indicator of wetlands.

This is consistent with previous comments addressing the SW corner of the property--the area in which WSDOT had its drainage control pond.

63. *During the September 4, 2014 site visit, staff walked the property and observed the soils, vegetation, and hydrology. For the most part, the soils in the test pits consist of cobbles in sand and gravel. Much of the vegetation consists of facultative or upland species, predominantly alder and blackberry. However, a couple of locations were observed where the soil color was 10YR2/1 from the surface to 18 inches depth. These soils were moist even after the long summer season. One of these areas in the north central portion of the site was vegetated with Himalayan blackberry, reed canary grass, and nettles. A larger area in the southwestern portion of the site was vegetated in spira, salmonberry, reed canary grass, and snowberry.*

We also visited the site and noted the relative wet/damp conditions. We agree with the general comments in 61. above.

64. *In review of the application materials and following a site investigation, the following is the recommended additional wetland evaluation:*

a. *It is recommended that the applicant have their wetland consultant re-evaluate the site, and provide data forms to document the presence or absence of wetlands on this property. If wetlands are verified on the site, then the wetland boundary would need to be flagged and the wetland category rated. Staff is available to meet with them on site if necessary.*

b. *The buffers from the adjacent streams must also be identified, and shown on the site plan if the buffer and/or building setback falls onto this property.*

This is prudent and, thus, should not be a "recommendation," but a requirement. The local environs must be protected following the Critical Areas Ordinance, as the existence of wetlands even after an extremely dry summer were evident during our site visit. In addition, whether the applicant proposes to use the old WSDOT drainage pond as the stormwater pond for the proposed project should be made clear. Any alterations necessary, e.g., is it constructed large enough, or is a new pond needed to be located where? These questions must be addressed.

Geotechnical Issues

65. *As noted in the supplemental Geotechnical Memo by Earth Solutions NW LLC dated June 26, 2014, the slope on the eastern site margin is classified as*

a Steep Slope Hazard Area. The topographic survey shows the slope to be about 26 feet in height on the site and then the slope continues across the right of way for another 35 feet of vertical relief.

This observation is important and necessitates followup.

66. There is no conclusive evidence provided to support the opinion that the slope is previously created by grading activity. Review of the Lidar topographic information available on the county's public iMAP system suggests rather that the slope is part of a natural erosional feature of post-glaciation meltwater channel origin.

This observation also is important as it indicates that natural activity is in play and, thus, could be prone to at least partially fail under the right conditions. Such occurrences must be prepared for and addressed during this CSDP application review.

67. Some limited grading near the toe of the slope is evident. A small "driveway/road" excavation exists at the toe of the slope. Generally, no excavation or structures are allowed on the slope and buffer area. In this case, a code provision allows areas that have been previously graded to be re-graded as long as the area is not expanded. Rockeries less than four feet in height are considered landscape features and not subject to the prohibition on structures. It appears then that the proposed construction limits and small rockery are feasible. Some clearing limit/rockery location adjustment may be needed based on the outcome of the information requested.

This appears questionable and probably necessitates further on-site investigation and an engineering evaluation.

68. The following geotechnical comments must be addressed before review can continue on your permit application: a. In order to approve the alterations to the Steep Slope Hazard Area, please have the applicant submit the following additional information:

b. Flag the location of the cut at the base of the slope and survey the location. The flagging should follow the top of the exposed "driveway" cut.

c. Provide supplemental evaluation by the geotechnical engineer to address the proposed irrigation of native plants proposed on the slope.

d. Provide a hazard tree assessment by an arborist or landscape architect for any trees proposed for removal on the slope. The preference is to retain native vegetation and only replace where it is necessary to prevent future property damage or risk of injury to people.

All of these tasks seem important and reasonable, as long as they are followed up by Geotechnical Engineering analyses. In addition, steep slope buffer zones should be clearly marked on the ground and identified on site plans to ensure no encroachment occurs as part of project.

Fire Issues

70. Based on the current water certificate availability form, the applicant will need to split each future building up into thirds or quarters with fire walls to meet fire flow, a highly impractical solution. The other alternative is to obtain a water availability of 2000 gpm, reference King County Rule 17.08. They may want to further discuss with the water district what improvements are required to meet that condition.

Based on what the Applicant provides after discussion with the Water District and Fire Marshall, followup is necessary here.