


DEV13-022 decision

Robin Proebsting <robin.proebsting@mercergov.org>

Mon 3/13/2017 4:33 PM

To: Dan Thompson <danielpthompson@hotmail.com>;

 1 attachments (3 MB)

DEV13-022 Reissued decision w - exhibits.pdf;

Greetings Mr. Thompson,

Attached is a copy of the re-issued decision for DEV13-022, which you are receiving as a party of record.

Please let me know if you have any questions, and I will be happy to help with those.

Best regards,
Robin

Robin Proebsting, Senior Planner

City of Mercer Island Development Services Group

9611 SE 36th Street, Mercer Island, WA 98040

Direct: 206-275-7717

robin.proebsting@mercergov.org



CITY OF MERCER ISLAND

9611 SE 36th Street • Mercer Island, WA 98040-3732
(206) 275-7605 • www.mercergov.org

IMPERVIOUS SURFACE DEVIATION

RE-ISSUED NOTICE OF DECISION

March 13, 2017

I. PROJECT SUMMARY

- File Number:** DEV13-022
- Property Owner:** GIB Development LLC
- Location of Property:** 7254 N Mercer Way, Mercer Island, WA, 98040;
Identified by King County Assessor tax parcel number 5315100055
- Zoning District:** R-12
- Description of Application:** Application requesting a deviation from the maximum allowable impervious surface limit. A maximum of 35% of some lots in a residential zone can be covered with impervious surfaces (subject to certain allowances). The City code allows for the lot to be covered with an additional 5% of impervious surface (for a total of 40% lot coverage) via a deviation application if deviation criteria are met.
- This decision is being re-issued to correct a procedural error that occurred with the issuance of the December 27, 2016 decision.*
- Applicant Contact:** Leif Anderson, Anderson Architecture
- Decision:** The request for an impervious surface deviation of 5% over the maximum allowed lot coverage is **Approved Subject to the Conditions of Approval.**
- Exhibits:**
1. Application for file number DEV13-022 received by the City of Mercer Island Development Services Group on June 7, 2013
 2. Site plan received by the City of Mercer Island Development Services Group on March 21, 2014
 3. Criteria responses received by the City of Mercer Island Development Services Group on October 14, 2016

4. Site Development Worksheet received by the City of Mercer Island Development Services Group on October 14, 2016
5. Public comment received by Daniel Thompson on July 15, 2013

II. FINDINGS OF FACT

1. Application Description:

The request is for approval of a deviation from the maximum allowable impervious surface limit. The subject property is currently allowed a maximum lot coverage of 35%, which is equivalent to 4,704 square feet of impervious surface on the 13,440 square foot subject site. The applicant is requesting a deviation that would allow for the lot to be covered with an additional 5% of impervious surface (for a total of 40% lot coverage) based upon compliance with deviation criteria (Exhibit 3). The proposed deviation will result in an increase of allowed impervious surface area on the subject site of 672 square feet for a total allowed impervious surface area of 5,376 square feet.

The subject site is part of a recent short subdivision (SUB13-008) and currently is undeveloped and partially treed. The proposed site design for the subject property shows a new house and incorporates a common access drive and common utility corridor to serve the subject site and an adjacent property.

2. Zoning:

The existing zoning of the subject site is Single Family Residential R-12 (12,000 square foot minimum lot area).

3. Lot Slope:

According to Exhibit 4, the average lot slope for the property is final is 19.3%.

4. Lot Coverage Allowance:

Per MICC 19.02.020(D)(1), lots with a slope 15% to 30% are allowed a maximum impervious surface coverage of 35%, except when a deviation is granted, pursuant to MICC 19.02.020(D)(3).

5. Consistency with Land Use Code/Zoning Requirements:

Mercer Island City Code (MICC) 19.02.020(D)(3) permits the Code Official to grant a deviation allowing for an additional five percent of lot coverage over the maximum requirements and provides deviation criteria. MICC 19.15.010(E) requires that the impervious surface deviation application be processed as an administrative decision with public notice.

6. State Environmental Policy Act (SEPA):

The proposal is categorically exempt from SEPA pursuant to WAC 197-11-800(6)(e).

7. Public Comment:

There is no public hearing requirement for the impervious surface 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 July 1, 2013, as required by MICC 19.02.020(D)(3), 19.15.020(D)(1), and 19.15.020(E)(4)(a). Per MICC 19.15.020(D), a 14-day comment period was provided from July 1, 2013, through July 15, 2013. One public comment was received during the comment period (Exhibit 5).

- a. The comment letter notes 1) multiple concerns with the underlying subdivision, 2) the proposed house has a second story residential area over the garage, which results in a house “that violate[s] the height limit and DRE 13-022” (*sic*).
- b. The scope of this decision is limited to an evaluation of the impervious surface deviation criteria in MICC 19.02.020(D)(3). Staff are not able to base a decision for the impervious surface deviation on other criteria or factors relating to subdivision SUB13-008. This decision also does not evaluate house design beyond the extent it pertains to the impervious surface deviation criteria. This decision does not “pre-approve” a specific house design nor could it allow a height limit set by zoning code to be exceeded. Impervious surface deviations only authorize up to an additional five percent of lot coverage over the maximum requirements.

III. CONCLUSIONS OF LAW

Recognizing the decision criteria specified in the Mercer Island City Code for an impervious surface deviation, staff concludes:

1. MICC 19.15.020(G) sets criteria for actions that do not otherwise have criteria specified in other sections of the code. MICC 19.02.020(D)(3) specifies 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, and the criteria contained in MICC 19.15.020(G) do not apply.
2. 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.*

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. [...]

Staff Analysis:

- A. The applicant is proposing to use a common access drive and utility corridor for two lots (Exhibit 2). The terms Common Access Drive and Commons Utility Corridor are not defined in the City’s code. When terms are not defined in the City code, staff rely on the dictionary definition and applicable standards to determine the meaning. Consequently, in this

circumstance if a driveway or utility corridor is shared, it is considered to be held in "common" and used for a common purpose. Therefore, staff concludes the preferred practice criterion of MICC 19.09.100(A) is met.

