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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## PLANNING COMMISSION

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**TO:** Planning Commission

**FROM:** Adam Zack, Senior Planner

**DATE:** February 11, 2022

**SUBJECT:** ZTR21-006

**ATTACHMENTS:** A. MICC 19.15.030 with Alternative A Amendments  
B. Sample CPD Weekly Permit Bulletin

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### SUMMARY

The purpose of this memo is to provide the Planning Commission with the staff recommendation for ZTR21-006. This zoning code amendment was added to the 2021 CPD work program through the annual docket. The proposed amendment would change the land use review type for five types of land use permits, resulting in increased levels of public notice.

At the December 15 meeting, the Planning Commission provided initial guidance on the proposed code amendment. At that meeting, the Planning Commission proposed amending the land use review type for two land use review actions. The option for amending Mercer Island City Code (MICC) 19.15.030 is referred to herein as Alternative A. On December 15, the Planning Commission also proposed an alternative that would establish a programmatic approach for listing land use review actions on the CPD Weekly Permit Bulletin without amending MICC 19.15.030 Land use review types. The programmatic response is referred to herein as Alternative B. The no change option is referred to as Alternative C. Staff recommends Alternative B.

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### BACKGROUND

Daniel Thompson submitted a docket request for several amendments to Title 19 MICC on November 2, 2020. The City Council approved Resolution 1594 on December 1, 2020, which directed the Planning Commission to make a recommendation on the fifth proposed code amendment from the original docket request.

The docket request proposed six amendments to Title 19 MICC. Only the fifth requested amendment, a proposed amendment to [MICC 19.15.030 – Land use review types](#), was added to the final docket by the City Council. The proposed amendment of MICC 19.15.030 would change the notice requirements for five land use review actions:

- Seasonal Development Limitation Waivers (SDLWs);
- Tree Removal Permits;
- Final Short Plats;
- Lot Line Revisions; and
- Setback Deviations.

The application states the purpose of the proposed amendments is to provide greater public notice of permit applications and decisions.

Please see the December 9, 2021, staff report for additional discussion of the land use review actions considered in the original docket application:

[https://mieplan.mercergov.org/public/ZTR21-006/Documents%20for%20Planning%20Commission/2021-12-09\\_ZTR21-006\\_Staff\\_Report.pdf](https://mieplan.mercergov.org/public/ZTR21-006/Documents%20for%20Planning%20Commission/2021-12-09_ZTR21-006_Staff_Report.pdf)

**MICC 19.15.030 – Land use review types.**

[MICC 19.15.030](#) establishes four types of land use review, each with its own unique notice requirements. The four types are described as follows:

- A. Type I. Type I reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues.
- B. Type II. Type II reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues. The difference between Type I and Type II review is that public notification shall be issued for Type II decisions.
- C. Type III. Type III reviews require the exercise of discretion about nontechnical issues.
- D. Type IV. Type IV reviews require discretion and may be actions of broad public interest. Decisions on Type IV reviews are only taken after an open record hearing.”

The permit types are primarily differentiated by the amount of discretion and technical expertise that must be used in making permitting decisions. Type I and II permits are nondiscretionary and require the application of professional expertise on technical issues. Types III and IV permits require more discretion, with Type IV permits also being for larger, more impactful actions that are of broad public interest.

Together the permit type definitions and the review process establish a hierarchy wherein permit reviews requiring more discretion also have higher levels of public notice as well as opportunities for public comment and participation. Public notice is not required for Type I permits. Public notification posted in the CPD Weekly Permit Bulletin is required for Type II permits. More public notice is required for Type III and IV permits compared with Type II. The additional notice includes posting on site, mailing to addresses within 300 feet and, in some cases, publication in the Mercer Island Reporter. Type III and IV permits also have a 30-day public comment period. Type IV permits require a public hearing.

