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Via Email and U.S. First Class Mail

Scott Greenberg, Director
CITY OF MERCER ISLAND
DEVELOPMENT SERVICES GROUP
9611 SE 36th Street
Mercer Island, WA 98040

March 30, 2017

Re: Mercer Island Center for the Arts

Dear Mr. Greenberg:

As you know, Mercer Island Center for the Arts (MICA) has submitted a Comprehensive Plan Amendment application to the City of Mercer Island (the "City") for the City's 2017 review cycle in regards to MICA's proposed Zoning Text Amendment ("Text Amendment"), a copy of which is enclosed. Although MICA believed that such a Comprehensive Plan Amendment was **not** required, it submitted the application in an abundance of caution in the event the City deemed it necessary.

We provide this letter in support of MICA's position that no amendment to the City of Mercer Island's Comprehensive Plan ("Comprehensive Plan") is necessary in respect to the Text Amendment since it is entirely consistent with and implements the Comprehensive Plan.

Text Amendment

The Text Amendment proposes that the "Public Institution - P" zone under MICC 19.05.010 (the "P Zone") be amended to add an additional use as follows:

7. Public Facilities in Mercerdale Park, with primary uses of theatre, lecture hall, classroom, performing studio, visual arts studio, exhibition gallery, gathering and meeting spaces, café and bar, and accessory functions thereof (hereafter referred to as "Mercerdale Park Public Facilities"), subject to the requirements in subsection G of this section.

This proposed use is similar to other uses already allowed in the P Zone such as public schools and public parks.

In addition, the Text Amendment establishes setback, height, street standards, and parking requirements for this new use as follows:

G. Mercerdale Park Public Facilities, shall be subject to the following requirements:

Setback from Property Lines	No minimum setback required, except as necessary to comply with MICC 19.11.030.A.1. ¹
Height Limit (as defined by MICC 19.16.010²)	As allowed pursuant to MICC 19.05.010.E.
Street Standards	The Street Standard requirements of MICC 19.11.120 are inapplicable.

3. Mercerdale Park Public Facilities shall provide parking as follows:

- a. A parking demand study shall be prepared by a professional traffic engineer and approved by the City Engineer determining the parking requirements for the proposed public facility.
- b. The amount of parking required by the approved parking demand study may be met by entirely off-site with a combination of on-street parking and shared off-street parking pursuant to a traffic management plan approved by the City Engineer determining that parking demand for all land uses shall not significantly overlap and that uses will be served by adequate parking if on-street parking and shared parking reductions are authorized.
- c. Prior to establishing shared parking, the property owner or owners shall enter into an unrecorded written agreement approved by the code official that can only be terminated upon not less than ninety (90) day notice to the code official, provided that one of the affected property owners has agreed to either enter into a replacement parking contract or make alternative parking arrangements, such as shuttle service, in either case satisfactory to the code official prior to the end of the notice period.

4. Mercerdale Park Public Facilities shall be exempt from the requirements of MICC 19.05.020.B.4.

¹ MICC 19.11.030.A.1 states: "No minimum setback required except where necessary to provide landscaping, façade modulation, through-block connection or an easement for sidewalk width.

² MICC 18.16.010.A defines "Building Height" as "Outside of the Town Center: The vertical distance measure from the average building elevation to the highest point of the roof structure excluding appurtenance. A mezzanine shall not be counted as a story for determining the allowable number of stories when constructed in accordance with the requirements of the construction codes set forth in MICC Title 17."

Criteria for Compliance with the Comprehensive Plan.

Under the Growth Management Act, RCW 36.70A, 010, *et seq.*, “[a]ny amendment of or revision to development regulations shall be **consistent with and implement** the comprehensive plan.” (Emphasis added.) RCW 36.70A.130(1)(d). “Consistency” means that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.” WAC 365-196-210(8).

However,

Comprehensive plans contain broad policy benchmarks—not specific measures designed to implement such policies; they do not specify measures by which such policies must be implemented. RCW 36.70A.030(4); *Citizens for Mt. Vernon v. City of Mt. Vernon*, 133 Wash.2d 861, 873, 947 P.2d 1208 (1997).

(Emphasis added.) *Sammamish Cmty. Council v. City of Bellevue*, 108 Wash. App. 46, 56, 29 P.3d 728, 733 (2001).

