1201 3rd Avenue, Suite 2600
Seattle, Washington 98101
206.287.9130

ANCHOR QEA

October 24, 2022

City of Mercer Island
Community Planning and Development
9611 SE 36th Street
Mercer Island, Washington 98040

Re: Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and Shoreline Variance Request for the Luther Burbank Park Waterfront Improvements Project

To Whom It May Concern:

The City of Mercer Island (City) is proposing the Luther Burbank Park Waterfront Improvements Project (Project) to repair, maintain, and enhance the waterfront program at Luther Burbank Park in the City of Mercer Island, Washington.

This application is intended to provide information about the Project and to request a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and Shoreline Variance from the City under Mercer Island City Code (MICC) Chapter 19.13 – Shoreline Master Program. The following supporting materials are provided with this letter:

- Exhibit 1. City Development Application Form
- Exhibit 2. Joint Aquatic Resource Permit Application (JARPA)
  - JARPA Form
  - Project Description (project narrative and drawings)
  - Critical Areas Study (including no net loss discussion)
  - SEPA Checklist
  - Cultural Resources Report
  - Biological Evaluation
- Exhibit 3. Shoreline Code Compliance Tables

1 Project Overview

The Project includes repairing the north dock structure, and replacing and reconfiguring the central and south dock structures, to accommodate waterfront programming and current and projected watercraft uses at the park. Other waterside improvements include installing a grated overwater public access platform in the nearshore to improve access to the water along the existing plaza area.

The Project also includes upgrades to the waterfront plaza and Boiler Building. These include Boiler Building repairs (i.e., new roof, seismic retrofits, and new lighting); Boiler Building restroom annex renovation to improve the restroom facilities and construct a new rooftop viewing deck; concession stand repairs; and waterfront plaza renovations and access upgrades. The Project will improve access to the waterfront by creating new Americans with Disabilities Act (ADA)-accessible routes from the

plaza to the viewing deck on the existing Boiler Building annex restroom rooftop, and to the expanded north beach area that will be improved by the Project with fish habitat gravel and riparian plantings. The ADA route will connect to the adjacent future south shoreline trail that will be constructed as part of a separate project. The ADA route will also connect to the existing trail that continues north of the Project area. All proposed waterfront improvements including the dock structures and gangways will also meet ADA requirements. The waterfront plaza renovations and access upgrades will incorporate low impact development (LID) features that will provide stormwater buffering and biofiltration functions similar to a vegetated shoreline. An irrigation intake system will also be installed at the plaza.

A Project Description containing a detailed narrative of each of the elements described above and project drawings are included as attachments to the JARPA (Exhibit 2).

2 Shoreline Master Program Compliance

The Project is located within the City's Shoreline Master Program (SMP) jurisdiction, within the Urban Park shoreline environment on Lake Washington. Per the SMP, the Urban Park shoreline environment consists of shoreland areas designated for public access and active and passive public recreation. The purpose of the Project is to optimize public access, recreational uses, and public safety, including reconfiguring the waterfront park to better accommodate small boats and nonmotorized watercraft and to improve ADA access to the docks, viewing deck, and beach, while avoiding and minimizing potential impacts to sensitive environments and resulting in no net loss of ecological function.

The Project includes the following uses, which are allowed landward of the ordinary high water mark (OHWM) within the Urban Park shoreline environment per MICC 19.13.040 – Table A:

- Public parks and open space
- Noncommercial recreation areas
- Shoreland surface modification
- Restoration of ecological functions including shoreline habitat and natural systems enhancement

The following Project element located landward of the OHWM requires a Shoreline Conditional Use Permit (SCUP) per MICC 19.13.040 – Table A:

- New hard structural shoreline stabilization (for the terraced rock walls at the south on-grade pathway and rock revetment at the north beach expansion area)

The following Project elements are allowed waterward of the OHWM per MICC 19.13.040 – Table B:[1]

- Floating platforms
- Mooring piles
- Public access pier, dock, or boardwalk
- Restoration of ecological functions including shoreline habitat and natural systems enhancement

Although "public access piers, docks, or boardwalks" are allowed uses, the City is requesting a Shoreline Variance to provide the following design allowances for the Project. Additional details and justification are provided later in this document under the Shoreline Variance Analysis subsection:

- **Dock width requirements.** The City is requesting a variance from MICC 19.13.050(H)(4) dock width requirements to allow the central and south dock structures to exceed the 6-foot width requirement.
- **Dock grating requirements.** The City is requesting a variance from MICC 19.13.050(H)(5) dock grating requirements to allow the central wave attenuator/mooring float structure to provide less light transmittance than is allowed by the code (the code requires 40% light transmittance over 100% of the dock).
- **Fixed pier height requirements.** The City is requesting a variance from MICC 19.13.050(H)(6) fixed pier height requirements to allow the overwater access platform adjacent to the plaza to extend below the minimum height requirement of 1.5 feet above OHWM.

2.1 Shoreline Substantial Development Permit Analysis

The Project includes allowed uses within the Urban Park shoreline environment that will require a Shoreline Substantial Development Permit (SSDP) from the City. Activities to be covered under the SSDP include the following in-water and overwater activities and upland improvements (see the Project Description for details).

2.1.1 In-water and Overwater Activities

The in-water and overwater activities requiring a SSDP from the City include the following:

- North dock repairs
- Central and south docks reconfiguration (except for grating and float width elements requiring a Shoreline Variance)
- Waterfront gangway and overwater access platform (except for the overwater access platform height requiring a Shoreline Variance)

[1] Buoys are anticipated to be allowed as accessory to the water dependent uses described in this section.

- Restoration of ecological functions including shoreline habitat and natural systems enhancement (installation of cobble underlayment and habitat gravel below OHWM resulting in temporary impacts)

As discussed in the Project Description, the Project will replace and reconfigure the solid decking central and south fixed dock structures. The new central dock will be installed in deeper water and will consist of a grated gangway and a concrete wave attenuator/mooring float. The new south dock will be located near shore and will include a grated gangway and floats.

Per MICC 19.13.050(H)(5), new docks are required to have a grated surface that allows for 40% light transmittance over 100% of the dock. The Project will meet this requirement for the south dock and the new overwater access platform adjacent to the waterfront plaza. To provide adequate wave attenuation and protection for users of the south dock structure, the float material will be concrete, with light penetration options where possible. The bulk of the structure is located as far off shore as practical in approximately 36 to 38 feet of water to reduce the effect of shading on the lake bottom.

Table 1 provides a summary of the proposed changes to overwater cover. Overall, the Project would slightly reduce the total amount of overwater cover and would use light-penetrating grating materials to the maximum feasible extent.

Table 1
Existing and Proposed Overwater Coverage

Description	Removed Overwater Cover (sf)	New or Relocated Overwater Cover (sf)	Net Change (sf)
Existing solid wood decking	960	--	--
Existing fixed concrete dock	3,665	--	
Existing aluminum ramp	40	--	
Proposed concrete gangway abutment	--	18	
Proposed two grated gangways	--	600	
Proposed four finger floats	--	265	
Proposed grated floats	--	615	
Proposed wave attenuator float	--	2,610	
Proposed grated overwater platform	--	552	
Total Overwater Cover Change:	**4,665**	**4,660**	**-5**

Notes:
1. Approximately 2,000 sf of new overwater cover will consist of FRP grating.
2. An existing floating wood dock will be removed from the south dock during demolition, temporarily stored on site, and replaced for reuse as part of the reconfigured south dock. This floating wood dock is not included in the overwater cover calculations shown here.

The Project includes elements in nearshore areas with up to 12 feet of water depth and in offshore, or deep water, areas with over 30 feet of water depth (measured from OHWM or 18.67 NAVD 88). Lake Washington shorelines provide habitat for Chinook salmon, sockeye salmon, coho salmon, and cutthroat trout. The nearshore area (up to a water depth of 12 feet) provides habitat opportunities for migrating juvenile Chinook salmon. Reducing solid overwater cover in these areas will reduce opportunities for predatory fish to congregate and improve light and dark transitions and habitat conditions for the migrating salmonids. In deeper water where adult Chinook and juvenile sockeye salmon are found, the design has fewer impacts to habitat because overwater cover in deep water for the wave attenuator/mooring float is less likely to harbor predator species, and there would be less impact on light penetration and shadowing. The proposed design aims to minimize impacts to the nearshore area at the south dock and overwater platform with the use of grated overwater surfacing.

