

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercerisland.gov



PRE-APPLICATION MEETING REQUEST FORM

WHY WOULD I BE REQUIRED OR FIND IT USEFUL TO HAVE A PRE-APPLICATION MEETING?

- REQUIRED:** Before an application can be submitted for certain land use projects, a Pre-Application Meeting is **required** by code (Refer to page 2 for the lists of types of permits that are **required** to have a pre-application meeting)
- USEFUL:** Pre-Application meetings are *recommended* during the feasibility phase and prior to conceptual project design, and any time a property owner or designer would like feedback from Community Planning & Development Staff.

At the end of the pre-application meeting, you will receive a set of written comments and notes that summarizes the issues and questions discussed. **PRE-APPLICATION MEETINGS INCREASE CERTAINTY, RESULT IN MORE COMPLETE APPLICATION SUBMITTALS, AND REDUCE REVIEW TIMEFRAMES.**

WHAT QUESTIONS DO I HAVE ABOUT MY PROJECT? WHO CAN ANSWER THEM AT THE PRE-APPLICATION?

Types of Questions:		Review Discipline
<ul style="list-style-type: none"> Development Standards: Setbacks, Building Height, Lot Coverage, Gross Floor Area, Hardscape Land Uses: New uses or changes of uses on a site or in a building Shorelines: Development on or near Lake Washington 	<ul style="list-style-type: none"> Subdivisions Critical Areas: Watercourses, Wetlands, Geologically Hazardous Areas Design Review: Projects in the Town Center or non-single family elsewhere SEPA Review Wireless Communication Facilities 	Land Use Planning
<ul style="list-style-type: none"> Access and Traffic Stormwater Utilities: Water and sewer 	<ul style="list-style-type: none"> Improvements in public rights of way Grading and erosion control Construction site management 	Engineering
<ul style="list-style-type: none"> Building codes Energy code 	<ul style="list-style-type: none"> Geotechnical analysis Changes to occupancy or use 	Building
<ul style="list-style-type: none"> Sprinklering Fire alarms 	<ul style="list-style-type: none"> Emergency vehicle access/circulation Storage of hazardous materials 	Fire Marshall
<ul style="list-style-type: none"> Tree preservation and removal Tree protection during construction 	<ul style="list-style-type: none"> Street trees Tree pruning 	City Arborist

PROPERTY INFORMATION:

Site Address:

Parcel No.:

Property Owner Information:

Name:

Phone:

Address:

Email:

Project Contact Information:

Name:

Phone:

Address:

Email:

PROJECT INFORMATION			
Provide Brief Project Description:			
IDENTIFY PROJECT TYPE (IF KNOWN):			
<input type="checkbox"/> FEASIBILITY STUDY	<input type="checkbox"/> BUILDING PERMIT	<input type="checkbox"/> CRITICAL AREA REVIEW	<input type="checkbox"/> SHORELINE PERMIT
<input type="checkbox"/> SUBDIVISION	<input type="checkbox"/> LOT LINE REVISION	<input type="checkbox"/> DESIGN REVIEW	<input type="checkbox"/> SEPA
<input type="checkbox"/> ACCESSORY DWELLING UNIT	<input type="checkbox"/> WIRELESS COMMUNICATIONS FACILITY	<input type="checkbox"/> VARIANCE	<input type="checkbox"/> UNKNOWN
<input type="checkbox"/> OTHER(S):			
WHICH REVIEW DISCIPLINES NEED ATTEND THE PRE-APPLICATION MEETING?			
Based on the types of questions that you have (refer to “types of questions” section on page one), <u>identify all review disciplines</u> that are required/requested for attendance at the pre-application meeting:			
<input type="checkbox"/> LAND USE PLANNING	<input type="checkbox"/> FIRE MARSHALL		
<input type="checkbox"/> ENGINEERING	<input type="checkbox"/> CITY ARBORIST		
<input type="checkbox"/> BUILDING			
WHAT TYPE OF PRE-APPLICATION MEETING DO I NEED?			
<p>If you checked <u>two (2) or less</u> review disciplines above, then you need a Type 1 Pre-Application Meeting.</p> <p><input type="checkbox"/> Type 1 Pre-Application Meeting</p> <p>A Type 1 meeting is required prior to submittal of the following application types:</p> <ul style="list-style-type: none"> Development code interpretations Shoreline Substantial Development Permit Wireless communication facilities height variance SEPA Threshold Determination <p>A Type 1 meeting is recommended as part of feasibility or prior to conceptual design.</p> <p>Note that if you select a Type 1 meeting, only the two reviewers that you selected above will review the application materials and attend the pre-application meeting. If you want feedback from a specific review discipline, you must check the appropriate box in the section above and select the correct pre-application type.</p>		<p>If you checked <u>three (3) or more</u> review disciplines above, then you need a Type 2 Pre-Application Meeting.</p> <p><input type="checkbox"/> Type 2 Pre-Application Meeting</p> <p>A Type 2 meeting is required prior to the submittal of the following application types:</p> <ul style="list-style-type: none"> Conditional Use Permit Critical Area Review 2 Design Commission Review Plat alteration and vacations New and modified wireless (non-6409) eligible facility Long Plat or Short Plat Reasonable Use Exception Variance <p>A Type 2 meeting is recommended as part of feasibility or prior to conceptual design.</p> <p>All reviewers selected above will review the application materials and attend the pre-application meeting. If you want feedback from a specific review discipline, you must check the appropriate box in the section above and select the correct pre-application type.</p>	
Note: If you are unsure of your selection, please email City Staff at epermittech@mercerisland.gov for assistance			
SIGNATURE OF OWNER OR REPRESENTATIVE:		DATE:	

HOW DO I SUBMIT MY PRE-APPLICATION?

Step One: Prepare Submittal Documents

Include required forms and documents described here:

- THIS PRE-APPLICATION MEETING REQUEST FORM (REQUIRED)
- YOUR QUESTIONS FOR THE REVIEWERS (REQUIRED)
- PROJECT NARRATIVE (REQUIRED)
- PRELIMINARY PLANS (REQUIRED)
- [TREE INVENTORY AND REPLACEMENT SUBMITTAL WORKSHEET](#) (REQUIRED, UNLESS WAIVED BY CITY ARBORIST)
- ARBORIST REPORT (AS NEEDED)

Step Two: Upload Documents to the [Mercer Island File Transfer Site](#). Using the instructions below Submit your plans, forms, and supplemental documents online at <https://sftp.mercergov.org>.

Here are the instructions for how to submit your forms:

1. **Log in with the following credentials:**
 - a. Username: guest
 - b. Password: eplan

2. **Create a Folder and Upload Your Documents:**
 - a. Click the word "Inbox" (not the checkbox) in the main field of the screen.
 - b. Click the "Add folder" icon in the gray band at the top of the screen to create a new folder for your project.
 - c. Name the folder with the following format and click the Add Folder button: "PROJECT ADDRESS" (i.e. 9611 SE 36th St).
 - d. Click your folder name (not the checkbox) to select/open your folder.
 - e. Click the "Upload" icon in the gray band at the top of the screen.
 - f. Add your files, then click on the teal "Upload" button.

3. Note: You can upload 5 files at a time. If you have more than 5 files, you can click the "Upload" icon multiple times. Alternately you can add files to a zip file, and upload the zip file.

If you need more detailed instructions on how to upload or create a folder use our [submittal instructions](#) or visit our [Electronic Plan Review](#) page.

Step Three: Upon Receipt of all Required Submittal Documents, City Staff will contact you with the date and time of the scheduled meeting and provide instructions for fee payment. The meeting will be scheduled for the next available Tuesday. Meetings are currently held virtually, via Microsoft Teams video conference.

WHAT ARE THE FEES FOR MY PRE-APPLICATION?

