



CITY OF MERCER ISLAND CITY COUNCIL MEETING AGENDA

Wednesday
July 5, 2017
6:00 PM

Mayor Bruce Bassett

Deputy Mayor Debbie Bertlin

Councilmembers Dan Grausz, Jeff Sanderson,

Wendy Weiker, David Wisenteiner and Benson Wong

This meeting will be held in the City Hall Council Chambers at
9611 SE 36th Street, Mercer Island, WA.

Contact: 206.275.7793 | council@mercergov.org | www.mercergov.org/council

SPECIAL MEETING

CALL TO ORDER & ROLL CALL, 6:00PM

SPECIAL BUSINESS

- (1) Parks and Recreation Month Proclamation

APPEARANCES

CONSENT CALENDAR

- (2) AB 5323 SE 47th Open Space Drainage Easement Exchange for Trail Easement
AB 5324 2017 Summer Celebration Fireworks Display Permit Approval
AB 5326 Amendment to Small Cell Franchise Agreement with Crown Castle (WA – CLEC, LLC)

SPECIAL BUSINESS

- (3) AB 5325 Residential Development Standards Code Amendments (continued 1st Reading)

ADJOURNMENT



City of Mercer Island, Washington

Proclamation

WHEREAS, the U.S. House of Representatives has designated July as Parks and Recreation Month;

WHEREAS, parks and recreation programs are vitally important to establishing and maintaining the quality of life in our community, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS, parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, and improve the mental and emotional health of all citizens; and

WHEREAS, parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS, the City of Mercer Island's community-wide festival, *Summer Celebration!* will be held July 8-9, 2017 for an "Out of this World!" experience with a parade, boat rides, skate the rock, car show, children's rides, art/craft vendors, food vendors, live music, fireworks and food trucks;

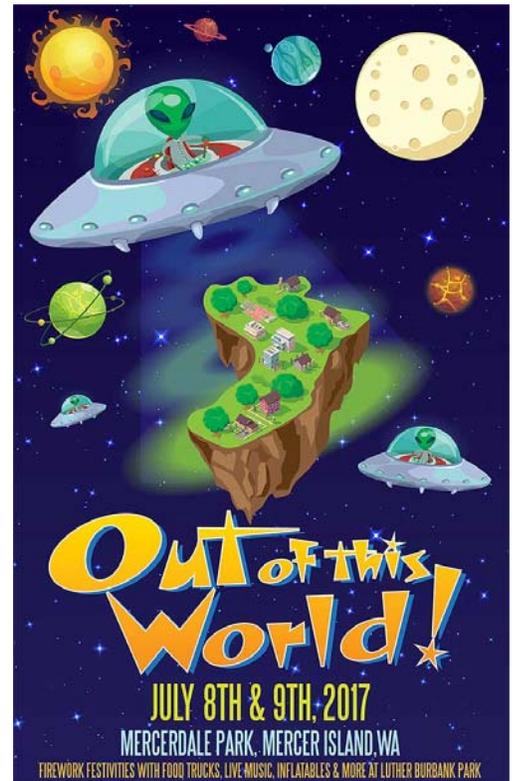
NOW, THEREFORE, I, Mayor Bruce Bassett, do hereby proclaim July 2017 as

PARKS AND RECREATION MONTH

on Mercer Island, and I encourage all citizens to join me in participating and supporting the many recreation activities, events, programs and facilities by public and private agencies and by attending *Summer Celebration!* this weekend at Mercerdale and Luther Burbank Parks.

APPROVED, this 5th day of July 2017

Bruce Bassett, Mayor



Proclamation No. 208

0276



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 5323
July 5, 2017
Consent Calendar**

**SE 47TH OPEN SPACE DRAINAGE EASEMENT
EXCHANGE FOR TRAIL EASEMENT**

Proposed Council Action:

Grant the proposed drainage easement in exchange for a trail easement serving the open space

DEPARTMENT OF

Parks and Recreation (Paul West)

COUNCIL LIAISON

n/a

EXHIBITS

1. Vicinity Map
2. Summary of Public Comment on Trail Alignment
3. Draft Private Easement for Storm Water Drainage System to Millad II LLC
4. Draft Public Easement for Pedestrian Trail to City of Mercer Island

2017-2018 CITY COUNCIL GOAL

n/a

APPROVED BY CITY MANAGER

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

City staff recommend that the City exchange a private drainage easement in the SE 47th Open Space for a public trail easement on an adjacent property to facilitate future trail development. State law requires that the City Council approve the granting of any real property interest in public property.

BACKGROUND

The SE 47th Open Space was dedicated to the City in 1973 in short plat SUB7308-006. The quit claim deed states, "This property shall be used by the City of Mercer Island for use as open space, trails and/or utility easement." In the 2010 Pedestrian and Bicycle Facilities Plan, project C12 was identified to connect 90th Ave. SE with East Mercer Way through the SE 47th Open Space property. This project was identified because there is currently no pedestrian connectivity between East Mercer Way and the "top" of the island from Mercerwood Drive to SE 53rd Place, a distance of 1.5 miles (Exhibit 1). Parks and Recreation staff have been studying alternative trail routes for this connection. Routes through Hollerbach Open Space and the Fernwood subdivision were also included in this analysis.

In 2015, Parks and Recreation staff identified a preferred route through the SE 47th Open Space. Staff held a public meeting to solicit neighborhood input on it. Comments ranged from concerns about land values and resident safety to the desire for connectivity with the "top" of the island (Exhibit 2.) When a portion of the meeting attendees walked up the private driveway to look at route options, it was the opinion of several

people that the trail should remain on the driveway past the houses that would be most impacted by the trail. Subsequently, Parks and Recreation modified the preferred route to incorporate that alignment. This route required obtaining easements across four private properties including one vacant lot. In 2016, Millad II LLC purchased the vacant lot. They approached Parks and Recreation for a private drainage easement to convey storm water from their proposed development to the watercourse in the open space. Their runoff will be detained to comply with the City's storm water management standards before being conveyed to the watercourse. The pipe will lie on the ground surface and other measures will minimize its impact to the site. The draft private drainage and public trail easements are attached (Exhibits 3 & 4).