As further stated in *Woods v. Kittitas Cty.*, 162 Wash. 2d 597, 613, 174 P.3d 25, 33 (2007):

Thus, a proposed land use decision must only **generally conform**, rather than strictly conform, to the comprehensive plan. *Id.* **A comprehensive plan does not directly regulate site-specific land use decisions.** *Id.*; *Viking Props.*, 155 Wash.2d at 126, ¶ 31, 118 P.3d 322. **Instead, local development regulations, including zoning regulations, directly constrain individual land use decisions.** *Viking Props.*, 155 Wash.2d at 126, ¶ 31, 118 P.3d 322. Such regulations must be consistent with the comprehensive plan and be sufficient in scope to carry out the goals set forth in the comprehensive plan. RCW 36.70A.040(3)(d), (4)(d); WAC 365-195-800(1).

(Emphasis added.)

COMPREHENSIVE PLAN – CITY OF MERCER ISLAND

CONSISTENCY AND IMPLEMENTATION OF VISION STATEMENT.

Initially, we note that the Text Amendment primary uses are focused, *inter alia*, on theater, education, performing and visual arts, and as a gathering and place for people both inside and outside of Mercer Island. As such, this use is entirely consistent with the following key components of the Vision Statement of the Comprehensive Plan.

VISION STATEMENT

Residential Community. Mercer Island is principally a single-family residential community, supported by **healthy schools**, religious institutions and recreational clubs.

...

Education is the Key. The community and its public and *private institutions* are committed to provide *excellence in education*.

Livability is Paramount. Our community's values are reflected by safety and freedom from fear, physical and environmental attributes, and the *cultural and recreational* opportunities of our Island. This translates into the feeling that Mercer Island is "the nicest of places for everyone to live."

(Bold italic emphasis added.) See, Comprehensive Plan, Introduction, p. 4.

Regional Role. The community clearly links its interests in *regional matters* through involvement in transportation, *education*, human services, domestic water, air traffic noise, marine patrol, public health and safety, and pollution abatement. Participation will continue through individual citizens, interest groups and elected officials.

Community Services. *Mercer Island will continue to provide a wide range of education, cultural and municipal services for the community's varied population. Balanced and flexible programs will be necessary to meet the community's evolving needs in education, recreation and cultural enjoyment.* The community will maintain its broad range of quality basic services, including public safety, human services, physical development and utilities. At the same time, community leaders recognize that delivery of these services will take place in an arena of limited resources and heightened competition for tax revenues.

Residential Land Use.

- Mercer Island is principally a low density, single-family residential community. The community will continue to seek ways to enhance its image as Puget Sound's "most livable residential community." Supporting these efforts, City leaders will maintain the integrity of existing approved land use policies.
- *The community, through its ongoing consideration of public and private projects,* will continue to seek ways of enhancing the Island's quality of life through open space preservation, pedestrian trails and *well-designed and functional public and semi-public facilities.*
- *Civic, recreation, education and religious organizations are important and integral elements of the community character and fabric. Their contribution and importance to the established community character should be reflected and respected in land use permit processes.*

(Bold italic emphasis added.) See, Comprehensive Plan, Introduction, pp. 5-7.

CONSISTENCY AND IMPLEMENTATION OF LAND USE ELEMENT.

Mercerdale Park, located off of SE 32nd Street and 78th Ave. SE, is a designated P Zone abutting the Town Center zone (the "TC") and adjacent to other multiple family (MF-2) and residential zones (R-8.4 /R-9.6). As such, the land policies expressed in Comprehensive Plan regarding the

TC are significant. The Text Amendment is consistent with and implements following applicable policies.

LAND USE AND DEVELOPMENT

GOAL 2 Create a policy and regulatory structure that will result in a Islanders' daily needs and helps *create a vibrant, healthy Town business, social, cultural and entertainment center.*

GOAL 3 *Have a mixture of building types, styles and ages that reflects the evolution of the Town Center over time, with human-scaled buildings, varied height, set-backs and step-backs and attractive facades.*

(Bold italic emphasis added.) See, Comprehensive Plan, Land Use, p. 11. The proposed use would provide a community gathering place and host a wide variety of activities, including theater, music and dance performances, visual arts exhibits, recitals, and lectures. It would provide much-needed classroom space for arts education for all ages, with convenient and quality classes and lessons for community members. Situated adjacent to Town Center, it provides a unique opportunity to blend these social and cultural uses with the adjacent business and retailers to support a vibrant Town Center.

CIRCULATION AND PARKING

GOAL 6 *Be convenient and accessible to people of all ages and abilities, including pedestrians, bicyclists, transit users and motorists.*

...

