

June 25, 2023

Andrew Galuska, Community Development Director  
City of Mukilteo  
11930 Cyrus Way  
Mukilteo, WA 98275

**RE: Reasonable Use Exception Request for the Proposed Gagandeep Oberoi Single-Family Residence at 9xx Webster Street, Mukilteo, WA 98275; Tax Parcel No. 00527504701200**

Dear Andrew,

Property owner Gagandeep Oberoi is seeking a Reasonable Use Exception (RUE) at the above-noted property that is zoned single-family residential (RD 7.5 SFR) by the City of Mukilteo (City). On behalf of Gagandeep, I have authored this RUE request narrative. The rectangular-shaped site's dimensions are 147.72 feet x 130 feet, which is an area of 19,204 square feet (0.44 acres). The site's high point is at the southeast property corner at elevation 154. The site's low point is near the northwest property corner at elevation 111. The site is forested, containing mostly deciduous trees and a thick sub-canopy of shrubs such as salmonberry, sword fern and highly invasive Himalayan blackberry.

The surrounding land use to the site is as follows: West of the site is partly improved Webster Street with 20 feet of road pavement, a drainage ditch, a fire hydrant and other infrastructure improvements. South of the site is un-improved 10<sup>th</sup> Street public right-of-way. East of the site is undeveloped property. North of the site is a single-family home on a slightly smaller property than the subject site. A stream and wetland are straddle the common property line.

Several studies and maps have been prepared on this site in recent years. This includes the following: A Geotechnical (engineering) Evaluation by Phil Haberman, P.E. from Cobalt Geosciences was completed on the site on June 22, 2021. A Topographic Survey (and map) by David West Jr. P.L.S. from West Alliance Professional Land Surveyors was completed in 2021. A Critical Areas Report by Scott Spooner from Wetlands & Wildlife was completed on July 19, 2022. Supporting this RUE project as the applicant is Steve Hall at Revive Properties LLC.

Attached is my civil engineering plan set for the RUE. They are not yet construction drawings for a building permit. A Site Plan (C1.0) is included that shows the proposed home, proposed driveway, and proposed clearing and grading limits. The home is designed to be 3-story with most of the living occupancy in the upper two floors, while an attached garage would be located on the bottom floor. A detached garage is not proposed. The proposed home footprint dimensions are 45 feet x 80 feet. The upper 2 floors cantilever over the garage by 5 feet to lessen the impact on the wetland buffer. The home footprint area is 3,600 square feet. The home design is long and narrow in order to stay away from the onsite wetland on the site's north side.

In order to build this home, there needs to be some clearing and grading performed around it in order to build the driveway, connect to existing utilities, make small grade transitions with a rockery, incorporate a maintenance path around the home, and build a taller retaining wall inside the site property line where the grade transition will be more than 4 feet. There is a 15-foot wide building setback (BSBL) located to the north and east of the home. Specifically, the proposed BSBL is located 20 feet north and east of the home to accommodate 5 feet of future maintenance corridor for the home. Clearing and grading can only occur in the BSBL and not beyond. South of the home is a 5-foot wide BSBL in order to move the home as far away as possible from the onsite wetland and stream buffers. The proposed clearing and grading area slightly exceeds 5,000 square feet, which is barely more than 25% of the site's total area.

Below in italics are criteria from Mukilteo Municipal Code (MMC) 17.52.05 and my responses are in non-italics.

***MMC 17.52.025 Reasonable use provisions.***

*A. The standards and requirements of these critical area regulations are not intended and shall not be construed or applied in a manner to deny all reasonable use of private property. If the applicant demonstrates to the satisfaction of the planning director or his or her designee that strict application of these standards would deny all reasonable use of a property, development may be permitted subject to appropriate conditions. A reasonable use exception is intended as a "last resort" when no plan and/or mitigation can meet the requirements of this chapter and allow the applicant a reasonable viable use of his or her property.*

Most of the entire 0.44-acre site is either wetland, wetland buffer, stream or stream buffer (some type of critical area), thus the need for the City to allow a reasonable use exception in order to provide a home. The wetland is located on the north 1/3 of the site. In addition, there is a stream and stream buffer that also impacts useable area. The stream flows east to west and is located inside the north property line. The proposed home has been tucked into the site's southwest corner in order to minimize the necessary disturbance area. This chosen home location is closest to existing utility infrastructure on Webster Street in order to connect into. The home has been designed in a rectangular shape with the narrow side closest to the wetland.