It has been the practice of Parks and Recreation to generally deny requests for drainage easements across park or open space property unless there is a compelling public benefit. In the past ten years, only one drainage easement has been granted. In that case, a landslide from the adjacent property had twice impacted a park and the prospect of a third event threatened the integrity of the house. Storm water runoff from the private property was contributing to slope instability. The runoff needed to be collected and piped to the bottom of the slope. Parks allowed this easement for monetary compensation.

In the case of the SE 47th Open Space, the public benefit is fulfilled by the acquisition of the trail easement. It is the informed opinion of Parks and Recreation staff that an appraisal would demonstrate that the value of the trail easement exceeds the value of the drainage easement. However no appraisal is required under Washington State law for like transactions. It is likely that acquiring this easement at a later date would incur a significant cost to the City and there is no guarantee that a subsequent property owner would be willing to grant the easement.

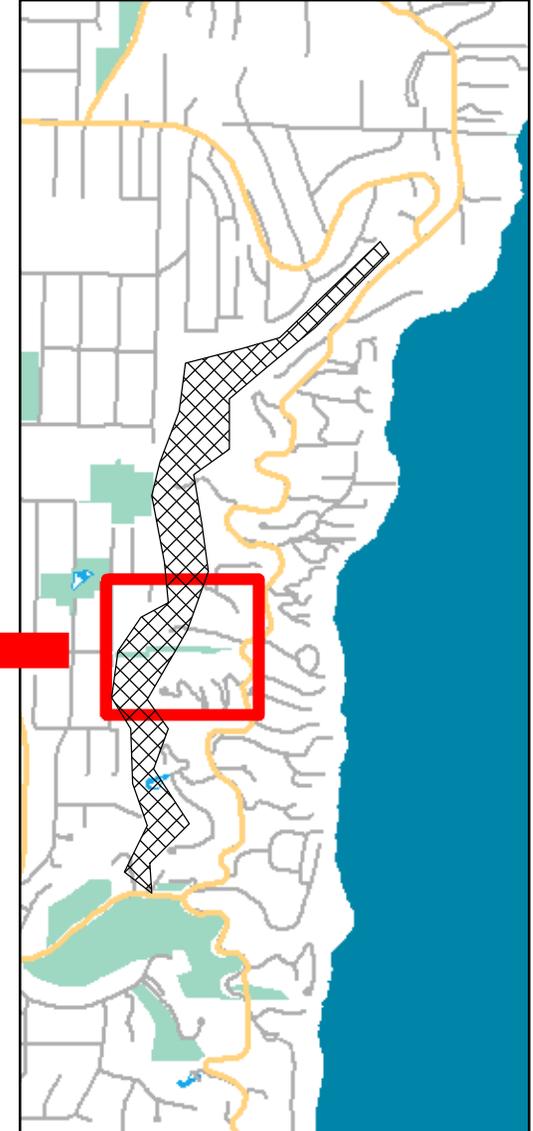
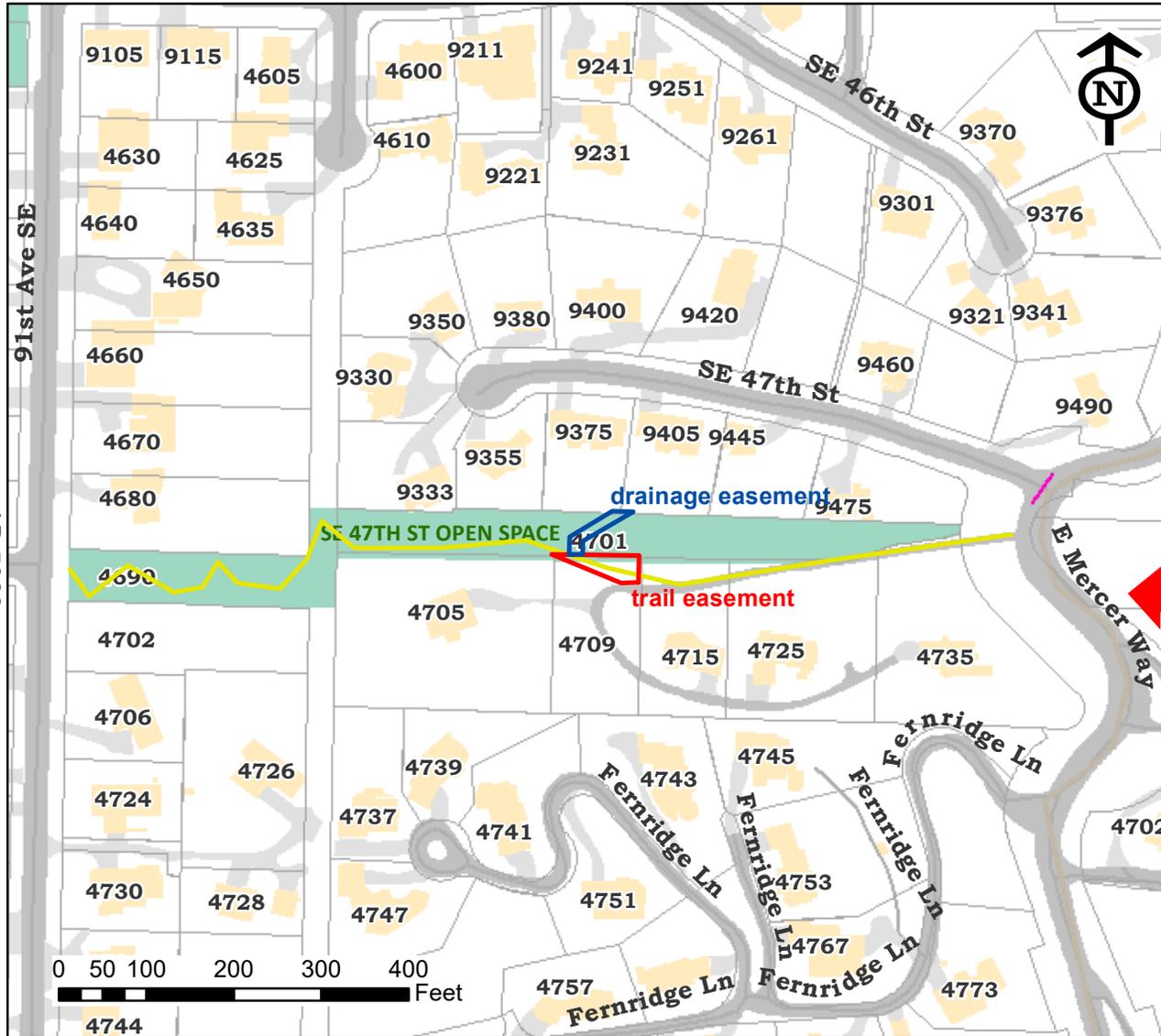
This easement is one of four easements that would be required to use the private driveway for the trail. Acquiring this easement does not give the public the right to use the private driveway. Trail construction will not start until all easements are obtained. Acquiring the remaining easements will be a long-term process. This exchange represents a significant positive step towards achieving the public connectivity project set out in the Pedestrian and Bicycle Facilities Plan.

