
CITY OF MERCER ISLAND

DEVELOPMENT SERVICES GROUP

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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[Inspection Requests: Online: www.MyBuildingPermits.com](http://www.MyBuildingPermits.com) VM: 206.275.7730



CRITICAL AREA DETERMINATION

The reduction or averaging of a watercourse or wetland buffer or the alteration of a steep slope, requires a Critical Area Determination. The decision authority for a Critical Area Determination is the Code Official as outlined in the Mercer Island Unified Land Development Code Section 19.15.010(E), Administrative Actions. The City may authorize the reduction of wetland or watercourse buffer or the alteration of a steep slope, based upon the criteria contained in MICC 19.07, summarized in this application form. The applicant has the burden of demonstrating compliance with the applicable criteria.

PRE-APPLICATION

Applicants are required to participate in a pre-application meeting with City staff, per MICC 19.09.010(A). Call Development Services Group (DSG) staff to schedule a pre-application meeting. Meetings with the staff provide an opportunity to discuss the proposal in conceptual terms, identify the applicable City requirements, and explain the project review process. Applicants are encouraged to talk with their neighbors about their proposal. Meetings or correspondence with the neighborhood serve the purpose of informing the neighborhood of the project proposal prior to the formal notice provided by the City.

APPLICATION MATERIALS

All applications and materials for projects to the City shall be submitted electronically through the FTP website and shall be the forms provided by the Development Services Group. An application and materials shall contain all information required by the applicable development regulations, and shall include the following information:

1. Completed [Development Application](#) Form
2. A clear and concise written description and summary of the proposed project that requires the Critical Area Determination. A Critical Area Determination is required to reduce or average a wetland or watercourse buffer or the alteration of a steep slope. The description must clearly state the proposed buffer requested (if a wetland or watercourse) and such buffer must be within the range identified for the maximum and minimum buffers in the MICC 19.07.070 or MICC 19.07.080.
3. A verified statement by the applicant that the subject property is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the property.
4. A legal description of the site and parcel number.
5. A Critical Area Study prepared by a qualified professional (e.g. stream/wetland biologist) containing the information identified in MICC 19.07.050, including:

- A. Site survey prepared by a Washington State licensed surveyor (showing property lines, adjacent right-of-ways, location of existing and proposed structures, etc.) for the subject property.
 - B. Cover sheet and site construction plan.
 - C. Mitigation and restoration plan (maybe combined with a stormwater and erosion/sediment control management plan) to include the following information:
 - 1. Delineation of critical areas and buffers.
 - 2. Classification of critical areas based on the requirements of MICC 19.07.060, 19.07.070, 19.07.080 and the definitions contained in Chapter 19.16.
 - 3. If a reduction of buffer is requested, the report must detail the specific mitigations that are proposed, consistent with the list of mitigation options identified in MICC 19.07.070(B)(2) that results in no net loss of critical area function. See details below.
 - 4. If buffer averaging is requested, the report must address the criteria identified in MICC 19.07.070(B)(2). See details below.
 - 5. Location of existing trees and vegetation and proposed removal existing trees and vegetation.
 - 6. Location, type, and number of replacement trees and vegetation.
 - 7. In the case of a wildlife habitat conservation area, identification of any know endangered or threatened species on the site.
 - 8. Proposed grading.
 - 9. Description of impacts to the functions of critical areas, and purposed monitoring plan.
 - 10. Additional requirements that apply to specific critical areas are located in:
 - a. MICC 10.07.060, Geologic Hazard Areas
 - b. MICC 19.07.070 Watercourses
 - c. MICC 19.07.080 Wetlands
 - d. MICC 19.07.090 Wildlife Habitat Conservation Areas
 - D. Stormwater and erosion control management plan consistent with MICC 15.09. Off-site measures may be required to correct impacts from the proposed alteration.
 - E. Other technical information consistent with the above requirements, as required by the code official.
 - F. The Critical area study requirement may be waived or modified if the code official determines that such information is not necessary for the protection of the critical area.
6. See [Development and Construction Permit Fee Schedule](#) for fees.

DETERMINATION OF COMPLETENESS

An application is not accepted by the City for submission unless the application has been determined to be complete. If upon review, the City determines that the application information provided is incomplete, within twenty-eight (28) days after receiving a permit application the City shall mail or personally provide a written determination to the applicant stating the inadequacies of the application. If the applicant fails to provide the required information within ninety (90) days of the notification of incompleteness, the application shall lapse. The applicant may request a refund of the application fee minus the City's cost of determining the completeness of the application.

WATERCOURSE BUFFERS

Standard buffer widths shall be as follows, measured from the ordinary high water mark (OHWM), or top of bank if the OHWM cannot be determined through simple non-technical observations. The code official may allow a reduction up to the minimum buffer width as described in the criteria.

1. Type 1 Watercourse- Watercourses or reaches of watercourses used by fish, or are downstream areas used by fish.
2. Type 2 Watercourse- Watercourses or reaches of watercourses with year-round flow, not used by fish.
3. Type 3 Watercourse- Watercourses or reaches of watercourses with intermittent or seasonal flow and not used by fish.
4. Restored Watercourse- Any Type 1, 2 or 3 watercourse created from the opening of previously piped, channelized or culverted watercourses.

Watercourse Type	Standard (Base) Buffer Width (ft)	Minimum Buffer Width with Enhancement (ft)
Type 1	75	37
Type 2	50	25
Type 3	35	25
Restored or piped	25	Determined by the code official

WATERCOURSE AND WETLAND BUFFER AVERAGING CRITERIA FOR APPROVAL

The code official may allow the standard buffer width to be averaged if:

1. The proposal will result in a net improvement of critical area function.
2. The proposal will include replanting of the averaged buffer using native vegetation.
3. The total area contained in the averaged buffers on the development proposal site is not decreased below the total area that would be provided if the maximum width were not averaged.
4. The standard buffer is not reduced to a width that is less than the minimum buffer width at any location.