*B. The applicant must demonstrate to the planning director or his or her designee all of the following:*

*1. That no reasonable use with less impact on the critical area and/or the buffer is feasible and reasonable;*

Although the site area is quite large at 0.44 acres, the proposed home has been designed to only be 45 feet wide to reduce the impact on the critical area and critical area buffer. Slightly more than 5,000 square feet of site disturbance area is proposed, which is approximately 25% of the site's total area. Slightly less than 75% of the site's area will remain un-disturbed.

*2. There is no feasible and reasonable on-site alternative to the proposed activity or use that would allow reasonable use with less adverse impacts to the critical area and/or buffer. Feasible on-site alternatives shall include, but are not limited to: reduction in*

*density or building size, phasing of project implementation, change in timing of activities, and revision of road or parcel layout or related site planning considerations;*

The home footprint including the garage is 3,600 square feet. The total site area is quite large at nearly 0.5 acre, but the proposed disturbance area is very small at just slightly more than 0.1 acre.

*3. There are no practical alternatives available to the applicant for development of the property. An alternative is practical if the property or site is available and the project is capable of being done after taking into consideration existing technology, infrastructure, and logistics in light of the overall project purpose;*

Existing technology, infrastructure and logistics are not applicable for this project. The home has been placed as close as possible to the site's south and west property lines in order to minimize impact to the wetland and stream buffers. Because the home is located so close to the site's southwest property corner, there are no practical alternatives that would result in less impact.

*4. The proposed activity or use will be mitigated to the maximum practical extent and result in the minimum feasible alteration or impairment of functional characteristics of the site, including contours, vegetation and habitat, groundwater, surface water, and hydrologic conditions, and consideration has been given to best available science;*

The proposed site disturbance area has been considered by the project geotechnical engineer, and will be further considered once the building plans are nearly finalized later in 2023 or early 2024, following anticipated RUE approval. Nearly 75% of the site's vegetation will be preserved. Habitat will be preserved with nearly 75% of the site's vegetation to remain. This project will not adversely impact groundwater. All of the home's surface water runoff from developed surfaces will be safely collected and conveyed to a suitable discharge point, which are dispersion trenches located inside the site disturbance area. This project will have a de minimis impact on the site's hydrologic conditions.

*5. There will be no material damage to nearby public or private property and no material threat to the health or safety of people on or off the property;*

The home will not result in any material damage to nearby public or private properties. Also, the home will not result in any material threat to the health or safety of people on or off the property.

*6. The proposed activity or use complies with all local, state, and federal laws and the applicant has applied for or obtained all required state and federal approvals; and*

The home will comply with all local, state and federal laws and the applicant will obtain all required approvals, which in this case will be a Reasonable Use Exception and Single-Family Residential Building Permit, both to be obtained from the City of Mukilteo.

*7. The inability to derive reasonable use is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after March 23, 1992.*

This provision is not applicable.

*C. Allowed Reductions for Single-Family Residential Reasonable Use Lots. As provided under state law and the guidelines of the Department of Commerce, reasonable use permits shall allow the development of a modest single-family residential home on a critical area lot.*

The proposed home is moderately sized and is located on a heavily encumbered critical area lot. Because the entire property area is quite large is why the proposed home is not tiny.