2.1.2 Upland Improvements

The upland improvements to be covered under an SSDP include the following:

- Boiler Building repairs
- Boiler Building restroom annex renovation
- Concession stand repairs
- Waterfront plaza renovations and access upgrades (except for the terrace rock walls at the north beach expansion area requiring a SCUP)
- Waterfront drainage low-impact design (LID)
- Restoration of ecological functions including shoreline habitat and natural systems enhancement

The Boiler Building repairs, Boiler Building restroom annex renovation, and concession stand repairs all include installing improvements to the existing Boiler Building. Per MICC 19.13.050(A), Table C (A) and (B), development for structures landward of OHWM requires a 25-foot setback and must not exceed a height of 35 feet above average building elevation. The proposed Boiler Building repairs are consistent with the requirements in Table C. Exterior repairs include installing a new roof and replacing wall-mounted light fixtures. The Boiler Building restroom annex renovation proposes to construct a viewing deck on the existing restroom roof and will be constructed to an elevation of 29 feet, 10 inches compared to the existing elevation of 29 feet, 2 inches. The structure will not exceed a height of 35 feet above average building elevation. The rooftop viewing deck will be located in the existing building location approximately 35 feet from OHWM. The concession stand repairs will occur under the rooftop viewing deck within the same footprint, located between the restrooms and Boiler Building on the ground floor.

The waterfront plaza renovations and access upgrades propose to replace existing plaza hardscape with concrete paving and pervious paving as part of the Project's waterfront drainage LID. Two new

trails, one in the north beach area and one in the south, will provide additional public access to the waterfront that is currently limited to an asphalt pathway at the north and a gravel maintenance driveway in the south. The hardscapes proposed in the design are consistent with MICC 19.13.050(A), Table C, (C) and (D), which states the maximum hardscape between 0 and 25 feet from OHWM shall be 10% and the area between 25 and 50 feet from OHWM shall be 30%.

The existing gravel north beach area above OHWM will be expanded with additional habitat-grade gravel, and native riparian plantings will be installed near the shoreline to maintain ecological functions.

2.2 Shoreline Conditional Use Permit Analysis

New hard structural shoreline stabilization activities at the north beach and near the south on-grade pathway include the installation of rock revetment and rock terraces landward of OHWM. Per Table A in MICC 19.13.040, new hard structural shoreline stabilization measures are permitted with a SCUP within the Urban Park environment. These structures are necessary to stabilize the south on-grade trail, which is located on a steep slope, and to allow the new north beach public access features to be set back from the water such that the beach area can be expanded and restored.

2.3 Shoreline Variance Analysis

Project elements requiring a Shoreline Variance include the central dock grating and width requirements; south dock width requirements; and overwater access platform height requirements.

2.3.1 Dock Width Requirements

The central dock floating structure will be 10 feet wide, and the south dock floating structure, including the reuse of an existing float, will be 8 to 10 feet wide. Per MICC 19.13.050(H)(4), public docks are limited to 6 feet wide, which is more restrictive than the allowance for private dock projects to replace structures similar or less than the existing area, width, or length per MICC 19.13.050(F)(2)(ii). Additionally, from a structural and public safety standpoint, the 6-foot-wide requirement is structurally infeasible at this location to support the intended public uses. Therefore, the City is seeking a variance to the 6-foot width criteria for the south and central dock floats for the following reasons:

- A width of 10 feet is recommended for the central wave attenuator/mooring float to provide adequate attenuation for the types of waves generated by the wake surfing boats that frequently operate offshore near the park.
- A minimum of 8 feet wide is required to provide sufficient access for first responders to reach firefighting standpipes and operate firefighting equipment on the central dock. The wider dock area is also required to provide ADA-compliant access.
- The south dock floating structure will include 8-foot-wide and 10-foot-wide floats to accommodate launching a variety of small craft, including one- and two-person sailboats