3. 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.*

Staff Analysis:

The applicant will be required to comply with 19.15.020(K) as a condition of approval. As conditioned, this criterion is met.

IV. DECISION

Based upon the above noted Findings of Fact and Conclusions of Law, Impervious Surface Deviation application DEV13-022 is hereby **APPROVED**, subject to the 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.

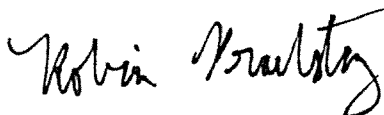
The permit (DEV13-022) approval allows for impervious surface development up to 40% of the total lot area at 7254 N Mercer Way. This permit is not an approval of the proposed site plan. The impervious surface lot coverage of the proposed development on the site shall be verified under the building permit.

V. 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 impervious surface deviation (DEV13-022) approval shall expire one year from the date of notice of this decision if the activity approved by the permit is not exercised.
2. Applicant shall obtain all required permits for construction.
3. The impervious surface lot coverage on this site shall be verified at the time of final inspection by the City Inspector. The City of Mercer Island may require impervious surface on this site to be verified by a Washington State licensed surveyor at the time of final inspection.

Approved this 13th day of March, 2017.



**Robin Proebsting, Senior Planner
Development Services Group
City of Mercer Island**

Parties of record have the right to appeal this decision. 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. Upon receipt of a timely complete appeal application and appeal fee, an appeal hearing will be scheduled. To reverse, modify or remand this decision, the appeal hearing body must find that there has been substantial error, the proceedings were materially affected by irregularities in procedure, the decision was unsupported by material and substantial evidence in view of the entire record, or the decision is in conflict with the city's applicable decision criteria.

Please note that the City will provide notice of this decision to the King County Department of Assessment, as required by State Law (RCW 36.70B.130). Pursuant to RCW 84.41.030(1), affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation by contacting the King County Department of Assessment at (206) 296-7300.

ON THE ROCK 98040, LLC

AA #12-12.101

3-25-2013



CITY OF MERCER ISLAND

9611 SE 36th Street • Mercer Island, WA 98040-3732
PHONE (206) 275-7605 • FAX (206) 275-7726
www.mercergov.org • www.mybuildingpermit.com

Development Application

Form with fields: STREET ADDRESS/LOCATION (LOT #1, 7260 N. MERCER WAY), Zone (R-12), OFFICE USE ONLY (PERMIT # DEV13022, RECEIPT # 133912, FEE \$7,074.42), COUNTY ASSESSOR PARCEL #'S (531510-0056), Parcel size (12,606 S.F.), DATE RECEIVED (3/26/13 - 6/7/13 BY Jee)

Form with fields: PROPERTY OWNER (ON THE ROCK 98040 LLC), ADDRESS (P.O. BOX 950, MERCER ISLAND, WA 98040), CELL/OFFICE (206-679-2320), PROJECT CONTACT NAME (LEIF ANDERSON), ADDRESS (20822 DAMSON ROAD, LYNNWOOD, WA 98036), CELL/OFFICE (25-672-4903), TENANT NAME, ADDRESS, CELL PHONE

DECLARATION: I HEREBY STATE THAT I AM THE OWNER OF THE SUBJECT PROPERTY OR I HAVE BEEN AUTHORIZED BY THE OWNER(S) OF THE SUBJECT PROPERTY TO REPRESENT THIS APPLICATION, AND THAT THE INFORMATION FURNISHED BY ME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNATURE (LEIF ANDERSON) DATE: 3-25-2013

PROPOSED USE OF PROPERTY AND PURPOSE OF APPLICATION(S): NEW SINGLE FAMILY RESIDENCE ± 4442 S.F.

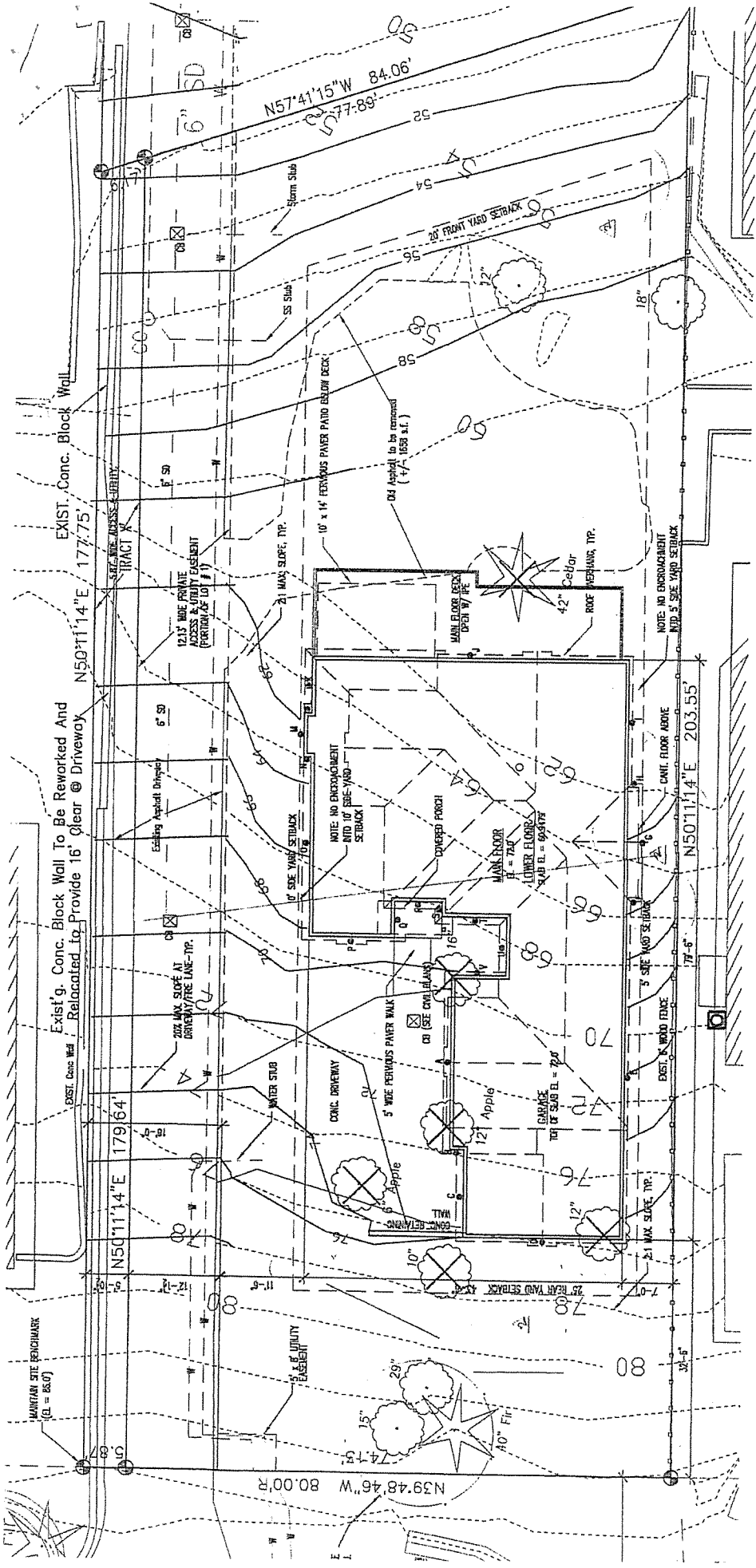
(PLEASE USE ADDITIONAL PAPER IF NEEDED) ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

