



CITY OF MERCER ISLAND

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IMPERVIOUS SURFACE DEVIATION

NOTICE OF DECISION

October 30, 2017

I. PROJECT SUMMARY

File Number: DEV17-012

Property Owner: New Horizon Real Estate Development

Location of Property: 8383 East Mercer Way, Mercer Island, WA, 98040;
Identified by King County Assessor tax parcel number 032110-0140

Zoning District: R-8.4

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.

Applicant Contact: Jeffrey Almeter, previously Jim Dearth (Ripple Design Studio Inc.)

Associated Permits: SUB16-004 Lot Line Revision, 1709-007 Site Development, and 1709-006 Building Permit.

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 DEV17-012 received by the City of Mercer Island Development Services Group on June 29, 2017.
2. Site plan received by the City of Mercer Island Development Services Group on June 29, 2017.
3. Criteria responses received by the City of Mercer Island Development Services Group on June 29, 2017.
4. Site Development Worksheet received by the City of Mercer Island Development Services Group on June 29, 2017.
5. Project Narrative received by the City of Mercer Island Development Services Group on June 29, 2017.

6. Geotechnical Engineering Study for 8375 and 8383 East Mercer Way, prepared by Michael H. Xue (Senior Geotechnical Engineer) and Siew L. Tan (Principal Geotechnical Engineer) at PanGEO Inc. was received by the City of Mercer Island Development Services Group on October 26, 2017.
7. Utility Corridor Plan prepared by Jeffrey Ellis (professional engineer) at Civil Engineering Solutions received by the City of Mercer Island Development Services Group on October 26, 2017.
8. SUB16-004 Lot Line Revision Final Plat Notice of Decision prepared by Robin Proebsting, Senior Planner for the City of Mercer Island dated October 31, 2016.
9. Site Development permit 1709-007 engineering plans prepared by Jeffrey Ellis at Civil Engineering Solutions, received by the City of Mercer Island Development Services Group on October 2, 2017.
10. Public Comment from Louise Haslund addressed to Robin Proebsting, received by the City of Mercer Island Development Services Group on August 16, 2017.

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 5,823.3 square feet of impervious surface on the 16,638 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 831.9 square feet for a total allowed impervious surface area of 6,655.2 square feet.

The subject site is part of a recent lot line revision (SUB16-004) and currently has an existing house that is proposed to be a demo rebuild. 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 adjacent properties.

2. Zoning:

The existing zoning of the subject site is Single Family Residential R-8.4 (8,400 square foot minimum lot area).

3. Lot Slope:

According to Exhibit 2 and 4, the average lot slope for the property is 19.7%.

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 31, 2017, 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 30-day comment period was provided from July 31, 2017, through August 30, 2017. One public comment was received during the comment period.

Louise Hasland submitted a comment in email addressed to Robin Proebsting on August 16, 2017 (Exhibit 10). The application was passed from Robin Proebsting to Lauren Anderson for review in October 2017. She stated concern about the stability of the hillside and potential impacts to her property and the homes nearby.

Staff Analysis:

Slope stability is protected by the following factors: building practices recommended by the Geotechnical Engineer, and stormwater management as designed and recommended by the Engineer. The applicant provided a Geotechnical Engineering Study prepared by PanGEO Inc., refer to Exhibit 6. In addition, further Geotechnical review will occur during the review of the building permits and site development permit associated with SUB16-004. For stormwater management and erosion control please refer to Exhibit 9, the submitted site development plans for 1709-007. Sheet C1.0 illustrates the erosion control plan, sheet C1.2 indicates the TESC (temporary erosion sediment control) plan, and C3.0 indicates the engineering plan. According to sheet C3.6 there will be a stormwater detention tank on parcel 2 and 3. Stormwater management will help reduce runoff and erosion, thus reducing the impact to the slope.

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 three lots (Exhibit 2 and 7). The terms Common Access Drive and Common 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 DEV17-012 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 (DEV17-012) approval allows for impervious surface development up to 40% of the total lot area at 8383 East 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 (DEV17-012) 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 30th day of October, 2017.



**Lauren Anderson, Assistant 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.