RECOMMENDATION

Parks Operations Superintendent

MOVE TO: Grant the proposed private drainage easement in the SE 47th Open Space Property to Millad II LLC in exchange for receiving the proposed public trail easement on the Millad II LLC property at 4709 East Mercer Way and authorize the City Manager to sign the easements.

SE 47th Open Space Proposed Drainage & Trail Easement Exchange



Detail Map showing proposed easements and future trail alignment

Vicinity Map showing area with poor pedestrian connectivity

SE 47th Public Trail Meeting Notes & Questions:

June 25, 2015

General

There is a trail in the neighborhood tract near SE 46th. What would it take to make the private walkway public? Platt amendments for homeowners? This property is very steep as well.

I need a better map for visual reference for the proposed trail alignment.

What would be involved in getting a trail easement on the driveway?

Where will people park?

Safety

I've got privacy and safety concerns regarding the trail.

How likely is poor trail behavior going to impact surrounding homeowners and private property?

What is the correlation between MIPD and City incident reports with areas of public trails – is there any connection to trails and private properties? Is it more likely – safety concerns?

The driveway is a single lane road. It is slippery in the winter. Cars come down fast. There is a drop off on the side of the driveway. Not a good place for people to walk.

There was a hang out area in the SE 53rd Open Space.

No party activity seen here in 13 years residency.

Old trail is littered.

Who maintains the trail?

Privacy

What is the estimated or projected trail use by the public?

What needs to happen to improve the green space and minimize impacts to adjacent home owners?

Can we screen the trail, if so how?

Are adjacent property owners encroaching into the open space/park property?

I'd like to see hard data on the projected use of the public trail system.

I have a sitting area and would want screening from the trail.

Most trail use is during the day.

Liability

Does recreational immunity follow an easement for a public trail? Would the City step up and defend if an accident happened on a public trail easement?

Home Values

What will or is the impact on surrounding home and land values to those whose property would be impacted by the trail?

What is the loss of property values for the private owners?

Walkability/connectivity

What is the physical/actual distance from East Mercer Way to the library or MI high school?

I'm in favor. I want the connection.

Walking to SE 53rd trail along the shoulder is dangerous. This would be a better connection.

Fernridge trail is blocked off now. There is a gate.

This neighborhood is limited to using cars. This trail would give us options.

Benefit for kids and families.

Give us more public transportation access.

How does walkability affect real estate values?

Environmental

The location of the water course looks inaccurate on the map.

Is the trail even practical – it is very steep and has a lot of elevation to travel.

Where will people park to use the trail? If a trail is going to be installed, it should be signed as pedestrian or neighborhood use only.

The hillside is steep. There are erosion issues.

Other

Why are City maintenance crews not maintaining my driveway when you state you already have a trail easement or the survey shows park property starting further up on the driveway?

Has a survey been done on 9475?

Would be good to have a 3d map of the trail.

Return Address:

City of Mercer Island
Attn: City Attorney
9611 SE 36th Street
Mercer Island, WA 98040

**PERMANENT EASEMENT FOR
STORM WATER DRAINAGE SYSTEM**

Grantor (s): CITY OF MERCER ISLAND

Grantee (s): MILLAD II LLC, A WASHINGTON LIMITED LIABILITY CORPORATION

Park Property Legal Description (abbreviated): That portion of the north 230 feet of the south 751.64 feet (said distances being measured at right angles to the south line of the subdivision) of the southwest quarter of the southeast quarter of Section 18, Township 24 North, Range 5 East, W. M. in King County, Washington lying westerly of East Mercer Way

Additional Legal(s) on Exhibit A

Grantee's Property Legal Description (abbreviated): Lot 2 Mercer Island Short Plat No. SUB09-002

Additional Legal(s) on Exhibit B

Easement Legal Description (abbreviated): A strip of land, 10' in width starting from the north boundary of Lot 2, Mercer Island Short Plat SUB09-002 and terminating at the southeast corner of Lot 11 Plat of Dawn Vista

Additional Legal(s) on Exhibit C

Assessor's Tax Parcel ID#(s)-Grantor: 1824059165

Assessor's Tax Parcel ID#(s)-Grantee: 1824059186

RECITALS

A. CITY OF MERCER ISLAND, a Washington municipal corporation ("Grantor") is the owner of certain real property known as SE 47th Open Space (the "Park Property") located at 4701 East Mercer Way, Mercer Island, Washington, and legally described in Exhibit "A" attached hereto and incorporated herein by reference.