(typical widths of these boat types are up to 6 feet). The 10-foot-wide float is an existing float that is in good condition and will be reused for the Project. To allow someone on the dock to pass a sailboat on a hand trailer, a minimum of 2 feet of additional width is required in addition to the 6-foot typical width per sailboat, for a total minimum clearance of 8 feet. The south dock floating structure will also be used for educational purposes, and a 6-foot-wide structure will not provide sufficient stability when students are gathered on one side during educational instruction. For example, an 8-foot-wide float has 75% more stability, which should be sufficient to maintain adequate reserve freeboard under this condition. A wider south dock floating structure will also be more stable against wave energy that is not attenuated by the central wave attenuator/mooring float.

2.3.2 Dock Grating Requirements

Per MICC 19.13.050(H)(5), new docks are required to have a grated surface that allows for 40% light transmittance over 100% of the dock. The Project will meet this requirement for the south dock and overwater access platform, but the City is requesting a variance from the grating and light transmittance requirements for the central wave attenuator/mooring float. To provide effective wave attenuation that allows for safe use and programming for the south dock, a solid float with significant weight is required. In the last decade, wake surfing has become popular in Lake Washington. The large waves this generates cause floating docks to pitch excessively. The waves affect the docks intermittently, unpredictably, and without warning. These conditions create unstable surfaces on floating docks, posing a risk to dock users and prohibiting ADA-compliant access. The wave attenuation provided by this mooring float addresses this problem. This project will also install regulatory buoys offshore of the float to inform boaters of wake regulations in proximity to the shoreline.

The float material will be concrete, with light penetration options where possible. This includes larger than typical float components, including the floats and structural bracing, to provide adequate protection against anticipated wave energy. To support the larger float components, the City is requesting a waiver from this requirement. The City will work with the design engineer to evaluate the feasibility of adding grating to the structure, but prefers to use solid decking as currently proposed. The bulk of the structure is located as far off shore as practical in approximately 36 to 38 feet of water to reduce the effect of shading on the lake bottom.

2.3.3 Fixed Pier Height Requirements

The City is also seeking a variance from the fixed pier height requirements for a minimum distance between 1.5 feet above OHWM and the bottom beam of any fixed docks per MICC 19.13.050(H)(6). This variance request is to support installation of the grated overwater access platform adjacent to the waterfront plaza. The proposed platform is intended to bring the public closer to the water's edge than is currently possible in the plaza area, providing the opportunity for people to touch the

lake surface during the summer high water season. People with mobility limitations have trouble accessing the shoreline on an uneven, unstable beach surface. The proposed structure provides a stable platform to allow greater access.

To provide this experience, the platform structure will need to be at or below the surface of the water at higher lake levels. The platform is designed with a grated surface meeting or exceeding light transmittance requirements to minimize shading of the water below. The platform is also located over a degraded nearshore habitat. Based on these considerations, it is anticipated that installation of the platform at this location would result in negligible impacts to the nearshore habitat functions and values, as confirmed at a site visit with the City and Washington Department of Fish and Wildlife.

3 SCUP and Shoreline Variance Compliance

The City of Mercer Island SMP does not have specific variance or SCUP criteria. However, per MICC 19.13.020(C)(2), whenever an applicant seeks a variance, the applicant shall provide the City with a plan that demonstrates the project will not create a net loss in ecological function to the shorelands. The Critical Areas Report for the Project, included with this letter, provides a demonstration of no net loss of ecological function to the shoreline environment from the Project.

The Washington State Department of Ecology promulgates the Shoreline Management Act at a state level and reviews SCUPs and Shoreline Variances once approved by the local jurisdiction. To support City and Ecology review, the tables in Exhibit 3 describe the Project's consistency with Shoreline Variance criteria in the Washington Administrative Code (WAC) 173-27-170 and SCUP criteria per WAC 173-27-160.

4 Conclusion

Overall, it is anticipated that the Project will result in no net loss of shoreline ecological function as demonstrated in the Critical Areas Report provided with this application. The Project's upland improvements at the shoreline and plaza are consistent with existing shoreline uses per Table A in MICC 19.13.040. The Project includes LID measures to improve stormwater management.