**ALTERNATIVE A – AMEND MICC 19.15.030 – LAND USE REVIEW TYPES**

On December 15, the Planning Commission proposed amending the land use review types for Seasonal Development Limitation Waivers (SDLWs) and Final Short Plats from Type I to Type II. Increasing the land use review type from Type I to Type II would require SDLWs and Final Short Plats to be listed on the CPD Weekly Permit Bulletin. This would add more review time to these land use review actions. Please see the December 9, 2021 staff report for additional discussion of increasing the land use review type for SDLWs and Final Short Plats.

Alternative A would amend MICC 19.15.030 Land use review types, Table A as follows. The full text of MICC 19.15.030 with amendments to Table A is provided in Attachment A, page 2, line 2.

**MICC 19.15.030 - Land use review types, Table A.**

Table A. Land Use Review Type			
Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> <li>• Home business</li> <li>• <del>Seasonal development limitation waiver</del></li> <li>• Nonmajor single-family dwelling building permits</li> <li>• Tree removal permit</li> <li>• Right-of-way permit</li> <li>• Special needs group housing safety determination</li> <li>• Tenant improvement/change of use</li> <li>• Shoreline exemption <sup>1</sup></li> <li>• Critical area review 1</li> <li>• <del>Final short plat</del></li> <li>• Temporary commerce on public property</li> <li>• Site development permits</li> <li>• Transportation concurrency certificate</li> </ul>	<ul style="list-style-type: none"> <li>• Modified wireless communication facilities (6409 per 47 CFR 1.40001)</li> <li>• Lot line revision</li> <li>• Setback deviations</li> <li>• Final plat <sup>2,3</sup></li> <li>• Code official design review</li> <li>• Accessory dwelling unit</li> <li>• Parking modification <sup>7</sup> (reviewed by city engineer)</li> <li>• Small wireless facility deployment</li> <li>• <u>Seasonal development limitation waiver</u></li> <li>• <u>Final short plat</u></li> </ul>	<ul style="list-style-type: none"> <li>• New and modified wireless (non-6409) eligible facility</li> <li>• SEPA threshold determination</li> <li>• Critical area review 2</li> <li>• Public agency exception</li> <li>• Temporary encampment <sup>4</sup></li> <li>• Short plat alteration and vacations</li> <li>• Preliminary short plat</li> <li>• Development code interpretations</li> <li>• Major single-family dwelling building permit <sup>5</sup></li> <li>• Shoreline substantial development permit <sup>1</sup></li> <li>• Shoreline revision (substantial development) <sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Preliminary long plat approval</li> <li>• Conditional use permit</li> <li>• Variance</li> <li>• Critical areas reasonable use exception</li> <li>• Long plat alteration and vacations</li> <li>• Parking modifications <sup>7</sup> (reviewed by design commission)</li> <li>• Variance from short plat acreage limitation</li> <li>• Wireless communication facility height variance</li> <li>• Planned unit development</li> <li>• Design commission design review</li> <li>• Permanent commerce on public property</li> <li>• Shoreline conditional use permit (SCUP) <sup>6</sup></li> <li>• Shoreline variance <sup>6</sup></li> <li>• Shoreline revision (variance and SCUP)</li> </ul>

1 Appeal will be heard by the shorelines hearings board.

2 Decision is made by city council after discussion at a public meeting.

3 A notice of decision will be issued for a final long plat.

- 4 A public meeting is required.
- 5 Major single-family dwelling building permits are subject only to the notice of application process. A notice of decision will be provided to parties of record.
- 6 Hearing examiner will forward a recommendation to the Washington State Department of Ecology for Ecology's decision.
- 7 Parking modifications are issued pursuant to the provisions of MICC 19.11.130.

#### **ALTERNATIVE B – PROGRAMMATIC SOLUTION**

On December 15, the Planning Commission proposed a programmatic alternative for providing additional notice without amending MICC 19.15.030. This alternative would add links to online electronic permit records to the CPD Weekly Permit Bulletin. In addition to links, staff proposes adding instructions for searching online building permit records available at [www.mybuildingpermit.com](http://www.mybuildingpermit.com). An example of the CPD Weekly Permit Bulletin with search instructions and placeholders for links is provided in Attachment B.