CHECK TYPE OF USE PERMIT(S) REQUESTED (APPLICABLE): *A 3% TECHNOLOGY FEE IS INCLUDED IN EACH OF THE FEES BELOW

- APPEALS: Land use \$669.50
CRITICAL AREAS: Determination \$2,073.39, Reasonable Use Exception \$4,147.81
DESIGN REVIEW: Review of sign & colors \$331.66, \$0-5,000 \$553.11, \$5,001-25,000 \$1,382.26, \$25,001-50,000 \$2,074.42, Over \$50,000 \$3,179.61
DEVIATIONS: Changes/antenna \$1,382.26, Change to Open Space \$1,382.26, Fence Height \$691.13
DEVIATIONS (CONTINUED): Setback Critical Areas \$2,073.39, Impervious Surface \$2,074.42, Shoreline \$2,765.55, Wet Season Construction Moratorium \$846.66
ENVIRONMENTAL REVIEW (SEPA CHECKLIST): Residential \$415.09, Non-residential \$1,382.26, Environmental Impact St. \$2,074.42
SHORELINE MANAGEMENT: Exemption \$138.02, Permit Revision \$553.11, Recreation-modify \$553.11, Recreation-new \$1,382.26, Substantial Dev. Permit \$1,382.26
SUBDIVISION LONG PLAT: 2-3 Lots \$6,913.36, 4-5 Lots \$9,678.91, 6 or greater \$12,443.43, Long Plat Amendment \$3,456.68, Alteration to Existing \$3,456.68, Final Plat Subdivision \$2,765.55
SUBDIVISION SHORT PLAT: Two Lots \$3,456.68, Three Lots \$4,147.81, Four Lots \$4,838.94, Variance / Acreage Limitation \$691.13, Short Plat Amendment \$1,728.34, Alteration to Existing \$1,728.34
VARIANCES: Type 1 \$2,765.55, Type 2 (Single-Family Only) \$1,530.58
OTHER LAND USE: Accessory Dwelling Unit (ADU) \$138.02, Comp Plan Amendment (CPA) \$3,179.61, Conditional Use Permit (CUP) \$5,531.10, Lot Line Rev.-Minor \$2,074.42, Lot Line Rev.-Major \$3,456.68, Lot Line Consolidation \$691.13, Lot Line Amendment \$1,037.21, Rezoning Action \$3,456.68, Right-of-Way Encroachment Agreement \$400.78, Zoning Code Text Amendment \$3,179.61

FOR CITY USE ONLY - DO NOT WRITE BELOW THIS LINE

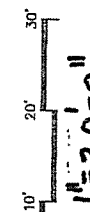
Form with fields: SEPA CATEGORICALLY EXEMPT: Yes/No, SEPA CHECKLIST REQUIRED: Yes/No, PERMIT FEE, RECEIVED, TOTAL FEES



NOTE:
SEE CIVIL ENGINEERING DRAWINGS FOR ALL SI
DRAINAGE SPECIFICATIONS. NOTES REGARDING A
TEMPORARY EROSION CONTROL REQUIREMENTS

NOTE:
PREVIOUS PAPERS AT LOWER PLAT AND FRONT
ENTRY WALK TO BE ECO-STONE BY LIN-GROUP
USA (TYP). SEE CITY OF MI REQUIREMENTS.

NOTE:
SHORT PLAT MUST BE FINALED AND RECORDED
PRIOR TO PERMIT ISSUANCE.



SITE PLAN

SCALE NOTE:
1" = 10' HOUSE PERIMETER
1/4" = 10' FROM RESIDENCE
1/8" = 10' FROM PROPERTIES

RECEIVED
MAR 27 2014
CITY OF MERCER ISLAND
DEVELOPMENT SERVICE GROUP
R-12 ZONING

RECEIVED
OCT 14 2016
CITY OF MERCER ISLAND
DEVELOPMENT SERVICE GROUP

ON THE ROCK 98040, LLC
LOT # 1 - 7254 N. MERCER WAY
MERCER ISLAND, WA 98040

Anderson Architecture
Leif Anderson, Architect AIA
20822 Danison Road, Lynnwood, WA 98036
425.672.4963 Fax/Phone
Leif@AndersonArchitecture.com

© 2014
AA # 12-12.101
3-20-2014

*Anderson Architecture
Leif Anderson Architect
20822 Damson Road
Lynnwood, WA 98036
425.672.4963 Fax/Phone
Leif@LAndersonArchitecture.com*

October 13th, 2016

Project address: Lot # 1, 7254 North Mercer Way, Mercer Island, WA.

Owner: On The Rock 98040, LLC

Builder: Beckes Homes

Building Permit No. 1306-055

Impervious Surfaces Deviation: DEV13-022

Reviewer: Robin Proebsting, Senior Planner-City of Mercer Island Development Services Group

Subject: Impervious Surfaces Deviation review for building permit

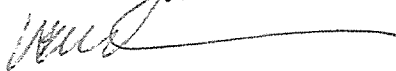
Please find the following revisions and additions for the proposed residential plan by Anderson Architecture, Project # 12-12.101.