New hard structural shoreline stabilization is compliant with SCUP criteria as described in Exhibit 3. Placing habitat-grade gravel and installing riparian plantings at the shoreline as part of the beach expansion will restore the shoreline and provide ecological functions as permitted under MICC 19.13.040.

The Project will adequately offset temporary construction impacts and avoid or minimize long-term impacts consistent with MICC 19.13.020(C) and critical areas mitigation sequencing requirements per MICC 19.07.100. The Project minimizes impacts to the nearshore environment through the use of grated surfacing to the maximum extent feasible. Although the Project proposes solid surface decking for the wave attenuator/mooring float in the deeper water, impacts to salmonids are

diminished for deeper water cover as the habitat is less suitable for predators and light and dark shadows are diminished in deeper water.

Through implementation of avoidance and minimization measures, it is expected that the Project will comply with MICC 19.13.040 for allowed activities, including public parks and open space, and restoration of ecological functions including shoreline habitat and natural systems enhancement. Therefore, we believe that the Project as proposed meets the intent of the SMP and complies with Shoreline Variance and SCUP criteria per WAC 173-27-160 and WAC 173-27-170.

Thank you in advance for your attention to this project. Please feel free to contact me by phone at (206) 903-3374, or email at jjensen@anchorqea.com, with any questions.

Sincerely,

Josh Jensen
Senior Managing Environmental Planner
Anchor QEA, LLC

cc: Paul West and Andrew Prince, City of Mercer Island

Attachments

- Exhibit 1. City Development Application Form
- Exhibit 2. Joint Aquatic Resource Permit Application (JARPA)
- Exhibit 3. Analysis of Compliance with Shoreline Conditional Use and Variance Requirements

Exhibit 1
City Development Application Form

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#	RECEIPT #	**FEE**
Date Received:		
Received By:		

DEVELOPMENT APPLICATION

STREET ADDRESS/LOCATION	ZONE
2040 84th Avenue SE, Mercer Island, Washington 98040	R-15
COUNTY ASSESSOR PARCEL #'S	**PARCEL SIZE (SQ. FT.)**
0624059014, 072405HYDR, 0724059054	2,478,245 sq ft

PROPERTY OWNER *(required)*	ADDRESS *(required)*	CELL/OFFICE *(required)*
City of Mercer Island	2040 84th Avenue SE, Mercer Island, Washington 98040	(206) 275-7833 E-MAIL *(required)* paul.west@mercerisland.gov
PROJECT CONTACT NAME	ADDRESS	CELL/OFFICE
Paul West, City of Mercer Island Public Works	9611 SE 36th Street, Mercer Island, Washington 98040	(206) 275-7833 or (206) 459-5434 E-MAIL paul.west@mercerisland.gov
TENANT NAME	ADDRESS	CELL PHONE E-MAIL

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.

Paul West — Digitally signed by Paul West Date: 2022.10.26 06:56:07 -07'00' — SIGNATURE

10/25/2022 — DATE

PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL (PLEASE USE ADDITIONAL PAPER IF NEEDED)**:**

Luther Burbank Park Waterfront Improvements Project; please see attached Project Description for details and figures.

ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

CHECK TYPE OF LAND USE APPROVAL REQUESTED:

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

Exhibit 2
Joint Aquatic Resource Permit Application (JARPA)

JARPA Form and Attachments are provided separately

Exhibit 3
Analysis of Compliance with Shoreline Conditional Use and Variance Requirements