##### Mybuildingpermit.com Search

Electronic permit records are publicly available at <https://permitsearch.mybuildingpermit.com/>. The online records are updated as soon as an application is entered into the CPD electronic permit system. Staff proposes adding instructions for searching permit records to the CPD Weekly Permit Bulletin, as shown in Attachment B. Through mybuildingpermit.com, anyone can see all permits that have been applied for, issued, or finalized within a given date range.

One of the ideas the Planning Commission proposed on December 15 was creating links that would go directly to a specific search on mybuildingpermit.com (i.e. tree permits issued in the last week). Staff explored this option with City IT staff. Unfortunately, creating a link to a specific search on mybuildingpermit.com is not possible at this time given the way the search function is built on the website. This functionality might be available in the future but is unavailable at present.

##### Permit Web Map

When CPD staff met with City Information and Geographic Services (IGS) staff to discuss links to a fixed mybuildingpermit.com search, IGS staff proposed an alternative of creating a web map showing permit applications by type, status, and location. After the meeting, IGS staff created a prototype web map for searching permit applications. The web map would provide a search interface that is easier to use than mybuildingpermit.com and give the public the option to search by location. Furthermore, the permit data displayed on the web map is pulled from the same electronic permit data source as mybuildingpermit.com, meaning the permit information shown is updated as new permits are entered into the system. If the Planning Commission recommends Alternative B, a finished web map would be made available online and a link to the web map would be added to the CPD Weekly Permit Bulletin.

Figure 1 shows the initial view of the prototype web map. The colored dots on the map show different land use and building permit applications throughout the City. Each color represents a different type of permit. Clicking on any dot brings up a window with the pertinent permit information (see Figure 3). The search fields on the right allow the user to filter the dots shown on the map by permit type and application date.

Figure 1. Prototype Web Map Initial View.