Type 1 Pre-Application Meeting:

\$900 minimum fee, plus charges for any staff time spent on the pre-application over 12 hours. Any additional staff time is charged at a rate of \$150/hour.

Type 2 Pre-Application Meeting:

\$1,800 minimum fee, plus charges for any staff time spent on the pre-application over 12 hours. Any additional staff time is charged at a rate of \$150/hour.

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Pre-Application Meeting (PRE22-045)

An Intake Screening is required in addition to a Pre-Application Meeting. A Pre-Application Meeting does not replace the required Intake Screening. This meeting is to provide guidance and information include prior to formal submittal.

Summary:

Site Location:	9027 SE 60 th Street	Parcel Number	8650900030
Lot Size:	5,050 square feet	Zoning:	R-9.6 (Single Family)
Brief Project Description:	Front yard setback variance of 4.45 feet to answer survey error appearing subsequent to City building permit approval and issuance.	Documents Provided:	1. Pre-Application Meeting Request Form 2. List of Questions 3. Exhibits A-F
Applicant Information:			
Name:	Josh Thurman, Market Place Properties	Email:	joshtgurman@gmail.com
		Phone:	206-321-3129
Second Pre-application Meeting Required:	Not Applicable	Click for explanation if necessary	

Review Comments:

Planning Comments:

Planning Contact: Ryan Harriman, EMPA, AICP – Planning Manager
Email: ryan.harriman@mercerisland.gov or Phone: 206-275-7717.

Request: A front yard setback variance of 4.45 feet to answer survey error appearing subsequent to City building permit approval and issuance.

According to MICC 19.15.030 a variance is a Type IV land use review.

A Type IV Land-use Review requires the following:

- Preapplication Meeting;
- Letter of Completeness;
- Notice of Application/Public Notice;
- Public Comment Period;
- Public Hearing;
- Hearing Examiner Decision;
- Notice of Decision; and
- Possible Appeal.

PLEASE NOTE: These pre-application meeting notes have been prepared to assist the applicant in completing and submitting the application in a manner that complies with applicable development standards and permit processing requirements. Although care has been taken, in the event of a conflict between these notes and any applicable law, regulation or decision criteria, the latter shall prevail. The City of Mercer Island makes no warranty of any kind to the accuracy of the information contained in these notes. The information herein notwithstanding, it is the applicant's sole duty to ensure that the proposed development complies with all applicable laws, regulations and decision criteria. Neither the discussions nor the notes provided at the pre-application meeting shall bind the City in any manner or prevent the City's future application or enforcement of all laws, regulations and decision criteria.

Code Requirements:

MICC 19.06.110 - Criteria for approval—Conditional use permits, variances, and setback deviations.

B. Variances.

1. *Purpose.* An applicant or property owner may request a variance from any numeric standard, except for the standards contained within [chapter 19.07](#) MICC. A variance shall be granted by the city only if the applicant can meet all criteria in subsections (B)(2)(a) through (B)(2)(h) of this section. A variance for increased lot coverage for a regulated improvement pursuant to subsection (B)(2)(i) of this section shall be granted by the city only if the applicant can meet criteria in subsections (B)(2)(a) through (B)(2)(i) of this section.

2. *Criteria.*

a. The strict enforcement of the provisions of this title will create an unnecessary hardship to the property owner. For the purposes of this criterion, in the R-8.4, R-9.6, R-12, and R-15 zoning designations, an "unnecessary hardship" is limited to those circumstances where the adopted standards of this title prevent the construction of a single-family dwelling on a legally created, residentially zoned lot;

Applicant's Statement: The property is located at 9027 SE 60th Street (the Property), in a neighborhood zoned R-9.6. In preparation for obtaining a building permit, a survey was performed and used as the basis for the building permit site plan submitted to the City for construction of a new single-family residence at the Property. The City reviewed and approved the site plan and issued building permit 2001-170 to the Owner. The surveyor then staked off the foundation forms for the new residence to comply with the 20-foot front yard setback according to the permitted and approved plan set.