Planning:

1. As requested, please see the revised DEV13-022 application for an Impervious Surfaces Deviation.
2. Travis Saunders sent a letter on August 5th, 2013 stating that the DEV13-026 application for an Impervious Surfaces Deviation was incomplete as filed. Shortly after that date, the DEV13-026 file and the associated building permit 1306-234 were both put on hold by the City as the SUB13-008 short plat was appealed by Mr. Daniel Thompson. That appeal process has finally ended, and the short plat was granted a final approval by the City on July 28th, 2016. The City has agreed to allow the final review for building permits # 1306-055 for Lot #1, and # 1306-234 for lot # 2, and I am currently submitting the necessary documents to the City to complete the building permits for both Lots #1 and #2. I will also be revising the DEV13-026 application for an Impervious Surfaces Deviation for Lot # 2.

Hopefully these revisions and clarifications will resolve any outstanding issues. Please call if I can answer any questions regarding this project.

Sincerely,



Leif Anderson
Architect

CC: On The Rock 98040, LLC
Beckes Homes

RECEIVED
OCT 14 2016
CITY OF MERCER ISLAND
DEVELOPMENT SERVICE GROUP

AK #12-12.101

10-13-2016



CITY OF MERCER ISLAND
9611 SE 36th Street • Mercer Island, WA 98040-3732
PHONE (206) 275-7605 • FAX (206) 275-7726
www.mercergov.org

Deviations to the Maximum Impervious Surface Requirements

APPLICATION FEE: See Development Application for current fees

The total percentage of a lot that can be covered by impervious surfaces (structures, including roof projections, impervious decks, and surfaces such as asphalt or concrete driveways, which substantially reduce and alter the natural infiltration characteristics of the soil) is limited by the slope of the lot for all single family developments as follows:

<u>Lot Slope</u>	<u>Maximum Lot Coverage</u> (limit for impervious surfaces)
Less than 15%	40%
15% – less than 30%	35%
30% – 50%	30%
Greater than 50%	20%

RECEIVED

OCT 14 2016

CITY OF MERCER ISLAND
DEVELOPMENT SERVICE GROUP

The Code Official may grant a deviation, allowing an additional five (5) percent of lot coverage over the maximum requirements. However, the applicant must demonstrate through the submittal of an application and supporting documentation that the proposal meets one of the criteria specified in MICC 19.02.020(D)(3).

Your application must include the following:

- 1) Select at least one of the three criteria listed below;
- 2) Give a complete statement of the reasons and conditions to support your request for a waiver in a cover letter;
- 3) Complete questions 1-4 regarding how this proposal addresses site issues;
- 4) Complete the attached site development worksheet;
- 5) Attach a detailed site plan or survey as determined by the Code Official; and
- 6) Provide calculations documenting total impervious surfaces.

Please choose one of the following criteria and provide an explanation as to how the proposal meets the chosen criteria. City staff may grant a deviation (limited to 5% over the maximum lot coverage requirement based on one criterion). Please be as encompassing as you can in responding to the following criteria; remember, the burden of proof is on the applicant to show that they meet the minimum requirements for a deviation. Please feel free to attach additional sheets.

Criterion 1 – The proposal uses Preferred Practices, outlined in MICC 19.09.100, which are appropriate for the lot.

Construction - Preferred Practices (MICC 19.09.100):

1. Use common access drives and utility corridors where feasible.
2. 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.
3. Retaining walls should be used to maintain existing natural slopes in place of graded artificial slopes; or,

Criterion 2 – The lot has a unique shape or proportions (i.e., a flag lot, with a circuitous driveway corridor); or,

Criterion 3 – The proposal minimizes impacts to Critical Areas and is the minimum extent possible for the additional impervious surfaces.

Please provide an explanation as to how your proposal meets at least one of the above criteria to support a deviation request: CRITERIA #1: THE PROPOSED PRACTICES IN THE ALLC 19.09.100 ARE BEING MET BY 1) THE USE OF COMMON ACCESS DRIVES (PRIVATE ACCESS EASEMENT WITHIN LOT #1 FOR USE BY BOTH LOT #1 & LOT #2 OF THIS SPLIT PLOT. ALSO, THE SAME COMMON UTILITY CORRIDORS (UTILITY EASEMENT WITHIN LOT #1) FOR THE BENEFIT OF BOTH LOT #1 & LOT #2. 2) THE DEVELOPMENT IN CRITICAL AREAS HAS MINIMIZED TO THE EXTENT POSSIBLE CREATING LARGE OPEN SPACES IN THE FRONT & REAR YARDS. 3) REMAINING WATERS HAVE BEEN USED TO MAINTAIN NATURAL SLOPES ALONG THE DRIVEWAY NEAR THE ENTRANCE, & ALSO WITHIN THE ENTRANCE AS IT IS 'CUT' INTO THE SLOPE. CRITERIA 2: THIS PROPOSAL MINIMIZES IMPACTS TO CRITICAL AREAS, WHILE PROTECTING VIEW CORRIDORS FOR NEIGHBORING PROPERTIES.

PLEASE ANSWER HOW YOUR PROPOSAL ADDRESSES THE FOLLOWING QUESTIONS:

1. How is the proposed development associated or related to the site?
THIS LOT #1 IS A PORTION OF THE 2 LOT SPLIT PLOT (SUB 13-008) DEVELOPED FOR A NEW SINGLE FAMILY RESIDENCE IN THE R-12 ZONE. THIS DEVELOPMENT UTILIZES A SHARED ACCESS EASEMENT & A SHARED UTILITY EASEMENT. THE DEVELOPMENT PROTECTS & AFFORDS VIEW CORRIDORS FOR NEIGHBORING PROPERTIES TO THE WEST & THE NORTHEAST, WHILE MAXIMIZING OPEN SPACES OF BOTH THE FRONT & REAR YARDS.