B. MILLAD II LLC a Washington Limited Liability Corporation ("Grantee") desire to install a storm water drainage pipe approved by Mercer Island Building Permit No. 1602-044, which pipe will

-1-

carry the storm water runoff from Grantee's property located at 4709 East Mercer Way, Mercer Island, Washington, and legally described in Exhibit "B" attached hereto and incorporated herein by reference ("The Millad Property") to an existing watercourse on the Park Property. Grantee requires a portion of the Park Property in which to locate the storm water drainage pipe and water dispersion pad.

C. Grantor is willing to grant Grantee a storm water drainage system easement on the condition that the Grantee grant the City an easement for trail purposes ("Trail Easement"). This Trail Easement on Grantee's property located at 4709 East Mercer Way, Mercer Island, Washington and is recorded under Document No. _____ with the Department of Records for King County, Washington.

D. Therefore, for valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

EASEMENT AGREEMENT

1. Grant of Easement. Grantor grants, conveys and warrants to the Grantee a perpetual, permanent easement for the purposes described in the Recitals above ("Easement") under, across and over that portion of the Park Property legally described in Exhibit "C" attached hereto and incorporated herein by reference, and as further depicted in the drawing attached as Exhibit "D" and by this reference made a part hereof. Grantee and their agents, designees and/or assigns shall have the right, with prior notice to Grantor, at such times as deemed necessary by Grantee, to enter upon or over the Easement to inspect, design, construct, reconstruct, operate, maintain, repair, replace all above-ground surface water drainage facilities including, but not limited to, facilities and/or systems upon the Easement, such as above ground pipes and dispersion features, and underground anchoring systems for said pipes ("Facilities"). The Grantee shall use diligent efforts to complete the installation of the Facilities within the Easement and to restore the Easement and Grantor's Park Property, to the Grantor's satisfaction, within a reasonable period of time after commencing such work.

2. Restoration. In the event that Grantee causes damage of any kind during the course of installing, operating or maintaining the Facilities to the Easement, including damage to the Park Property, caused by cutting, boring, jack hammering, excavation or other work, and including latent damage not immediately apparent at the time of the work, Grantee shall repair the damage and restore the Easement and Park Property at their sole cost and expense, without delay or interruption within the reasonable time period prescribed by the Grantor. Restoration of the Easement and Park Property shall be to a condition that is equivalent to or better than the condition of the Park Property prior to commencing installation, operation or maintenance of the Facilities and to a condition satisfactory to Grantor.

3. Access. Grantor also covenants and agrees that, upon reasonable notice to Grantor, Grantee shall have the right of access to the Easement over and across the Park Property to enable Grantee to exercise its rights hereunder.

4. Obstructions; Landscaping. Following the construction and installation of the Facilities and Grantee's restoration of the Easement and the Park Property pursuant to Section 2 above,

Grantor may undertake any ordinary improvements to the landscaping of the Easement including trail improvements over the Grantee's Facilities.

5. Grantor's Use of Easement. This Easement shall be exclusive to Grantee; provided, however, Grantor reserves the right to use the Easement for any purpose not inconsistent with Grantee's rights. Grantor shall not construct or maintain any buildings on the Easement. Grantor retains the right to construct trails and related structures within the Easement.

6. Indemnification. Grantee agrees to defend, indemnify and hold harmless the Grantor, its officers, officials, employees and volunteers from and against any and all claims, suits, actions or liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with the negligence or intentional misconduct of Grantee or Grantee's agents or invitees within or with respect to the Easement.

7. Relocation. In the event Grantor desires to redevelop, modify, remodel or in any way alter the Park Property and/or any improvements located thereon ("Redevelopment"), Grantor shall in good faith use its best efforts to fully accommodate Grantee's use of the Easement. Should any proposed Redevelopment necessitate the relocation of the Facilities, Grantor and Grantee shall use best efforts to find a mutually acceptable alternate location for the Facilities. Grantee shall relocate or make the necessary alterations, at Grantee's sole cost, expense and risk; provided, however that Grantor has provided Grantee with no less than one hundred twenty (120) days prior written notice of Grantor's proposed Redevelopment. If the parties agree on an acceptable alternate location for the Facilities, Grantor and Grantee agree to execute a replacement easement agreement to document the new, alternate location of the Facilities within the Park Property and to vacate this existing Easement, prior to Grantee beginning installation of their Facilities at such new location. Grantee shall, at their cost, provide a new legal description of the easement area to be attached to the replacement easement.

8. Successors and Assigns. The rights and obligations described herein shall run with the land, shall inure to the benefit of the Grantor and Grantee, and shall be binding upon their respective successors, heirs and assigns.

DATED THIS _____ day of _____, 2017.

GRANTOR:

GRANTEE:

CITY OF MERCER ISLAND

MILLAD II LLC

By: _____
Julie Underwood
City Manager

By: _____
Farzad Ghazvinian
Manager

APPROVED AS TO FORM:

Kari L. Sand, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that **Farzad Ghazvinian**, is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it as the Manager of **Millad II LLC**, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Name: _____
NOTARY PUBLIC in and for the
State of Washington.
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that **Julie Underwood** is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it as the City Manager of the **City of Mercer Island, Washington**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Name: _____
NOTARY PUBLIC in and for the
State of Washington.
My commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION OF SERVIENT PROPERTY

That portion of the north 230 feet of the south 751.64 feet (said distances being measured at right angles to the south line of the subdivision) of the southwest quarter of the southeast quarter of Section 18, Township 24 North, Range 5 East, W. M. in King County, Washington lying westerly of East Mercer Way and more particularly described as follows:

Beginning at the northwest corner of said north 230 feet of south 751.64 feet of said southwest quarter of southeast quarter, said corner also being the southwest corner of the plat of Dawn Vista as recorded in Volume 82 of Plats, page 78, records of King County, Washington; thence S 1° 08' 34" W along the west line of said southwest quarter of southeast quarter for a distance of 55.00 feet; thence S 88° 55' 19" E 494.80 feet; thence N 89° 01' 41" E 83.93 feet to a point of curvature; thence easterly along the arc of a curve to the left having a radius of 90 feet for a distance of 31.76 feet to a point of tangency; thence N 68° 48' 25" E 15.54 feet to a point of curvature; thence easterly along the arc of a curve to the right having a radius of 110 feet for a distance of 26.09 feet to a point of tangency thence N 02° 23' 56" E 40.09 feet to a point of curvature; thence easterly along the arc of a curve to the left having a radius of 90 feet for a distance of 9.42 feet to a point of tangency; thence N 76° 23' 56" E for a distance of 15 feet, more or less, to an intersection with the westerly margin of East Mercer Way; thence northerly along said road margin to an intersection with the north line of said north 230 feet of the south 751.64 feet of said southwest quarter of the southeast quarter, said north line being coincident with the south line of said plat of Dawn Vista; thence N. 88° 11' 24" W along said line for a distance of 712 feet, more or less to the Point of Beginning; EXCEPT that portion of the north 5.00 feet thereof lying westerly of the southerly production of the southerly portion of the east line of Lot 13 in said plat of Dawn Vista.

EXHIBIT B

**4709 EAST MERCER WAY LEGAL DESCRIPTION
Parcel No. 1824059186**

Lot 2 Mercer Island Short Plat No. SUB09-002, recorded under recording number 20110609900005, King County Washington.

EXHIBIT "C"

EASEMENT LEGAL DESCRIPTION

A strip of land 10' in width, for Storm Drain purposes only.

That portion of the SW ¼ of the SE ¼ of Section 18, Township 24 N, Range 5 East, WM, described as follows: Beginning at the North West corner of Lot 2, of Mercer Island Short Plat SUB09-002, Recorded under King County Recording Number 20110609900005, thence S88°55'32"E a distance of 25.00 feet to the True Point of Beginning; Thence along the center line of said 10' wide strip of land N01°08'22"E a distance of 23.00 feet to an angle point; Thence N62°54'00"E a distance of 58.73 feet, more or less, to the South East corner of Lot 11, Plat of Dawn Vista, as recorded under Vol 82 of plats, pages 78 – 79, records of King County Washington. The side lines of this 10' wide easement shall be terminated at the South line of side Dawn Vista plat.



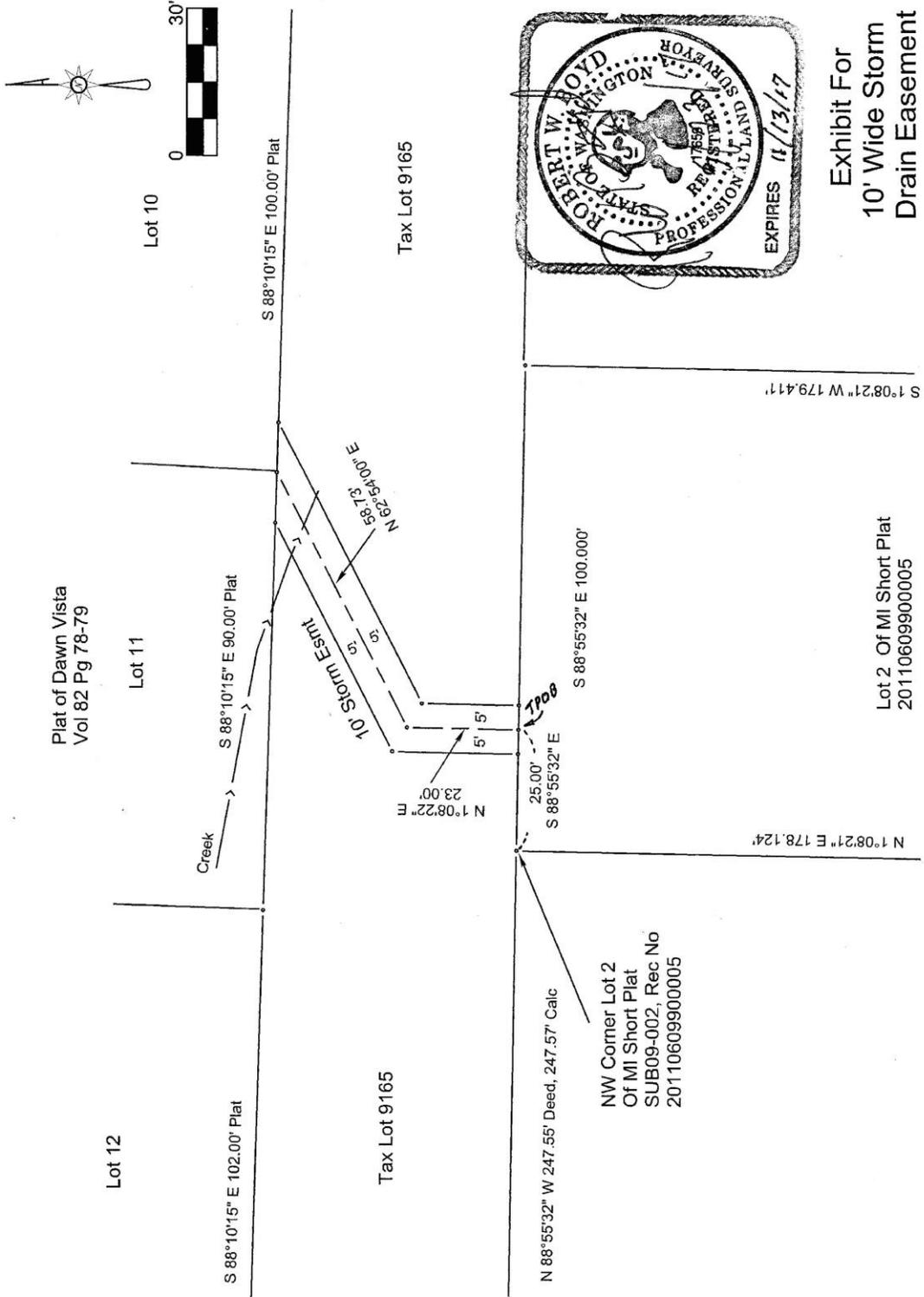


Exhibit For
10' Wide Storm
Drain Easement

Return Address:

City of Mercer Island
Attn: City Attorney
9611 SE 36th Street
Mercer Island, WA 98040

PERMANENT EXCLUSIVE EASEMENT FOR PEDESTRIAN TRAIL

Grantor (s): MILLAD II LLC, A WASHINGTON LIMITED LIABILITY CORPORATION
Grantee (s): CITY OF MERCER ISLAND

Property Legal Description (abbrev): LOT 2 MERCER ISLAND SP# SUB09-002 REC# 20110609900005 KING COUNTY WA

Additional Legal on Exhibit A

Easement Legal Description (abbrev): PORTION OF LOT 2 MERCER ISLAND SP# SUB09-002 REC# 20110609900005 KING COUNTY WA

Additional Legal on Exhibit B

Assessor's Tax Parcel ID#(s): 1824059186

RECITALS

A. MILLAD II LLC a Washington Limited Liability Corporation ("Grantor") is the owner of certain real property (the "Property") located at 4709 East Mercer Way, Mercer Island, Washington, and legally described in Exhibit "A" attached hereto and incorporated herein by reference.

B. The City of Mercer Island, a Washington municipal corporation ("Grantee"), desires to make improvements to the Property by constructing a permanent pedestrian trail, and requires a portion of the Property in which to locate the improvements.

C. MILLAD II LLC is willing to grant the City an easement for trail purposes on the condition that the City grant MILLAD II LLC a storm water drainage easement. This Storm Water Drainage Easement on Grantee's property located at 4701 East Mercer Way, Mercer Island, Washington and is recorded under Document No. _____ with the Department of Records for King County, Washington. Therefore, for valuable consideration, the receipt of which is hereby acknowledged, and under threat of the exercise of eminent domain, the parties agree as follows:

EASEMENT AGREEMENT

1. Grant of Easement. Grantors grant and convey to the Grantee a perpetual, permanent and exclusive trail easement ("Trail Easement") under, across and over that portion of the Property legally described in Exhibit "B" attached hereto and incorporated herein by reference. Grantee, agents, designees, assigns and the general public shall have the right, without prior notice to Grantors, at such times as deemed necessary by Grantee, to enter upon, over or under the Easement to inspect, construct, reconstruct, operate, maintain, repair, replace, enlarge or use a pedestrian trail for all public purposes. Following the initial construction of the improvements, Grantee may from time to time construct such additional related improvements as it may require. Nothing in this Easement shall obligate the Grantee to commence or complete any improvements.

2. Obstructions; Landscaping. Grantee may from time to time remove vegetation, trees, or other obstructions within the Trail Easement, and may level and grade the Trail Easement to the extent reasonably necessary to carry out the purposes set forth in paragraph 1 hereof.

3. Grantor's Use of Easement. This Easement shall be exclusive to Grantee; provided, however, Grantor reserves the right to use the Easement for any purpose not inconsistent with Grantee's rights. Grantor shall not construct or maintain any buildings on the Easement.

4. Indemnification. Grantee agrees to indemnify and hold the Grantor harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees or representatives, arising from, resulting from, or connected with the use of the Trail Easement for trail purposes.

5. Successors and Assigns. The rights and obligations described herein shall run with the land, shall inure to the benefit of the Grantors and Grantee, and shall be binding upon their respective successors, heirs and assigns.

DATED THIS _____ day of _____, 2017.

GRANTOR:

GRANTEE:

MILLAD II LLC

CITY OF MERCER ISLAND

By: _____
Farzad Ghazvinian
Manager

By: _____
Julie Underwood
City Manager

APPROVED AS TO FORM:

Kari L. Sand, City Attorney

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

Lot 2 Mercer Island Short Plat No. SUB09-002, recorded under recording number 20110609900005, King County Washington.

EXHIBIT B

EASEMENT LEGAL DESCRIPTION

An Easement For Proposed Trail Easement

That Portion of the SW ¼ of the SE ¼ of Section 18, Township 24 N, Range 5 East, WM,
described as follows:

Beginning at the North West corner of Lot 2, of Mercer Island Short Plat SUB09-002, Recorded under King County Recording Number 20110609900005, thence S88°55'32"E along the North Line of said short plat a distance of 100.00 feet; Thence S01° 08' 21"W along the East line of said Lot 2 a distance of 27.66 feet to the North line a 10' wide Easement for Ingress, Egress and Utilities Recorded Under King County Recording Numbers 8804190785 & 731030030; Thence along said Easement S88° 29' 48"W a distance of 19.81 feet; Thence N69° 19' 22"W a distance of 85.11 feet to the True Point of Beginning.