GOAL 9 *Have ample parking, both on- street and off, and the ability to park once and walk to a variety of retail shops.*

(Bold italic emphasis added.) See, Comprehensive Plan, Land Use, p. 15. In this respect, the location of the use within Mercerdale Park makes it convenient and accessible to all with various modes of transportation. By creatively utilizing shared parking strategies and existing street parking, pedestrian focused activities and park green space surrounding the use are encouraged. The Text Amendment further establishes specific parking requirements for the new use, including a parking demand study establishing off-site and shared parking conditions pursuant to a traffic management plan.

PUBLIC REALM

GOAL 12 *Have inviting, accessible outdoor spaces with seating, greenery, water features, and art that offer settings for outdoor entertainment and special events as well as for quiet contemplation.*

12.1 Outdoor public spaces of various sizes in Town Center are important and should be encouraged.

(Bold italic emphasis added.) See, Comprehensive Plan, Land Use, p. 16. The proposed use would provide a facility within Mercerdale Park for outdoor performances and special events in a unique park setting while preserving the park for passive recreation and use and quiet contemplation.

OUTSIDE THE TOWN CENTER

GOAL 17 With the exception of allowing residential development, commercial designations and permitted uses under current zoning will not change.

17.1 The Planned Business Zone uses on the south end of Mercer Island are compatible with the surrounding single family zone needs. All activities in the PBZ are subject to design review. Supplemental design guidelines have been adopted.

17.2 Commercial uses and densities near the I-90/East Mercer Way exit and SE 36th Street are appropriate for that area. All activities in the CO zone are subject to design review and supplemental design guidelines may be adopted.

17.3 Inclusion of a range of residential densities should be allowed when compatible in the Commercial Office (CO) zones. Through rezones or changes in zoning district regulations, multi-family residences should be allowed in all commercial zones where adverse impacts to surrounding areas can be minimized. Housing should be used to create new, vibrant neighborhoods.

17.4 Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island.

(Bold italic emphasis added.) See, Comprehensive Plan, Land Use, pp. 19-20. The P Zone is adjacent to residential areas making the siting of the proposed use consistent the policies under Goal 17.

Natural Environment Policies

GOAL 18 *The protection of the natural environment will continue to be a priority in all Island development. Protection of the environment and private property rights will be consistent with all state and federal laws.*

(Bold italic emphasis added.) See, Comprehensive Plan, Land Use, pp. 20. In this respect, the Text Amendment does not change any development regulation regarding protection of the environment. All environmental protections apply.

Parks and Open Space Policies

GOAL 19 Continue to maintain the Island's unique quality of life through open space preservation, park and trail development and *well-designed public facilities*.

19.2 *More specific policy direction for parks and open space shall be identified in the Parks and Recreation Plan and the Pedestrian and Bicycle Facility Plan. These plans shall be updated periodically to reflect changing needs in the community.*

19.3 *Acquisition, maintenance and access to public areas, preserved as natural open spaces or developed for recreational purposes, will continue to be an essential element for maintaining the community's character.*

19.4 View preservation actions should be balanced with the efforts to preserve the community's natural vegetation and tree cover.

19.5 Future land use decisions should encourage the retention of private club recreational facilities as important community assets.

19.6 *Provide recreation and leisure time programs and facilities that afford equal opportunities for use by all Mercer Island residents while considering the needs of non-Mercer Island residents.*

19.7 *Provide a system of attractive, safe, and functional parks, and park facilities.*

19.8 *Preserve natural and developed open space environments and trails for the benefit of all existing and future generations.*

19.9 *Provide a broad representation of public art through cooperation with the Mercer Island Arts Council.*

(Bold italic emphasis added.) See, Comprehensive Plan, Land Use, p. 21. The proposed use is entirely consistent and implements the policies under Goal 19. The use will preserve existing recreational activity areas in the park, will provide sheltered space for additional activities and leisure time programs, and will support, maintain, and enhance the natural environment surrounding the facility.

CONSISTENCY AND IMPLEMENTATION OF HOUSING ELEMENT.