That portion of the buffer that has been reduced in width shall not contain a steep slope.

WATERCOURSE BUFFER REDUCTION CRITERIA

All requests to reduce a watercourse buffer must detail the specific mitigations that are purposed, consistent with the list of mitigation options identified in MICC 19.07.070(B)(2). The code official may allow the standard buffer width to be reduced to not less than the minimum width in accordance with an approved critical area study when they determines that all of the following apply:

1. That a smaller area is adequate to protect the watercourse.
2. The impacts will be mitigated by using combinations of the mitigation options.
3. The proposal will result in no net loss of watercourse buffer functions
Please note that the City reserves the right to require third party review of the Critical Area Report prepared by the qualified professional at the applicant's expense to verify conclusions, methods, etc.
4. In no case shall a reduced buffer contain a steep slope.

In determining a buffer, the code official may consider the following mitigation options:

1. Permanent removal of impervious surfaces and replacement with native vegetation.
2. Installation of bio filtration/infiltration mechanisms such as bio swales; created and/or enhanced wetlands, or ponds supplemental to existing storm drainage and water quality requirements.
3. Removal of noxious weeds, replanting with native vegetation and 5 year monitoring.
4. Habitat enhancement within the watercourse such as log structure placement, bioengineered bank stabilization, culvert removal, improved salmonid passage and/or creation of side channel or backwater areas.

5. Use of best management practices (e.g. oil/water separators) for storm water quality control exceeding standard requirements.
6. Installation of pervious material for driveway or road construction.
7. Use of "green" roofs in accordance with the standards of the LEED Green Building Rating System.
8. Restoration of off-site area if no on-site area is possible.
9. Removal of sources of toxic material that predate the applicant's ownership.
10. Opening of previously channelized and culverted watercourses on or off-site.

Wetland Buffers

Standard buffer widths shall be established from the outer edge of wetland boundaries and wetland rating shall be based on the categories set forth in the Washington State Wetland Rating System for Western Washington, Publication #04-06-025 dated August 2004, updated in June 2006 (Version 2). A Summary of the classification system is provided below:

1. Category I Wetlands- Category I wetlands are those that meet the following criteria:
 - A. Wetlands that are identified by scientists as high quality or high-function wetlands.
 - B. Bogs larger than one-half acre.
 - C. Mature and old-growth forested wetlands larger than 1 acre.
 - D. Wetlands that are undisturbed and contain ecological attributes that are impossible to replace within a human lifetime.
2. Category II Wetlands- Category II wetlands are not defined as Category I wetlands and meet the following criteria:
 - A. Wetlands that are identified by scientists as containing "sensitive" plant species.
 - B. Bogs between one-quarter and one-half acre in size.
 - C. Wetlands with a moderately high level of function.
3. Category III Wetlands- Category III wetlands do not satisfy the criteria for Category I or II, and have a moderate level of functions. These wetlands generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources than Category II wetlands.
4. Category IV Wetlands- Category IV wetlands do not satisfy Category I, II or III criteria, have the lowest level of functions, and are often heavily disturbed.

Wetland Type	Standard (Base) Buffer Width (ft)	Minimum Buffer Width with Enhancement (ft)
Category I	100	50
Category II	75	37
Category III	50	25
Category IV	35	25

WETLAND BUFFER REDUCTION

The code official may allow the standard wetland buffer width to be reduced to not less than the minimum buffer width in accordance with an approved critical area study when the code official determines that:

1. A smaller area is adequate to protect the wetland functions.
2. The impacts will be mitigated consistent with MICC 19.07.070(B)(2).
3. The proposal will result in no net loss of wetland and buffer functions.

STEEP SLOPES

Any development proposal that will result in the alteration of a steep slope requires the issuance of a critical areas determination. In the MICC 19.16.010 steep slope is defined as:

Any slope of 40 percent or greater calculated by measuring the vertical rise over any 30-foot horizontal run. Steep slopes do not include artificially created cut slopes or rockeries

ALTERATION OF A STEEP SLOPE

Alteration of a steep slope may be authorized through a critical areas determination, if the development proposal complies with the applicable provisions of:

MICC 19.07, in particular:

MICC 19.07.050, Critical Area Study

MICC 19.07.060, Geologic Hazard Areas

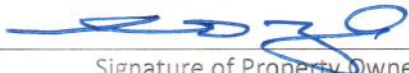
Geotechnical review of the proposed development is required. The geotechnical review must conclude that the proposal can effectively mitigate the risks associated with development and that the project will not result in adverse impacts to the steep slopes or other critical areas on or adjacent to the site.

PUBLIC NOTICE AND REVIEW PROCESS

Critical Area Determinations require public notice in the City Permit Bulletin. The City will provide the applicant a public notice sign to post on the site and will mail the notice to all property owners within 300 feet of the subject property following the Determination of Completeness. The public may provide written comments on the proposal for a minimum of 14 days prior to the decision. A Notice of Decision will be mailed to the applicant and anyone who provides written comments on the proposal. Critical Area Determination decisions may be appealed to the Planning Commission. Appeals must be filed within 14 days following issuance of the Notice of Decision as provided in MICC 19.15.020(J).

CRITICAL AREA DETERMINATION AGREEMENT

Application for a Critical Area Determination 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".



Signature of Property Owner

10/19/17

Date

3603 West Neece Way

Site Address