Consistency with WAC 173-27-160, Review Criteria for Conditional Use Permits

Code Reference	Development Standard Compliance
(1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:	The City is applying for a Shoreline Conditional Use Permit as required for new hard structural shoreline stabilization in shoreline environments landward of the OHWM, per Table A in MICC 19.13.040. The new hard structural shoreline stabilization landward of the OHWM will consist of the rock revetment at the north beach expansion area and rock terraces along the south on-grade trail.
(a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;	The Project complies with the City's shoreline policies as demonstrated throughout this application. The proposed use of the Project will be consistent with RCW 90.58.020 by preserving the natural character of the shoreline. The new rock revetment and rock terraces landward of the OHWM will also protect the shoreline while increasing public access to the expanded north beach area.
(b) That the proposed use will not interfere with the normal public use of public shorelines;	The new rock revetment and rock terraces landward of the OHWM will not interfere with the normal public use of the shoreline and will increase public access to the waterfront.
(c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;	The Project will improve existing waterfront recreational opportunities and access. It complies with the authorized use of the Urban Park environment per MICC 19.13.040 for public parks and open space. The proposed rock revetment and rock terraces landward of the OHWM will support the north beach access and new on-grade pathway.
(d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and	The new rock revetment and rock terraces will not cause significant adverse effects to the shoreline. This work will be landward of OHWM and will have required measures in place to prevent water quality impacts. The Project Description included with the JARPA (Exhibit 2) includes a list of best management practices (BMPs) to be implemented during construction to avoid or minimize potential impacts on the shoreline environment. The Biological Evaluation and Critical Areas Report describe conservation measures proposed to avoid or minimize potential impacts on federally listed species and critical habitat. With these measures in place, no net loss of ecological functions will occur as described in the Critical Areas report.

Code Reference	Development Standard Compliance
(e) That the public interest suffers no substantial detrimental effect.	The Project will enhance public access to the existing waterfront plaza and shoreline and will enhance the user experience. Proposed activities will not cause substantial detrimental effects to the public.
(2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.	The City is not aware of other conditional use permits that have been issued in the area for similar circumstances.
(3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.	Not applicable. All uses are classified within the City's SMP and consistent with permitted uses per MICC 19.13.040. Proposed elements for which the City is seeking a variance are analyzed in the table for WAC 173-27-170 in this attachment.
(4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.	Not applicable. All uses are classified within the City's SMP and consistent with permitted uses per MICC 19.13.040.

Consistency with WAC 173-27-170, Review Criteria for Variance Permits

Code Reference	Development Standard Compliance
1) Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.	The City is seeking a variance from the following criteria in the SMP per MICC 19.13.050(H) for public access docks or boardwalks. A variance for **dimensional standards for dock width** is being requested to allow the public dock to be replaced in an updated orientation, with floats that are wide enough to bring the docks up to current standards and provide sufficient protection for safe use. This includes expanding dock width beyond the MICC 19.13.050(H)(4) 6-foot width requirements for public moorage facilities. The City is specifically requesting a variance from the dimensional standards to allow the proposed central dock to be up to 10 feet wide in order to provide adequate wave attenuation for safe operation of the inner float as well as sufficient width for access by first responders. The City is also requesting to allow the proposed southern dock float structures to be 8 and 10 feet wide to allow for safe launching of watercraft; better accommodate groups of students that will be using the float; and provide for a more stable structure that will be safer for continued public use. The City is also seeking a variance from the **light transmittance conditions** of MICC 19.13.050(H)(5) requiring public access docks to be grated with materials that allow a minimum of 40% light transmittance over 100% of the surface area. Light transmittance would be inhibited by structural components required to allow the wave attenuator/mooring float to provide critical safety functions for public use of the dock. Lastly, the City is seeking a variance from the **fixed pier height conditions** of MICC 19.13.050(H)(6) requiring a minimum 1.5-foot distance between the water surface and bottom structural beam. This variance would allow the overwater access platform located adjacent to the waterfront plaza to extend from the plaza edge into the water. The platform is another major public access component of the Project. The dock structure and platform are located within a shoreline environment that was previously used as a steam plant and is heavily modified from natural conditions, including shoreline fill and overwater

Code Reference	Development Standard Compliance
	development and structures. Consistent with RCW 90.58.020, the Project is compliant with statewide standards for shoreline protection. The City is committed to incorporating environmental enhancements and avoidance and minimization measures into the Project to demonstrate no net loss of ecological functions. Measures include reducing net overwater coverage, installing functional grating to the extent practicable, and shoreline landscaping and riparian plantings. Additionally, BMPs will be implemented during construction to reduce potential impacts to the shoreline environment. Overall, the Project will improve public access and safety at the dock and plaza area and enhance the user experience. The Project is consistent with the approved master plan for Luther Burbank Park and is supported by the City's Parks, Recreation and Open Space Plan adopted in 2022.[2] The Project is not anticipated to result in any detriment to the public interest.
2) Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(c), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following: a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property; b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions; c) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment; d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;	Not applicable. Variance permits are not being requested for upland development or uses.