*1. Building setbacks may be reduced by up to fifty percent where the applicant demonstrates to the city that the development cannot meet the city's code requirements without encroaching onto a critical area or its buffer.*

The City's required 20-foot wide frontyard building setback (for the garage) is being met. The actual home is proposed 15 feet away from the west property line to reduce the critical area impact. The City's required 5-foot wide sideyard building setback to the south is also being met. The City's required 15-foot wide building setbacks to the north and east are also being provided from the edge of the proposed home. There is an additional 5-foot wide maintenance corridor. Clearing and grading are allowed within the building setbacks. Ultimately this area tends to be a maintenance walkway, light landscaping or narrow deck. The standard wetland buffer is proposed to be reduced from 40 feet to approximately 20 feet at the closest point to the home.

*2. Development on reasonable use lots shall leave at least seventy percent of the lot undisturbed to protect the critical areas. On small lots seven thousand five hundred square feet or less, a maximum building footprint of one thousand five hundred square feet would be allowed. Additional impervious area for the driveway will be permitted which provides the shortest and most direct access to the house with minimal encroachment or impact into the critical area or buffer. When determining if the access has minimum encroachment or impact on a critical area the use of bridges and open bottom culverts are shall be considered minimal impact. Yard areas will be permitted only if they do not encroach into the critical area or buffer.*

The 70% vegetation preservation requirement will be met. The project proposes to disturb slightly more than 25% of the site area, thus the project is actually providing nearly 75% vegetation preservation.

*3. Critical area regulations, buffers and/or steep slope setbacks may be reduced as follows:*

*a. Less than twenty-five percent is an administrative process.*

The project proposes more than 25% reduction in wetland buffer, so the administration process is not applicable. The standard wetland buffer is 40 feet, but the wetland buffer is reduced to approximately 20 feet in some cases.

*b. Twenty-five percent to fifty percent where the applicant demonstrates to the city that the development cannot meet the city's code requirements without encroaching onto a critical area or its buffer is an administrative process. In order for the property owner to receive this administrative reduction, the applicant must provide a report*

*relying on best available science and prepared by a qualified specialist to the city that demonstrates the reduction is warranted.*

The project proposes approximately 50% reduction in wetland buffer, so the administration process is the correct process in this case.

*c. Fifty percent or greater reduction requires approval by the hearing examiner through a variance process and with the submittal of a report relying on best available science and prepared by a qualified specialist to the city that demonstrates the reduction is warranted.*

This process is unnecessary.

*4. In order for the property owner to receive a reduction in the required critical area buffer, administratively or through a variance, the remaining buffer shall be enhanced to reduce significant adverse impacts to the critical area and off-site buffer mitigation shall be required for the area of buffer reduced. Mitigation can be in the form of payment of a fee in-lieu of buffer mitigation through use of the Mukilteo habitat reserve (MHR) as described in the Mukilteo CAMP. Mitigation may also be in the form of off-site buffer restoration or enhancement as described in the Mukilteo critical areas mitigation program (CAMP) or some other available site per an approved mitigation plan as required by the city's critical areas regulations.*

A buffer enhancement plan has been designed and is attached to the RUE application. This plan will be approved by the City before the City issues the building permit. This plan includes specifications for planting trees and shrubs in the stream buffer where evergreen foliage is currently lacking. The goal of the plan will be to result in greater habitat functions to the adjacent stream and wetland and greater structural integrity to the slope.

My thought is that after you receive and read this letter, the best next step would be for us to request a City Pre-Application Meeting through your City planners to discuss the project in more detail and obtain their guidance on future steps. Please confirm if that is the best course of action through applicant Steve Hall who can be reached at (360) 961-3638. Thank you for your kind attention.

Sincerely,



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Encl: Preliminary Civil Plans including Site Plan and Stream Buffer Mitigation Plan; Offsite Wetland Reconnaissance (letter)  
Cc: Gagandeep Oberoi (Property Owner) at [magnificentnw@gmail.com](mailto:magnificentnw@gmail.com); Sanjeev Sharma (Architect at Design Lyric) at [designlyric.1@gmail.com](mailto:designlyric.1@gmail.com); Rasika Edake (Architect at Design Lyric) at [rasika.edake@gmail.com](mailto:rasika.edake@gmail.com); Steve Hall (Applicant) at [steve@rp-partners.com](mailto:steve@rp-partners.com)