Proposed Trail Easement

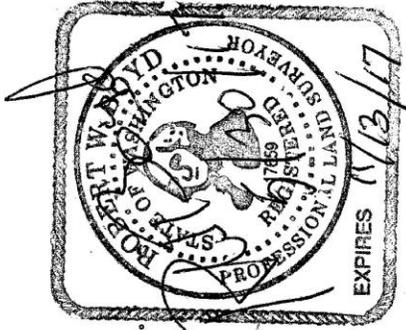
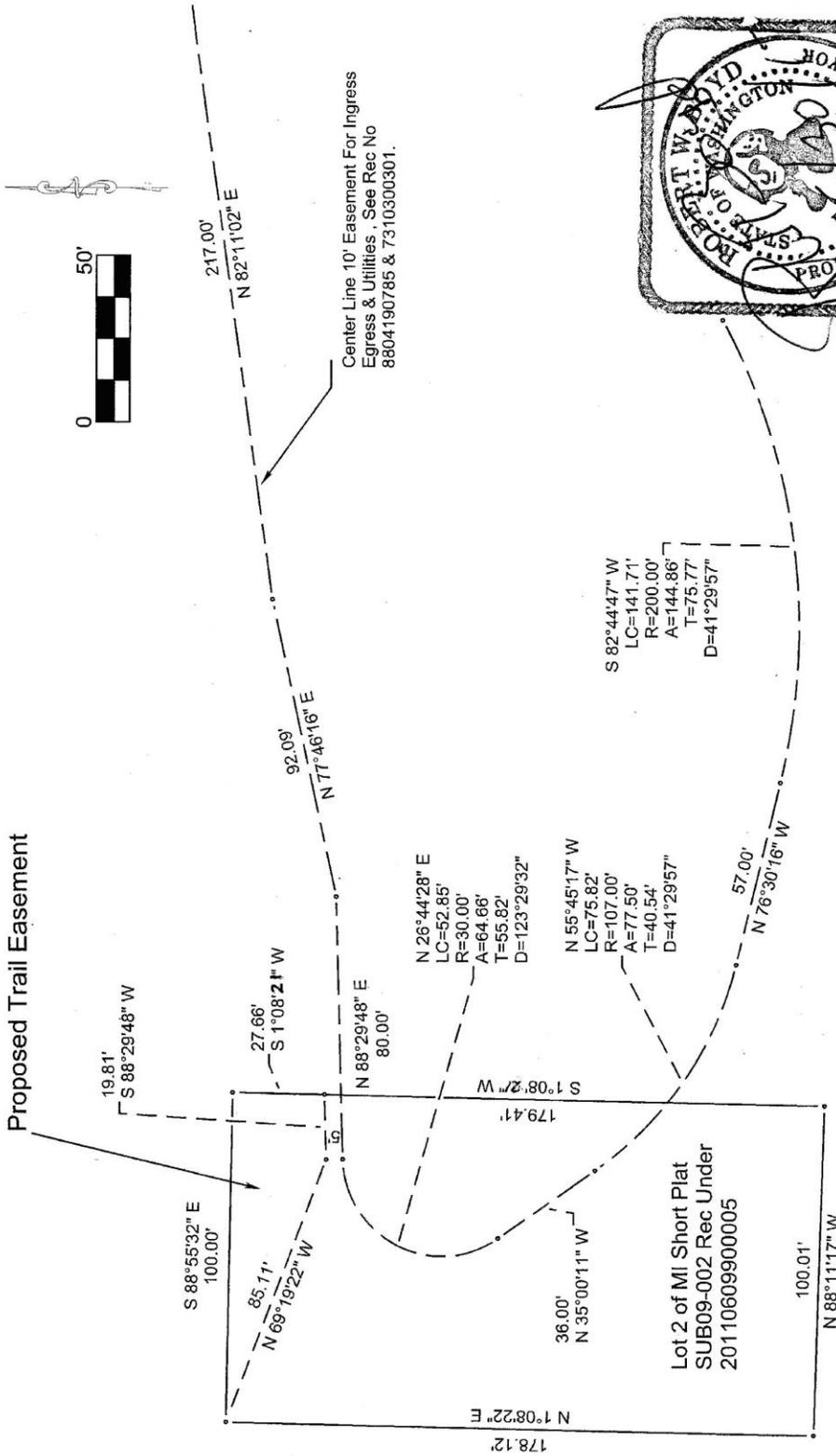


Exhibit For Proposed
4709 Trail Easement



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 5324
July 5, 2017
Consent Calendar**

**SUMMER CELEBRATION PUBLIC FIREWORKS
DISPLAY PERMIT**

Proposed Council Action:

Approve public fireworks display permit for Summer Celebration.

DEPARTMENT OF	Fire (Steve Heitman)
COUNCIL LIAISON	n/a
EXHIBITS	1. Permit Application
2017-2018 CITY COUNCIL GOAL	n/a
APPROVED BY CITY MANAGER	

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

Each year, as part of *Summer Celebration!*, the City hosts a community fireworks show at Luther Burbank Park on Saturday evening. This year, the City has contracted with Western Display Fireworks, LTD (Western) for the show. Western is a licensed commercial fireworks provider and has been a reliable contractor in Mercer Island for 20 years. Western is requesting permission for a 20-minute fireworks display from a barge in Lake Washington off Luther Burbank Park, approximately 600 feet off shore. The prescribed safety zone is maintained by the Mercer Island Marine Patrol. The show is scheduled for Saturday, July 8, 2017 at approximately 10:20 PM. Mercer Island Fire Marshal Herschel Rostov will be inspecting the barge prior to the show. The barge will be loaded at Yarrow Bay in Kirkland. The International Fire Code requirements have been provided to Western.

Review and Approval

Pursuant to MICC 8.35.020, a permit application for a public display of fireworks must be made to the Fire Department and after review of the application, a recommendation is made to the City Council for either approval or denial of the issuance of the permit. The Fire Chief has reviewed Western's permit applications, and finds the documentation is in order. Additionally, Western has obtained approval from Washington State Patrol/Fire Protection Bureau, State Fire Marshal's Office, Kirkland Fire Department related to the barge loading, and from the Coast Guard for a Marine Event. The Mercer Island Fire Department is in contact with Western and is satisfied that public safety regulations will be followed by the licensed technicians.