2. What is the minimum amount of impervious surface necessary to fulfill the request?
AN ADDITIONAL 5% TO THE ALLOWED 35% FOR A TOTAL OF 40% IMPERVIOUS LOT COVERAGE.

3. Are there other relevant physical or environmental factors that support the requested deviation?
THE SLOPE OF THE ACCESS EASEMENT WITHIN THIS LOT, FOR THE BENEFIT OF LOT #1 & LOT #2 REQUIRED A MINIMUM 18" WIDE DEDICATED FIRE LANE, BY MERCER ISLAND CODE. THIS COUNTED FOR A 2,203 S.F. EASEMENT WITHIN LOT #1, WHICH IS A TURN OF 16.5% OF THE IMPERVIOUS SURFACES FOR LOT #1. THIS RESULTS IN 44.31% OF THE 35% ALLOWABLE IMPERVIOUS SURFACES, AND WILL BE 30.76% OF THE REQUESTED 40% IMPERVIOUS SURFACES.

Application for a deviation involves substantial time, expense, and risk for a property owner. Application does not guarantee approval. Request must meet difficult criteria, and applicants are proceeding "at their own risk".

* _____ 10-13-2016
 Signature of Property Owner Date
LOT #1 7254 N. MERCER WAY
 Site Address

* Wade _____ LEIF ANDERSON
ANDERSON ARCHITECTURE
ARCHITECT / AGENT

Site Development Information

Worksheet for single family residential development

Project description: NEW SINGLE FAMILY RESIDENCE Address: LOT #1-7200 N. MERCER WAY

Owner Name: ON THE ROCK 9840, LLC Phone No: 202 679-2320 Date: 3-28-2013

Signature & phone number of Individual who Completed this Worksheet: GRETHER ANDERSON
 (I hereby state that the information provided by me is true and correct to the best of my knowledge) AMMERSON ARCHITECTURE

Will any large trees be removed as a result of this development activity? Yes No

Large tree—conifers ≥ 6' tall, deciduous with diameter > 6"

Do you have an Accessory Dwelling Unit? New ADU Existing ADU None

This is intended as a worksheet and is not a substitute for the Mercer Island Development Regulations. Please consult the Mercer Island City Code. City of Mercer Island — Development Services Group 9611 S.E. 36th Street, Mercer Island, Washington 98040 — (206) 275-7605

DEVELOPMENT INFORMATION

LOT SLOPE—According to the Mercer Island City Code, slope is a measurement of the average incline of the lot or other piece of land calculated by subtracting the lowest elevation of the property from the highest elevation, and dividing the resulting number by the shortest horizontal distance between these two points. The resulting product is multiplied by 100.

RECEIVED
OCT 14 2016

CITY OF MERCER ISLAND
DEVELOPMENT SERVICE GROUP

LOT INFORMATION

LOT SLOPE	
Highest Elevation Point of Lot	<u>86.0'</u> feet
Lowest Elevation Point of Lot	<u>50.0'</u> feet
Elevation Difference	<u>36.0'</u> feet
Horizontal Distance Between High and Low Points	<u>186 L.F.</u> feet
Lot Slope*	<u>19.36%</u> %

*Lot slope is the elevation difference divided by horizontal distance multiplied by 100

LOT COVERAGE—On Mercer Island, the overall degree of lot slope governs total lot coverage. When calculating maximum allowable lot coverage, include all impervious surfaces, such as roof areas of primary and accessory buildings, impervious decks, patios, sidewalks, driveways and access easements. Refer to page 3 for more information about Pavers and Other Impervious Surfaces and Exemptions.

*The applicant shall note that impervious surface exemptions to lot coverage do not apply to stormwater runoff calculations or to critical areas.

The table below offers basic guidelines on lot slope and allowable lot coverage:

Lot Slope	Allowed Lot Coverage
Less than 15%	No more than 40%
15% - less than 30%	No more than 35%
30% - 50%	No more than 30%
Greater than 50%	No more than 20%

A steep slope is any slope of 40 percent or greater calculated by measuring the vertical rise over any 30-foot horizontal run.

Please refer to page 3 for materials that are exempt from lot coverage calculations per MICC 19.02.020(D)(2).

Pavers and gravel surfaces for vehicular access are ALWAYS considered 100% impervious.

LOT COVERAGE	
Allowed Lot Coverage	<u>35% + 5% = 40%</u> * % of Lot
Gross Lot Area	<u>13,440</u> Sq. Ft.
Main Structure Roof Area	<u>2,714</u> Sq. Ft.
Accessory Building Roof Area	<u>—</u> Sq. Ft.
Impervious Deck, Patio, Walkway Area	<u>175</u> Sq. Ft.
Vehicular Use (Driveway, Access Easements, Parking)	<u>2302</u> Sq. Ft.
Total Existing Impervious Surface	<u>1652</u> Sq. Ft.
(Total Area Removed)	<u>(1652)</u> Sq. Ft.
Total New Impervious Surface Area	<u>5,251</u> Sq. Ft.
Total Project Impervious Surface Area	
(Existing plus new)	<u>5,251</u> Sq. Ft.
Proposed Lot Coverage	<u>39.07</u> % of Lot

Lot Coverage equals total impervious surface area divided by the gross lot area multiplied by 100

* APPLIED FOR 5% DEVIATION INCREASE IN IMPERVIOUS SURFACES

BUILDING AREA—All building areas must be identified and labeled on the site plan. Please distinguish all new construction from existing areas on both your drawing and in the calculations you complete to the right.

Will you be excluding a portion of the basement floor area?

Yes No

If yes, you must provide basement floor area calculations, with your building permit application, that show how you determined what portion of the basement will be excluded. Refer to page 4.