After the foundation was poured and the residence fully framed out, an error was discovered in the survey and the mapped location of the site features. Specifically, the survey depicted rear and front yard fence lines as being located approximately 5 feet south of the rear and front Property lines. A recent forensic survey confirms the fence lines are located along the Property lines. The erroneously mapped location of the fence lines infected the original staking of the corners of the Property and later staking of the foundation forms. As a result of the error, the foundation of the Property was staked in a location which encroached into the front yard setback by approximately 3-4 feet. The surveyor acknowledged the error, but not until many months after the mistake was made.

Strict enforcement of the 20-foot front yard setback would prevent completion of a single-family residence pursuant to the building permit issued by the City. Such a result would impose an oppressive financial burden on the Owner and negate the financial viability of the residential project. The project is otherwise fully compliant with applicable zoning, side yard setbacks, the Comprehensive Plan and other land use requirements, as acknowledged by the City when it issued building permit 2001-170.

Under Washington law, issuance of the building permit constitutes a final land use decision by the City, regardless of the mistaken approval of a residence that encroaches on the front yard setback. The appropriate remedy to answer what is now known to be an erroneous building permit site plan is to grant the requested variance for modest relief from the 20-foot front yard setback.

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Staff Response: The applicant bears the burden of proof that the proposed development application is consistent with the requirements of the Mercer Island City Code. Staff does not approve variances. The applicant must present their case to the hearing examiner. Provide additional justification that the strict enforcement of the provisions of this title will create an unnecessary hardship to the property owner.

b. The variance is the minimum necessary to grant relief to the property owner;

Applicant's Statement: The proposed roughly 3 to 4-foot variance to the front yard setback represents at most a 20% reduction to the setback area. The requested reduction is the minimum which would allow the single-family home to remain as it is currently situated on the Property.

Staff Response: The applicant must demonstrate the variance is the minimum necessary to grant relief to the property. Provide more information. Identify the need that relief will be granted with the approval of this variance.

c. No use variance shall be allowed;

Applicant's Statement: No use variance is being requested.

Staff Response: The applicant must demonstrate that they are not requesting a use variance.

d. There are special circumstances applicable to the particular lot such as the size, shape, topography, or location of the lot; or factors necessary for the successful installation of a solar energy system such as a particular orientation of a building for the purposes of providing solar access;

Applicant's Statement: The necessity of a variance is the result of a survey error which mistakenly mapped the location of site features on the Property. The error led to the inadvertent encroachment of the building in the front yard setback.

A court in North Carolina addressed a similar situation where, after issuance of a building permit for a duplex and commencement of construction, a second conflicting survey was discovered concerning the subject property. In conflict with the first survey, the second survey showed the duplex encroaching into the setback area. The owner sought a variance which was granted. The court found that the conflicting surveys were a special circumstances peculiar to the subject property and gave consideration to the fact that the owner relied in good faith on a survey from a licensed surveyor.

Likewise, the survey error here is unique to the Property and the physical improvements on the Property. This unusual circumstance was not the result of any deliberate act by the Owner, rather it arises from circumstances beyond the control of Owner and which are applicable only to this Property.

Staff Response: The applicant bears the burden of proof that the proposed development application is consistent with the requirements of the Mercer Island City Code. The applicant must present their case to the hearing examiner. Provide additional justification that the setback variance won't create a special circumstance.

e. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;

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Applicant's Statement: A small variance to the front yard setback will have no impact to the public welfare or surrounding properties. The 3 to 4-foot reduction will be imperceptible to the neighboring property owners and will be of no consequence to any future development on neighboring properties. Likewise, full use of the SE 60th Street right of way will still be available to the public and to the fire department and other emergency responders. A slight reduction in the front yard setback will not hinder access to the Property during emergency events.

Staff Response: The applicant bears the burden of proof that the proposed development application is consistent with the requirements of the Mercer Island City Code. Staff does not approve variances. The applicant must present their case to the hearing examiner.

f. The granting of the variance will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property;

Applicant's Statement: See response to Criterion E.