NEIGHBORHOOD QUALITY

GOAL 1: *Ensure that single family and multi-family neighborhoods provide safe and attractive living environments, and are compatible in quality, design and intensity with surrounding land uses, traffic patterns, public facilities and sensitive environmental features.*

1.1 *Ensure that zoning and City code provisions protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character.*

(Bold italic emphasis added.) See, Comprehensive Plan, Housing, p. 6. In this respect, the proposed use location with the Mercerdale Park will result in a significant buffer of park land, open space, and greenbelt from the adjoining single family and multi-family neighborhoods. The scale is consistent with and relates to the abutting TC zone. This makes the proposed use compatible in quality, design and intensity with surrounding land uses, traffic patterns, public facilities and sensitive environmental features and consistent in scale and bulk with the surrounding neighborhood.

CONSISTENCY AND IMPLEMENTATION OF TRANSPORTATION ELEMENT.

TRANSPORTATION GOALS AND POLICIES

GOAL 11: Ensure parking standards support the land use policies of the Comprehensive Plan.

11.1 ***Continue to implement flexible parking requirements for Town Center development based on the type and intensity of the proposed development; site characteristics; likelihood for parking impacts to adjacent uses; opportunities for transit, carpooling and shared parking; and potential for enhancements to the pedestrian environment.***

...

11.2 ***Support business development in the downtown area by prioritizing on-street parking spaces in the Town Center for short-term parking, and encourage the development of off-street shared parking facilities for long term parking in the Town Center.***

See, Comprehensive Plan, Transportation, p. 6. By working with the business community for shared parking opportunities and encouraging more off-peak activities to utilize the existing, under-utilized parking resource, the use supports flexible parking requirements, prioritizes on-street parking, and enhances the pedestrian environment. This will alleviate the need to create new and unnecessary parking spaces and, instead, effectively use under-utilized on-street parking and paved parking lots resulting in more pedestrian streetscape, more park green space, and reducing paved infrastructure. The Text Amendment provisions for parking requirements, including a parking demand study establishing off-site and shared parking conditions pursuant to a traffic management plan is consistent with and implements the transportation policies pursuant to Goal 11. T

CONSISTENCY AND IMPLEMENTATION OF ARK AND RECREATION PLAN.

Further, the Text Amendment is wholly consistent with and implements the City's Park and Recreation Plan as follows:

Vision Statement

...
We maintain and preserve high quality parks, facilities, open space, natural resources and recreation and cultural services to enrich the lives of those in our community and provide a sense of belonging and pride.

It is with high a standard of ethics and integrity that we commit to excellence by building partnerships and relationships and preserve resources with an emphasis on sustainability for future generations.

The City of Mercer Island Parks and Recreation Department will:

Goal 1: *Provide recreation and leisure time programs and facilities that afford equal opportunities for all Mercer Island residents while considering the needs of non-Mercer Island residents.*

- ...
- c) *Provide a variety of social and cultural arts programs;*
 - d) *Provide opportunities for special populations and encourage inclusive recreation pursuits whenever possible;*
 - e) *Support collaborations and agreements with other agencies and organizations to broaden recreation, art, social, cultural and enrichment opportunities;*

...
Goal 2: *Provide a system of attractive, safe, and functional parks, and park facilities.*

- a) *Provide park facilities to adequately meet community needs and demands and seek strategies to maximize existing park and recreation assets (i.e. conversion of natural grass ballfields to artificial turf and adding lights; improved scheduling practices; etc.)*
- ...
- e) *Pursue design techniques and operational practices that allow flexibility in park and facility uses;*
- f) *Encourage private sector participation in preserving open space and providing facilities for recreational and community enjoyment;*

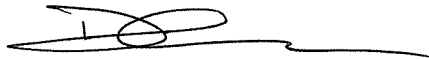
...
(Bold italic emphasis added.) See, Parks and Recreation Plan 2014-2019, pp. 91-93. The proposed use as community gathering place hosting a wide variety of activities, including theater, music and dance performances, visual arts exhibits, recitals, and lectures for all ages, with convenient and quality classes and lessons for community members is consistent with and implements the policies of the Parks and Recreation Plan.

CONCLUSION

Based on the forgoing, MICA believes that no amendment to the Comprehensive Plan is necessary in respect to the Text Amendment since it is entirely consistent with and implements all aspects of the Comprehensive Plan. As such, we request the withdrawal of our application unless the City is requiring such amendment. Since the deadline for payment of the request fee is approaching, we would greatly appreciate hearing from the City on this issue at your earliest convenience. Please feel free to call if you wish to discuss this in more detail.

Respectfully,

Very truly yours,



Darrell S. Mitsunaga

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Enclosure

cc. MICA
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Robin Proebsting

01-1310-1 Ltr to Scott Greenberg 03-30-17Final