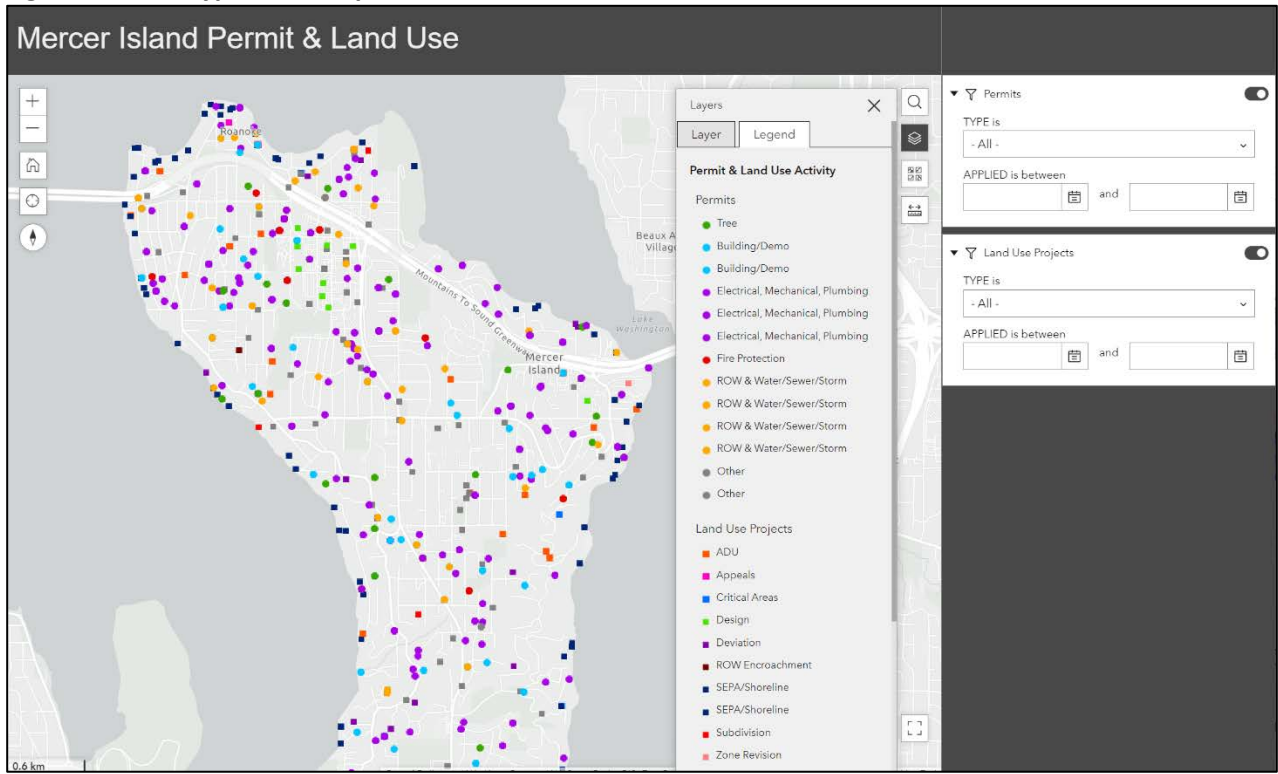


Figure 2 shows a sample tree permit search for an area of east Mercer Island. It illustrates what the map looks like when permits are filtered to show a specific permit type in a given area. The example search is for tree permits submitted between December 1, 2021 and January 31, 2022, in the area south of I-90 and west of E Mercer Way. The green dots on the map are individual tree permits.

**Figure 2. Prototype Web Map Search Example.**

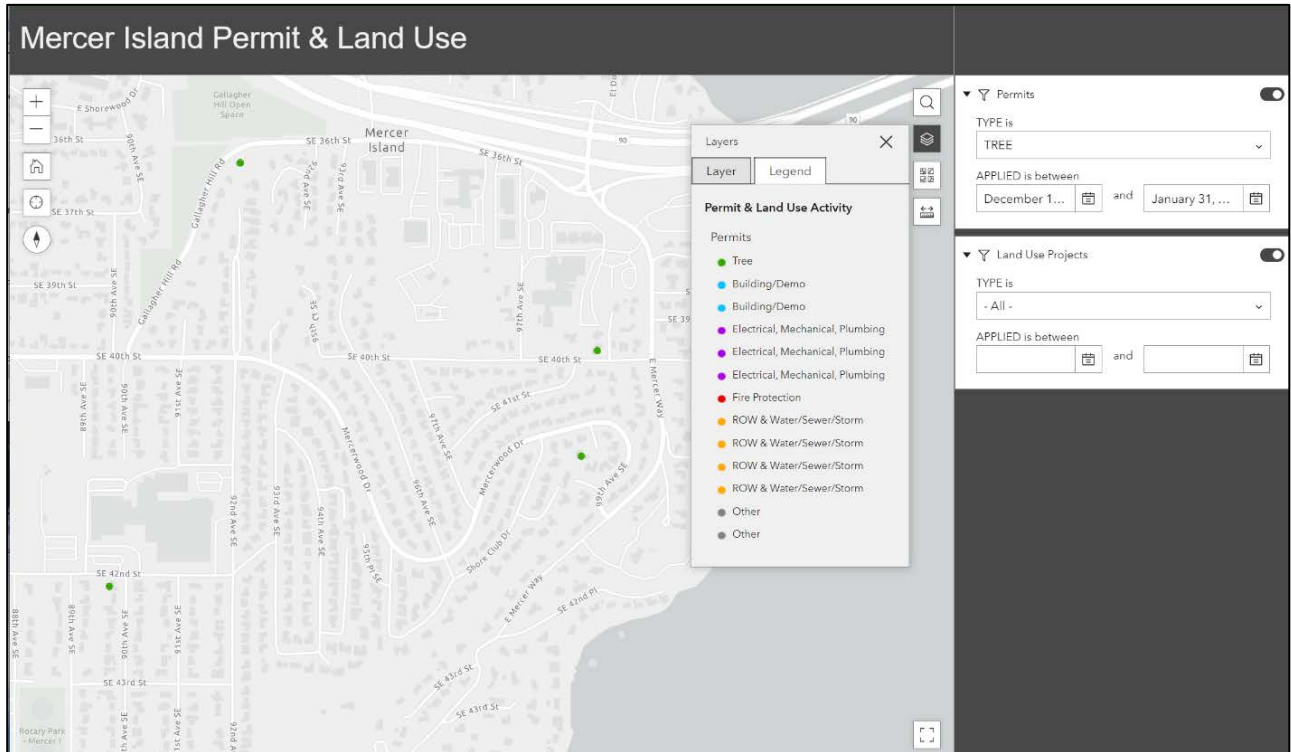
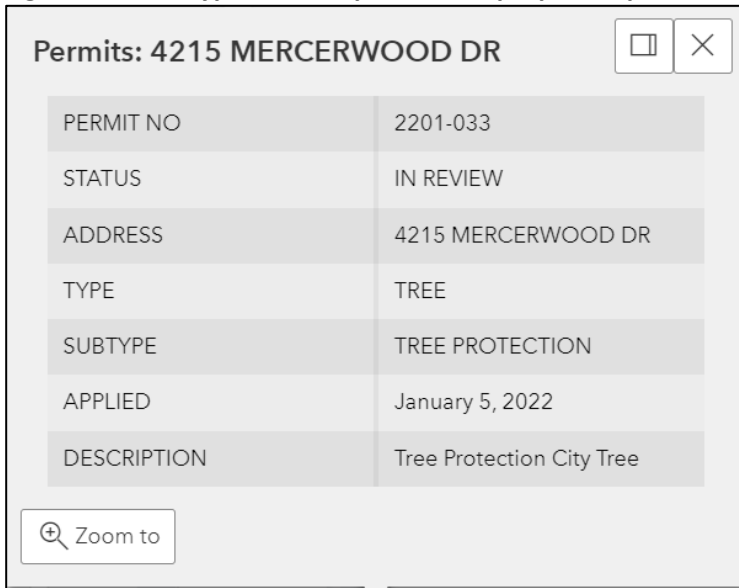


