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**CITY OF MERCER ISLAND**

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## **SINGLE FAMILY IMPERVIOUS SURFACE DEVIATION PUBLIC NOTICE OF DECISION**

**August 18, 2008**

**File Number:** DEV08-010

**Applicant :** Scott Peyree

**Property Owners:** Scott Peyree

**Site Location:** 6059 77<sup>th</sup> Avenue SE

**Zoning District:** R-12(minimum lot size of 12,000 square feet)

**Request:** A request for approval of an impervious surface deviation to allow coverage of 4.5% over the allowed 35% overall site maximum impervious surface coverage to install a swimming pool and patio.

**Decision:** The request for an impervious surface deviation of 4.5% over the maximum allowed coverage of 35% of the site, as shown on the plans received by the City of Mercer Island Development Services Group on July 3, 2008, is approved subject to the conditions listed in the Conditions of Approval.

### **Findings of Fact:**

1. The existing zoning of the subject site is Single Family Residential R-12.
2. According to provided materials, the average lot slope for the property is 21%.
3. Lots with a slope of less than 30% are allowed a maximum impervious surface of 35%, per MICC 19.02.020(D)(1), except when a deviation is granted, pursuant to MICC 19.02.020(D)(3).

There is no public hearing requirement for the deviation (an administrative action), per MICC 19.15.010(E) and 19.15.020(F)(1). Public notice of the deviation request was mailed to all residents within 300 feet of the subject property, published in the City

Bulletin, and posted on the property on March 17, 2008, as required by MICC 19.02.020(D)(4), 19.15.020(D) and 19.15.020(E). Per MICC 19.15.020(D), a 14-day comment period was provided from July 21, 2008, through August 4, 2008. No comment letters were received.

## Conclusions

Recognizing the decision criteria specified in the Mercer Island City Code for an impervious surface deviation staff has made the following conclusions:

1. MICC 19.15.020(G) states, in part: *For those actions that do not otherwise have criteria specified in other sections of the code, the following are the required criteria for decision.* MICC 19.02.020(D)(3) clearly lists the criteria for granting a request for an additional 5% of impervious surface, over the maximum allowance. Therefore the criteria of MICC 19.02.020(D)(3) apply, rather than MICC 19.15.020(G).
2. Pursuant to MICC 19.02.020(D)(1), if the lot slope is 15% but less than 30%, the limit for impervious surfaces is 35%. However, MICC 19.02.020(D)(3) states: *The code official may grant a deviation, allowing an additional five percent of lot coverage over the maximum requirements; provided, the applicant demonstrates through the submittal of an application and supporting documentation that the proposal meets one of the following criteria:*

a) *The proposal uses preferred practices, outlined in MICC 19.09.100.*

It is the intent and appropriate to use the preferred practices criteria listed in MICC 19.09.100, for the criteria for approval of an impervious surface deviation request listed in 19.02.020(D)(3)(a).

MICC 19.09.100 states:

*The applicant must use reasonable best efforts to comply with the following preferred development practices:*

*A. Use common access drives and utility corridors.*

*B. Development, including roads, walkways and parking areas in critical areas, should be avoided, or if not avoided, adverse impacts to critical areas will be mitigated to the greatest extent reasonably feasible.*

*C. Retaining walls should be used to maintain existing natural slopes in place of graded artificial slopes.*

### **Staff Analysis:**

The subject site does not share common access and utilities via East Mercer Way. Therefore, staff finds this preferred practice of MICC 19.09.100(A) is not met.

The subject site contains seismic and potential slide hazard area. Although geotechnical reports are required for construction of the proposal, they have not been provided at this time. This requirement is not met.

The subject site contains rockery/retaining walls, which generally maintain existing natural slopes, where feasible. Therefore, staff finds this preferred practice of MICC 19.09.100(C) is met.

Staff finds the preferred practices criteria are met for the application.

- b) *The lot has a unique shape or proportions (i.e., a flag lot, with a circuitous driveway corridor).*

**Staff Analysis:**

The subject property is rectangular in shape. Staff finds that the site does not have a unique shape or proportions, and therefore does not meet criterion b.

- c) *The proposal minimizes impacts to critical areas and provides the minimum extent possible for the additional impervious surfaces.*

**Staff Analysis:**

The subject site contains seismic and erosion hazards, no information regarding critical areas, or limiting their impacts has been provided.

3. Therefore, staff finds that the proposal meets approval under MICC 19.02.020(D)(3) which states that only one criteria must be met for approval.
4. The proposal is categorically exempt from the Washington State Environmental Policy Act (SEPA) per WAC 197-11-800(6) (Minor Land Use Decisions).
5. MICC 19.15.020(K) states: *Except for building permits or unless otherwise conditioned in the approval process, permits shall expire one year from the date of notice of decision if the activity approved by the permit is not exercised. Responsibility for knowledge of the expiration date shall be with the applicant. The applicant will be required to comply with 19.15.020(K) as a condition of approval.*

**Decision:**

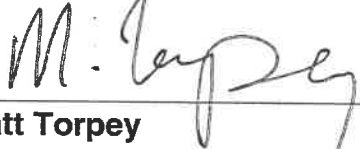
Based upon the above noted Findings of Fact and Conclusions of Law, the Impervious Surface Deviation application DEV08-010 is hereby **APPROVED**, subject to the following Conditions of Approval. This decision is final, unless appealed in writing consistent with adopted appeal procedures. An appeal of this decision would be heard by the Planning Commission.

**Conditions of Approval:**

The following conditions shall be binding on the "Applicant", which shall include the owner or owners of the property, heirs, assign and successors:

1. This deviation of 4.5% over the maximum impervious surface requirement of 35% is granted, based on the proposal being built according to provided materials. All structures shall be built in accordance with any required geotechnical requirements at time of permit submittal. If at any time in the future, the single family residence shown on the approved site plan for the Deviation is demolished, the lot shall be brought into full conformance with the required impervious surface limitations in place at that time.
2. This impervious surface deviation (DEV08-010) approval shall expire one year from the date of notice of this decision if the activity approved by the permit is not exercised.
3. Applicant shall obtain all required permits for construction, which includes stormwater permit approval.

**Approved this 18<sup>th</sup> day of August, 2008.**



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**Matt Torpey**  
**Planner**

Under the Mercer Island Zoning Code, you have the right to appeal this decision to the Mercer Island Planning Commission. If you desire to file an appeal, you must submit the appropriate form, available from the Development Services Group, and file it with the City Clerk within fourteen (14) days from the date this decision is signed (Tuesday, September 2, 2008 at 5:00 PM). Upon receipt of a complete appeal application and appeal fee, an appeal hearing will be scheduled.

If you have any questions, please call the Development Services Group at (206) 275-7605.