

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercerisland.gov



CITY USE ONLY

PROJECT NO.	RECEIPT NO.	FEE

Date Received:

Received By:

DEVELOPMENT APPLICATION

A Development Application form is required to be completed for any land use project within the City of Mercer Island. Additional supplemental information for each specific land use permit requested is required. See below for land use permits and associated permit forms.

PROPERTY INFORMATION

Property Address: 7XXX SE 76th St., Mercer Island

Parcel Number(s): 5453600380

Gross Lot Area(s): 70632, 1.62 acres

Net Lot Area(s): _____

Zone: R-9.6

Shoreline Environment Designation:
(if located within 200 feet of Lake Washington) Urban Residential
 Urban Park

CRITICAL AREAS ON PROPERTY

GEOLOGICALLY HAZARDOUS AREAS

- Potential Landslide Hazard
- Erosion Hazard
- Seismic Hazard
- Steep Slope

WATERCOURSES

- Type F
- Type Np
- Type Ns
- Piped
- Unknown

WETLANDS

- Category I
- Category II
- Category III
- Category IV
- Unknown

PROPERTY OWNER INFORMATION

Name: Janet Fischer Company (if applicable): _____

Address: 23780 Peckham Ln, Oak Creek, CO 8046 E-Mail: janetkcnate@gmail.com

Phone: 970 846-7859 ⁸⁰⁴⁶⁷

APPLICANT/REPRESENTATIVE INFORMATION

Same as property owner

Name: _____ Company (if applicable): _____

Address: _____ E-Mail: _____

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 *Janeet Fischer* Date *6-28-24*

PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL (please use additional paper if needed):

This property is not a "tract" as that term is defined in Mercer Island's present code. This property was created by a plat recorded in 1963 known as the Mercer Terrace subdivision, zoned R-9.6. (continued on attached)

INDICATE REQUESTED LAND USE APPROVALS

CRITICAL AREAS		ENVIRONMENTAL REVIEW (SEPA)		SUBDIVISION	
	Critical Area Review 1		Environmental Impact Statement		Short Plat- Preliminary
	Critical Area Review 2		SEPA Review		Short Plat- Alteration
DESIGN REVIEW		LEGISLATIVE			Short Plat- Final Plat
	Design Review – Signs		Code Amendment		Long Plat- Preliminary
	Design Review – Code Official		Comprehensive Plan Docket Application		Long Plat- Alteration
	Design Commission Study Session		Comprehensive Plan Application (If Docketed)		Long Plat- Final Plat
	Design Commission Review – Exterior Alteration		Rezone		Lot Line Revision
	Design Commission Review – Major New Construction	OTHER LAND USE		WIRELESS COMMUNICATION FACILITIES	
			Accessory Dwelling Unit		New Wireless Communication Facility
DEVIATIONS		X	Code Interpretation Request		Wireless Communications Facilities- 6409 Exemption
	Deviations to Antenna Standards – Code Official		Conditional Use (CUP)		Small Cell Deployment
	Deviations to Antenna Standards – Design Commission		Noise Exception Type I - IV		Height Variance
	Public Agency Exception		Other Permit/Services Not Listed		
	Reasonable Use Exception	SHORELINE MANAGEMENT			
	Variance		Shoreline Exemption		
	Seasonal Development Limitation Waiver – Wet Season Construction Approval		Shoreline Substantial Development Permit		
			Shoreline Variance		
			Shoreline Conditional Use Permit		
			Shoreline Permit Revision		

LAND USE APPLICATION SUBMITTAL REQUIREMENTS

Each Land Use Application requested above must be accompanied by the appropriate land use application form and required materials. Refer to the [City of Mercer Island Permit Forms](#) webpage for a complete list of all land use application forms and submittal requirements.

Parcel Number 5453600380, Mercer Island
1.62 Acres; Zone R-9.6

This property is not a "Tract" as that term is defined in Mercer Island's present code. This property was created by a plat recorded in 1963 known as the Mercer Terrace subdivision, zoned R-9.6. It was recorded by the Fischer family, who still own the subject property and know the history. There was no definition of "Tract" in the Mercer Island Code, at that time. It was defined by Mercer Island -in the 1965 code as synonymous with "lot". Under the current subdivision statute (RCW ch. 58.17 and the preceding statute (RCW ch. 58.16), the terms lot and tract are used interchangeably and have the same definition. The important thing is that the plat contained nothing to limit the use of the subject property. That is consistent with the fact that the property has been taxed as residential developable land in the 60 years since the plat was recorded. The current Mercer Island definition of a tract as unbuildable was adopted in 1999, many years after the recorded plat in 1963.

Owners and engineer, Cecil & Associates, applied for, paid for, and had a pre-application meeting with Mercer Island Planning (document attached, applied 11/28/23, met 12/19/23, PRE23-081). As follow up, owners were asked by Grace Manahan, to demonstrate that this parcel does not meet the present definition of "Tract". Owner's engineer, Roger Cecil, submitted this documentation on 2/21/24 (attached). On 4/30/24 we received the following from Grace Manahan: "The City Attorney's Office declined to opine on the "memo," provided and recommended that they seek advice from their own private counsel." Under direction from our counsel, William Lynn, we are now submitting a "Code Interpretation Request". You will find as part of the submittal to the City, the letter from Mr. Lynn to the Mercer Island City Attorney and Planning Director dated December 11, 2009, setting forth facts and legal analysis concerning the property. Mr. Lynn stands by the analysis, except as to the assertion that the property was in unincorporated King County at the time the plat was recorded. That does not matter to the analysis above or in the Lynn letter. Mr. Lynn attempted to discuss the issues with the current City Attorney. He is prepared to discuss the issues as part of this application or to supplement the analysis if necessary.