BUILDING AREA	Existing Area	Removed Area	New/Addition Area	Total
Upper Floor	/ Sq. Ft.	/ Sq. Ft.	1513 Sq. Ft.	1513 Sq. Ft.
Main Floor	/ Sq. Ft.	/ Sq. Ft.	1697 Sq. Ft.	1697 Sq. Ft.
Gross Basement Area	/ Sq. Ft.	/ Sq. Ft.	1295 Sq. Ft.	1295 Sq. Ft.
Garage/Carport	/ Sq. Ft.	/ Sq. Ft.	841 Sq. Ft.	841 Sq. Ft.
Total Floor Area	/ Sq. Ft.	/ Sq. Ft.	5346 Sq. Ft.	5346 Sq. Ft.
Accessory Buildings	/ Sq. Ft.	/ Sq. Ft.	/ Sq. Ft.	/ Sq. Ft.
Basement Area Excluded	(-) Sq. Ft.	(-) Sq. Ft.	(442) Sq. Ft.	442 Sq. Ft.
TOTAL Building Area	/ Sq. Ft.	/ Sq. Ft.	4904 Sq. Ft.	4904 Sq. Ft.

GROSS FLOOR AREA—Gross Floor Area (GFA) is the total square footage of floor area bounded by the exterior faces of a building.

The gross floor area of a single-family dwelling includes:

- The main building, including but not limited to attached accessory buildings.
- All garages and covered parking areas, and detached accessory buildings with a gross floor area over 120 square feet.
- That portion of a basement which projects above existing grade as defined and calculated in Appendix B of this development code.

Exterior decks and below existing grade areas are excluded. The amount of living space, garages and other accessory buildings on a single family lot is limited to 45% of the net lot area. Please refer to Pages 4 and 5 for details.

GROSS FLOOR AREA	
Net Lot Area	12,000 Sq. Ft.
Net Lot Area Gross = Lot area minus ingress/egress easement	
Net Lot Area x 45% equals:	5,400 S.F.
Allowed Gross Floor Area	5,400 Sq. Ft.
Proposed Gross Floor Area	4,904 Sq. Ft.
Proposed % of Lot Area	40.87 %

BUILDING HEIGHT — All building height measurements must be taken from existing grade. Existing grade refers to ground surface as it exists at the proposed building perimeter before grading or other alterations take place.

The Average Building Elevation (ABE) is a calculated reference elevation from which the allowable building height is measured. It is a weighted-average of the mid-point elevations of the building's wall segments and is established by the following formula:

$$\frac{(\text{Mid-point elevation of individual wall segment}) \times (\text{Length of wall segment})}{(\text{Total length of wall segments})}$$

Single family new construction and additions are limited to a maximum height of 30 ft. above the ABE. The height is measured to the top of the structure. On the downhill side of a sloping lot, the building may extend to a height of 35 feet measured from existing grade to the top of the exterior wall facade supporting the roof framing, rafters, trusses, etc.; provided, the roof ridge does not exceed 30 feet in height above the average building elevation.

A topographic survey is required at permit application when the proposed building height is within 2 ft. of the allowable building height. The survey must include a statement that attests the average contour elevation within the vicinity of the building footprint to be accurate within 6 inches vertically and horizontally from actual elevations.

BUILDING HEIGHT

Average Building Elevation (ABE) calculations located on sheet #: #1

Allowable Building Height (ABE + 30 ft.): 98.00'

Proposed Building Height (ft.): 96.50'

Benchmark elevation (ft.): 86.0'

Describe Benchmark location (must be undisturbed throughout project): N.W. PROPERTY CORNER

Sloping lot (Downhill side) — maximum height of top exterior wall facade above lowest existing grade (35-ft. max.): SEE SHEET #11 34'-3"

ABE and allowable building height shown on elevations-plan sheet #: #10/4/11

Topo-survey accuracy attested on plan sheet #: #1

(Note- survey must attest to accuracy when proposed building height is within 2 ft. of the allowable building height)

Please see page 6 for more information about calculating Average Building Elevation (ABE):

*The bench mark elevation is a fixed elevation point on or off site that will not be disturbed during development activity and is used to verify final building height.

THOMPSON & DELAY
ATTORNEYS AT LAW

2500 SMITH TOWER
506 SECOND AVENUE
SEATTLE, WASHINGTON 98104

TELEPHONE 206/622-0670
FACSIMILE 206/622-3965
EMAIL: daniel@thompsondelay.com
www.ThompsonDelay.com

July 15, 2013

DANIEL P. THOMPSON

Attn: Travis Saunders
Development Services Group
City of Mercer Island
9611 SE 36th Street
Mercer Island, WA 98040

via mail and email

Re: Application for short division SUB 13-008

Application for impervious surface deviation DEV 13-022, DEV 13-025

7254, 7260 N. Mercer Way, Mercer Island, WA, 98104

Dear Mr. Saunders:

I am administrator for the property trust located at 7230 N. Mercer Way, and own and reside at 7265 N. Mercer Way, Mercer Island, WA, 98104. Please consider this letter my comments on the above referenced applications, and objections to both impervious surface deviations and application for short sub-division.

JURISDICTIONAL ISSUES

The Square Footage of the Combined Lots Never Supported Subdivision

A site inspection of the waterfront lot suggests that at least 15 feet of "waterfront" was created simply by building a bulkhead, and then filling in the lake behind the bulkhead. This subdivision would have never been granted in the first place, and now that the subdivision has been reopened any subdivision should be reviewed.

As noted even on the site plan, the total square footage is the 65.8 feet width times an approximate 15 ft. depth for a total of 981 sq. feet. When 981 sq. ft. are deducted from the combined lot sq. footage, and the necessary 16 foot easement, it is clear there would never be sufficient sq. footage of fill at even the grandfathered reduced minimum of 24,000 sq. feet for two lots.

The bulkhead appears new. The ordinary high water mark is completely different from the adjacent properties, and does not reflect a distinct change in soils. Recently, a substantial dock was built and connects to the new bulkhead. I cannot find any federal, state or municipal permits allowing for filling in the lake.

In any case, the ordinary high water mark is not determined by a bulkhead, or fill placed into the lake. Discounting this artificial fill area, it results in insufficient sq. footage to subdivide, and requires the waterfront house to be set back at least 65 feet from the edge of the bulkhead, which is approximately fifty feet from the ordinary high water mark.