Figure 3 shows the pop up that comes up when a user clicks on a dot on the map. The pop up displays pertinent permit information pulled from the CPD permit records. Note that the example search was completed on January 31, the status for the example permit may be different if searched at a later date.

**Figure 3. Prototype Web Map Permit Pop Up Example.**



If Alternative B resolves this docket request, staff will finish building the permit web map and create a version for the public to use. One advantage of using a programmatic response is that amending the web map can be done as needed to make it a more useful tool. The programmatic response has the added advantage of being automated moving forward. In other words, once the web map is built it will automatically pull from the City’s electronic permit records without requiring constant ongoing staff maintenance to keep it up to date.

Combining the permit web map and adding instructions for searching mybuildingpermit.com to the CPD Weekly Permit Bulletin will accomplish the goal of making permit information more widely available without requiring any changes to the City Code.

Alternative B is the staff recommended alternative.

**ALTERNATIVE C – NO CHANGE**

The Planning Commission is not required to amend MICC 19.15.030. All five land use review actions would remain as currently typed if MICC 19.15.030 is not amended.

**STAFF RECOMMENDATION**

**Staff recommends Alternative B.** The programmatic solution is an effective way to disseminate information about land use review actions without substantially increasing the amount of time committed to the review of routine land use review actions like SDLWs, Final Short Plats, and Tree Removal Permits. Combining the permit web map and instructions for searching mybuildingpermit.com to the CPD Weekly Permit Bulletin will accomplish the goal of making permit information more widely available without requiring any changes to the City Code. This is preferable to amending the code because the web map can be fine-tuned in the future to provide the pertinent information without requiring a legislative action such as amending the City Code. This approach utilizes the existing resource of electronic permit records to address the issue raised in the original docket proposal without an ongoing commitment of additional City resources.