[2] City of Mercer Island, 2022. City of Mercer Island Parks, Recreation & Open Space Plan. March 2022.

Code Reference	Development Standard Compliance
e) That the variance requested is the minimum necessary to afford relief; and f) That the public interest will suffer no substantial detrimental effect.	
3) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(c), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following: (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property; (b) That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and (c) That the public rights of navigation and use of the shorelines will not be adversely affected.	A variance for dimensional and performance standards for development located waterward of OHWM is being requested for several Project elements. The strict application of the bulk dimensional standards set forth in the City's SMP interferes with the reasonable use of the property by requiring dock dimensions, grating requirements, and structural height requirements that limit the City's ability to replace the existing structure in a manner that adequately protects the safety of public users while improving access to the shoreline. For example, standard SMP conditions limit a wave attenuation float to 6 feet wide, which would significantly reduce its intended functions, including limiting the width available for small sailboat trailers to be able to access the float; increasing the potential for tipping users off of the float during high wake or wave events; and providing insufficient wave attenuation for adequate protection of the small finger floats intended to provide public access to stand-up paddle boards, kayaks, and small sailboats. A variance for dimensional and performance standards is being requested to allow the City to waive grating requirements for the wave attenuation/mooring float below the 40% functional grating requirement over 100% of the surface area for public moorage facilities per MICC 19.13.050(H)(5). To support a safe float design, the 40% grating requirement is structurally infeasible due to the need to install larger than typical float components, including the floats and structural bracing, to provide adequate protection against anticipated wave energy. A variance for dimensional standards is being requested to allow the City to install an overwater access platform that extends waterward from the Plaza area to increase public access opportunities. This would require a variance from the requirement to provide a minimum 1.5-foot clearance between the water surface and bottom of structural bracing per MICC 19.13.050(H)(6). The strict application of the dimensional standards interferes with the City's ability to provide reasonable and safe public use of the property.

Code Reference	Development Standard Compliance
	The hardship described in this section is specifically related to the property and unique conditions, including increased use of wake surfing boats in Lake Washington that present dangerous conditions that could impact public dock users if not addressed in the design of the Project. Furthermore, the existing location of the waterfront plaza, which is elevated due to underlying fill used to construct the steam building and appurtenances, does not provide direct public access to the water and is currently fenced off to the public. The proposed platform would provide public access directly to the water but is currently limited by strict application of the shoreline code. The proposed dock repairs to improve public access and use of the shoreline are included in the 2006 Luther Burbank Park Master Plan, which is cited in the most recent Comprehensive Plan. The Luther Burbank Park Master Plan was used to guide the design process, which provides a vision of a waterfront activity center that is centered around small boats. The dock structure and platform are located within a shoreline environment that was previously used as a steam plant and is heavily modified from natural conditions, including shoreline fill and overwater development and structures. Consistent with RCW 90.58.020, the Project is compliant with statewide standards for shoreline protection. The City is committed to incorporating environmental enhancements and avoidance and minimization measures into the Project to demonstrate no net loss of ecological functions. Measures include reducing net overwater coverage, installing functional grating to the extent practicable, and shoreline landscaping and riparian plantings. Additionally, BMPs will be implemented during construction to reduce potential impacts and result in no net loss of shoreline ecological functions, as described in the Critical Areas Report and Biological Evaluation included with the JARPA (Exhibit 2). The variance is being requested by the City to provide safe access and operation to users who frequent the Luther Burbank Park dock. The variance is for a public facility and is not being requested to grant special privilege that could not be enjoyed by other properties in the area, and it would allow the minimum necessary to afford relief. Overall, the Project will improve public access and safety at the Luther Burbank Park dock and waterfront plaza. The Project is supported by the City

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	and park users and is not anticipated to result in any detriment to public interest.
4) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.	The City is not aware of other variances that have been issued in the area for similar circumstances.
5) Variances from the use regulations of the master program are prohibited.	Not applicable. A variance from the use regulations of the SMP is not being requested for the Project.