Additional Notice Should be Provided

As noted on the public notices of application, each was mailed July 1, 2013, which was a Monday. A fourteen day comment period is required, although 30 days may be allowed. July 4 fell on Thursday. The city offices were closed on July 4, and closed or seriously understaffed on July 5. On July 8, I contacted the city of Mercer Island requesting an opportunity to discuss these applications with you and was informed that you would be out of the office and would not be returning until at least July 15, 2013. I was also informed I could review the documents, but there would be no one available at the office who would be able to provide the information regarding the applications and any supporting documents. Furthermore, my neighbor who resides directly adjacent to lot 1 also went to the city and was informed that the project manager associated with these applications was not available to provide any information.

Despite the notice of other associated permits including DEV 13-025 as noted in the application for subdivision, there has been no notice of an impervious surface deviation DEV 13-025.

As a result, I was required to have an architect review the plans on file on Friday, July 12, 2013, although he did not have an opportunity to discuss the sub division file with you.

Considering the sweeping deviations and variances requested in all three applications, and the fact that you were out of the office and unavailable for consultation from July 8, 2013 to July 12, 2013, I do not believe adequate notice and time for consultation has been provided to those who received notice and would request that the notice period be extended an additional fourteen days.

A Formal or Informal Hearing Should be Required

SUB 13-008 states no additional studies have been requested and the sub division is categorically exempt per WAC 197-11-800(c)(a) which applies to minor land uses under RCW 58.17.060. I believe that the extraordinary requests in the application for a short division, and its impact on all three lots including the two original lots just recently

approved by the city around 2010, should result in a hearing, informal or formal, in this matter.

Travis Saunders
July 15, 2013
Page 3 of 7

I have discussed these applications with my neighbors, and there is a great deal of concern and confusion over the notice. Effectively, the developer is seeking to re-zone the property, which is beyond an administrative action. DEV 13-025 was not provided with the notice for SUB 13-008 when the variance is clearly noted on SUB 13-008 and described on the waterfront site plan and the scope of the deviations requested. We do not feel comfortable at this point that the city will enforce the code and protect our interests, and request a hearing and continuing notice on any proposed building permits, applications, or other actions on either property.

HISTORY OF NEIGHBORHOOD AND PROPERTY

The properties are located at 7254 and 7260 N Mercer Way. Minimum lot size under current code is R-15,000 unless the lot was in existence prior to 1960. The high lot square footage requirement dates to the completion of I-90, the Lid Park, and the concern by the citizens that the neighborhoods to the north and east of I-90 would become overdeveloped like Kirkland, and the residential character would be destroyed. Therefore, under city code, 15,000 sq. feet is determined to be the *minimum* appropriate lot size, with a special exemption for those lots in existence before 1960.

The property was owned for many years by Mr. and Mrs. Coe. It was purchased sometime around 2008-2009 by a young couple who had hoped to remodel the existing house, which eventually instead was torn down. The couple ran into financial problems during the economic downturn and attempted to sell the lot. When they were unable to sell, they applied with the city for a short plat approval, which was granted under MICC 19.08 et seq. with the basic minimum requirement under MICC 19.09.040 of a private access road/easement serving less than three single family dwellings be at least sixteen feet width, with at least twelve feet of that width consisting of pavement. Subsection C provides that all corners shall have a minimum turning radius of twenty-eight feet, and that access roads in excess of 150 feet of length should have a turn-around with an inside turning radius of twenty-eight feet. Pursuant to subsection F since the upper lot has a critical slope exceeding 15%, (20%) the road surface shall be cement concrete pavement with a brushed surface for traction (although this was not done in the original subdivision).

The property was then sold recently to the current applicant/developer based on the value of the combined lots and restrictions inherent in the approved subdivision and MICC 19.08.010(G) that any vacations or alterations of the short subdivision *shall* comply with the requirements of this chapter and *shall* be reviewed by the code official, and that under 19.08.020 the necessary documents will be filed, and the findings of fact issued noting that the further subdivision conformed with all code provisions.

CURRENT APPLICATION AND PROPOSAL FOR SUBDIVISION

Despite the recent subdivision into these two lots, the current developer/applicant now seeks extraordinary relief. In effect, the applicant seeks to further divide the two lots

into three lots. The original two lots would be substantially changed and affected including lot lines, impervious surface, and further required variances for setbacks.

In essence, the applicants request that the Mercer Island building code be amended to allow the developer to build an oversized house on both lots rather than designing the house according to the Mercer Island code that was always known at the purchase of the property and the original subdivision. Both lot 1 and lot 2 always had barely 12,000 sq. feet each after the first subdivision excluding the square footage for the easement (and that was based on 981 sq. ft. of lake fill). After the subdivision into three lots, both lots 1 and 2 will have the absolute bare minimum 12,000 sq. feet, which already is a variance from the preferred 15,000 sq. feet per lot in this neighborhood, and requires the structures to comply with *all* other zoning restrictions. 19.02.020 (A)(2).

The applicants take the extraordinary position that the impervious surface for the required easements across lot 1 to access lot 2 would be placed into a separate tract called "Tract X" so that this impervious surface would not be calculated with other impervious surfaces for the upper lot. The applicant then goes further and requests a variance of the impervious surface limit of 35% due to the critical slope status to 40%.

Since the creation of Tract X would result in Lot 1 having less than 12,000 sq. feet, the applicant proposes to redraw the lot line to the east from a straight, vertical line to a diagonal line reaching into the waterfront lot. Furthermore, as a result of the property loss to lot 2, the waterfront lot will require a deviation or variance to allow its required garage plus second story to extend ten feet into the required buffer yard setback between lot 1 and 2. In essence, this will result in one long house from N Mercer Way to the water. The other necessary deviations to make this subdivision work are numerous and some are listed below.

OBJECTION/COMMENTS

1. There are several code requirements that appear to have been forgotten in the current applications. The first is that the entire lot is a critical slope lot with a slope running from the street to the water of 20% as noted on the site plan. The second is that the waterfront lot is clearly within the Shoreline Management Act and is undersized at 12,000 sq. feet and as noted in the code must comply with *all* other code provisions taking advantage of the reduced 12,000 sq. foot lot sized (even considering the filling in of Lake Washington). While the designation of a critical slope can provide advantages and exempt sq. footage below the slope line, it raises serious considerations of impervious surface.