Staff Response: The applicant bears the burden of proof that the proposed development application is consistent with the requirements of the Mercer Island City Code. Staff does not approve variances. The applicant must present their case to the hearing examiner. Provide additional justification that the setback variance won't alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property.

g. The variance is consistent with the policies and provisions of the comprehensive plan and the development code;

Applicant's Statement: Granting the requested variance will allow Owner to finish construction of a single- family residence on the property. Construction of a single-family residence furthers Comprehensive Plan policies encouraging preservation of a low density, single family residential community on Mercer Island. See, Land Use Issue (1); Land Use Goal 15; Housing Element Policy 1.4.

Additionally, allowing a reduction in the front yard setback and completion of a single- family residence is consistent with the R-9.6 use designation of the property under the Development Code.

Staff Response: The applicant bears the burden of proof that the proposed development application is consistent with the requirements of the Mercer Island City Code. Staff does not approve variances. Please provide more information to specifically address this criterion. Include a list of policies and provisions from the comprehensive plan and the development code to support the proposal.

h. The basis for requesting the variance is not the direct result of a past action by the current or prior property owner; and

Applicant's Response: The need for the requested variance arose as the direct result of an error by a surveyor. The Owner had no role in performing the survey or marking the boundary line of the Property and the foundation forms. These acts were solely done by the surveyor. The hardship was not created by any deliberate act of the Owner.

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Staff Response: The applicant bears the burden of proof that the proposed development application is consistent with the requirements of the Mercer Island City Code. Staff does not approve variances. The applicant must present their case to the hearing examiner. Provide additional justification that the basis of requesting the setback variance was not the direct result of a past action by the current or prior property owner

i. Public and private schools, religious institutions, private clubs and public facilities in single-family zones with slopes of less than 15 percent may request a variance to increase the impervious surface to a maximum 60 percent impervious surface and such variance application will be granted if the hearing examiner determines that the applicant has demonstrated that the following criteria are satisfied:

Applicant's Statement: None.

Staff Response: Not applicable.

i. There will be no net loss of permeable surface from the existing permeable surface. No net loss will be determined by the code official and may be achieved by off-site mitigation and/or by reconstructing existing parking areas to allow storm water penetration. This replacement will be an exception to MICC [19.02.060\(C\)\(2\)](#), prohibiting parking areas from being considered as permeable surfaces;

Applicant's Statement: None.

Staff Response: Not applicable.

ii. All storm water discharged shall be mitigated consistent with the most recent Washington State Department of Ecology Stormwater Management Manual for Western Washington, including attenuation of flow and duration. Mitigation will be required for any and all new and replaced impervious surfaces. In designing such mitigation, the use of a continuous simulation hydrologic model such as KCRS or WWHM shall be required; event based models will not be allowed. In addition, mitigation designs shall utilize flow control best management practices (BMPs) and low impact development (LID) techniques to infiltrate, disperse and retain storm water on site to mitigate the increased volume, flow and pollutant loading to the maximum extent feasible;

Applicant's Statement: None.

Staff Response: Not applicable.

iii. The director must approve a storm drainage report submitted by the applicant and prepared by a licensed civil engineer assuring the city that city infrastructure, in concert with the project design, is adequate to accommodate storm drainage from the project site, or identifying appropriate improvements to public and/or private infrastructure to assure this condition is met, at the applicant's expense; and

Applicant's Statement: None.

Staff Response: Not applicable.

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iv. The variance may not be used with other provisions to exceed this maximum 60 percent impervious surface coverage.

Applicant's Statement: None.

Staff Response: Not applicable.

For more information on Land Use and Planning please refer to this useful webpage:

<https://www.mercerisland.gov/cpd/page/land-use-application-forms-and-submittal-requirements>

Best regards,

Ryan Harriman

Ryan Harriman, EMPA, AICP
Planning Manager
Community Planning & Development
City of Mercer Island

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