2. The record and files I have to date do not note any findings by the city whether the change in lot lines for the lot 1 places the southeastern corner into the 200 ft. buffer under the Shoreline Management Act. Therefore, a specific finding must be made whether the alternation to lot 1 by angling its rear lot would bring it under the SMA.

3. The purchase price received by the recent sellers to the current developer was clearly based upon the MICC regulating subdivision. In fact, the subdivision was only approved approximately two years ago. It is evident that a subdivision of a waterfront lot has advantages and disadvantages. One of the known disadvantages is that an impervious surface easement/driveway is required, and each lot – especially the waterfront lot – will have significant restrictions on the scope of its size both due to the setback from the water and the reduced square footage from the subdivision. In this matter, the applicant/developer seeks the advantages of the subdivision, while then seeking a variance and deviation from the disadvantages required under the code.

4. The creation of Tract X is so unusual I have never seen it before, and the fact that it would receive preliminary approval from the city of Mercer Island raises concern. Tract X would set a precedent that any property owner could place the entire impervious surface into a separate “Tract X”, and then seek a building permit that does not consider this impervious surface. In this matter, obviously the total impervious surface of the lot does not change by the creation of Tract x. It actually increases.

5. My guess is that the developer feels aggrieved that the poured easement is 16 ft. of impervious surface, rather than 12 ft. of impervious surface with 4 ft. of additional pervious surface and seeks to place into Tract X the 4 ft. of “extra” impervious surface, plus 1 ft. 10.5 inches of additional lot line. There are several problems with this approach. First, the easement for each lot, including Tract X, must be 16 ft. minimum. This is a combined 32 ft. of easement between Tract X and the upper lot. Second, the driveway is on a critical slope and is required to be concrete, not the current asphalt. Third, due to the 20 degree critical slope, 16 ft. of concrete easement is barely adequate for ordinary vehicles, let alone emergency vehicles. The appropriate action is to remove the asphalt easement and replace it with a concrete easement, and at that time to determine whether based on the 20 degree critical quote, 12 ft. of impervious surface would be adequate.

6. The creation of Tract X forces both lots 1 and 2 to be substantially redrawn. The preference under the code for lateral property lines is ignored. Lot 1 due to the setback from Tract X becomes an unusual and irregular shape requiring the construction of a house that must be higher and narrower to accomplish the developers goals to the detriment of the neighbors and neighborhood. The creation of Tract X *requires* a future variance to allow the waterfront lot garage to be placed 10 ft. into the required yard buffer including a planned second story over the garage. This alone should have resulted in this unwise subdivision to be summarily denied.

7. What has to be remembered is that both lots 1 and 2, even before further subdivision and the creation of Tract X, are barely 12,000 sq. feet, which is still 3,000 sq. feet/per lot less than the recommended sq. footage under the current zoning. The lot is a critical slope and runs directly toward Lake Washington. Considering these facts, there should be no deviation from the 35% critical slope limit for impervious surface at all.

8. Unclear to me is how the square footage of the waterfront lot *increases* after its lot lines are redrawn to provide additional square footage to lot 1 due to the creation of Tract X.

9. The waterfront lot has a proposed 10 foot driveway on a 20 degree slope with no turn around for emergency vehicles.

10. Both proposed houses have second story living quarters over the garage. For the waterfront lot, this means a two story house encroaches 10 feet into the required setback. For lot 1 it results in a house (both houses really) that violate the height limit and DRE 13-022.

11. The following calculations show the significant increases in impervious surface by the creation of Tract X.

<u>Lot 1</u>	<u>Impervious – 35%</u>
1. Old Calculations	
Total: 15,411 sq. feet	5,393.85 ft.
Easement: 16 ft. x 177.75 ft.	(2,844 ft.)
	Net: 2,549.85 ft.
2. New Calculations	
14,205 sq. feet	35% of 14,205 = 4,971.75 ft.
Easement: 12 ft. x 177.75 ft.	2,133 ft.
	Net: 2,838.75 ft.
14,205 sq. feet	40% of 14,205 = 5,682 ft.
Easement: 12 ft. x 177.75 ft.	2,133 ft.
	Net: 3,549 ft.
Proposed House – 4,442 sq. feet	
Proposed Garage – 841 sq. feet	
Total – 5,283 sq. feet	

As can be seen above, the creation of Tract X does not reduce any impervious surface; it in fact would increase the total impervious surface for the lot from 2,549 sq. feet to 2,838 sq. feet to 3,549 sq. ft. (not including Tract X's 1,049 sq. feet) and result in a house that is massively oversized for the lot, the critical slope, and the terms of the subdivision.

10. As noted on the site plans, the proposed subdivision requires the garage for the waterfront lot to extend 10 ft. into the front yard of the upland lot. Despite an application, apparently on file for this variance or subdivision deviation, no notice was

Travis Saunders
July 15, 2013
Page 7 of 7

provided along with the application for subdivision and impervious surface DEV 13-022, which raises concern. Also not noted is that the site plan anticipates a separate level of living quarters above the garage on the waterfront lot. Therefore, the plan anticipates not only the garage, but the actual house to extend 10 ft. into the side yard. If the ordinary high water mark is determined to be incorrect, the two houses would become one.


CONCLUSION

Ultimately, I do not believe two lots can be built on this site when the 981 sq. feet of lake fill are excluded from the calculations and the OHW calculated correctly, which moves the waterfront lot 15 feet further inland.

Both lots even at 12,000 sq. feet are limited to *strict* adherence to code provisions, especially considering a 20 degree slope running directly toward Lake Washington. The current applications require so many variances to work, they are simply a re-zone of the property, and require variances for driveways, easements, impervious surface, maximum building heights and square footage, rear and front yards, and many other code provisions.

The proposed notices were incomplete and mailed on an unfair time schedule. The applications reveal a complete disregard for the Mercer Island building provisions, the neighbors and the neighborhood. We believe a hearing before any appeal is a good idea to thoroughly discuss *any* building on the sites because quite simply at this point we do not trust the developer and are concerned that the city of Mercer Island is not enforcing its own prior subdivision, and the MICC.

Yours truly,

A handwritten signature in black ink, appearing to read 'D. P. Thompson', with a large, sweeping flourish above the name.

Daniel P. Thompson

DPT:ch