RECOMMENDATION

Fire Chief

MOVE TO: Approve the public fireworks display permit for July 8, 2017, sponsored by *Summer Celebration!*

WASHINGTON STATE PUBLIC FIREWORKS DISPLAY PERMIT

Applicant

Name of Event Mercer Island Summer Celebration

Street Address Barge in Lake Washington in front Luther Burbank Park, 2040 84th Ave SE

City Mercer Island County King

Event Date 7/8/17 Event Time Approx. 10:20 AM PM

Applicant's/Sponsor's Name Mercer Island Parks & Rec. Phone No. 206-275-7864

Pyrotechnic Operator Rob Lee II License No. P-02749

Experienced Assistant's Name Jason Veentjer

General Display Company Name Western Display Fireworks Ltd Phone No. 503-656-1999

Attach a separate piece of paper and/or copies of the following documents:

- The number of set pieces, shells (specify single or multiple break), and other items.
- The manner and place of storage of such fireworks prior to the display.
- A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged; the location of all buildings, highways, and other lines of communication; the lines behind which the audience will be restrained; and the location of all nearby trees, telegraph or telephone lines, or other overhead obstruction.
- Documentary proof of procurement of Surety bond or public liability insurance.

Local Fire Code Authority

Authority Having Jurisdiction Mercer Island Fire Department

Name of Permitting Official Steve Heitman

Title Fire Chief Phone No. (206) 275-7960

Permit Granted: Yes Yes, with Restrictions (see "Notations" below) No

Restrictions/Notations _____

Steve Heitman
Signature of Permitting Official

6/19/17
Date of Approval

Fireworks0003-17
Permit Number

If approved, this permit is granted for the date and time noted herein under the authority of the International Fire Code in accordance with Revised Code of Washington 70.77 and all applicable rules and ordinances pertaining to fireworks in this jurisdiction. This permit is INVALID unless in the possession of a properly licensed Pyrotechnic Operator, who is responsible for any and all activities associated with the firing of this show.

MUST BE APPROVED BY THE AUTHORITY HAVING JURISDICTION

SHOW SHELL COUNT

SPONSOR Mercer Island Parks & Recreation Dept
 SHOW NAME Mercer Island Summer Celebration
 SHOW DATE Sat, July 8, 2017
 TYPE OF SITE BARGE

SHOW # 5487

SHELLS

	2.5" SHELLS	36	6" SHELLS
20	3" SHELLS		8" SHELLS
165	4" SHELLS		10" SHELLS
56	5" SHELLS		

CAKES, BOXES, CANDLES, SINGLE SHOT, & MODULAR ITEMS

	1.75" AND SMALLER CAKES		2.5" BOXES
1	1.75" AND SMALLER ZIP / FAN CAKES		2.5" FANNED BOXES
1	2" BOXES		3" BOXES
2	2" FANNED BOXES	3	3" FANNED BOXES
	1.5" AND SMALLER MODULAR ITEMS		
	2" MODULAR ITEMS		CANDLES
	2.5" MODULAR ITEMS		SINGLE SHOT

SET PIECES, CLOSE PROXIMATE

SET PIECES
 CLOSE PROXIMATE

NOTES



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/22/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Britton-Gallagher and Associates, Inc. One Cleveland Center, Floor 30 1375 East 9th Street Cleveland OH 44114		CONTACT NAME: PHONE (A/C, No, Ext): 216-658-7100 FAX (A/S, No): 216-658-7101 E-MAIL: ADDRESS:															
INSURED 18234 Western Display Fireworks Ltd. P. O. Box 932 Canby OR 97013		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Everest Indemnity Insurance Co.</td> <td>10851</td> </tr> <tr> <td>INSURER B : Everest National Insurance Company</td> <td>10120</td> </tr> <tr> <td>INSURER C : Axis Surplus Ins Company</td> <td>26620</td> </tr> <tr> <td>INSURER D : Alaska National Insurance Company</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Everest Indemnity Insurance Co.	10851	INSURER B : Everest National Insurance Company	10120	INSURER C : Axis Surplus Ins Company	26620	INSURER D : Alaska National Insurance Company		INSURER E :		INSURER F :	
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INSURER E :																	
INSURER F :																	

COVERAGES

CERTIFICATE NUMBER: 1454486911

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			SI8ML00215-171	1/15/2017	1/15/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COM/POP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			SI8CA00098-171	1/15/2017	1/15/2018	COMBINED SINGLE LIMIT (Ea Occurrence) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			EAU784636	1/15/2017	1/15/2018	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			SI8ML00215-171	1/15/2017	1/15/2018	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTH-ER Stop Gap E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Washington USLH			15DWU08933	4/16/2016	4/16/2017	BI by Accident \$1,000,000 BI by disease policy limit \$1,000,000 BI by disease Each Employee \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Additional Insured extension of coverage is provided by above referenced General Liability policy where required by written agreement.
 Display Date: July 8, 2017
 Display Site: From a Barge in Lake Washington in front of Luther Burbank Park, 2040 84th Ave SE, Mercer Island, WA 98040

Additional Insured:
 THE CITY OF MERCER ISLAND, ITS EMPLOYEES AND PROPERTIES
 See Attached...

CERTIFICATE HOLDER**CANCELLATION**

Mercer Island Parks & Recreation Department
 2040 84th Avenue SE
 Mercer Island WA 98040

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ACORD 25 (2010/05)

The ACORD name and logo are registered marks of ACORD

AGENCY CUSTOMER ID: 18234

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Britton-Gallagher and Associates, Inc.		NAMED INSURED Western Display Fireworks Ltd. P. O. Box 932 Canby OR 97013	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

KING COUNTY PARKS DEPARTMENT
WATERFRONT CONSTRUCTION COMPANY
MERCER ISLAND SUMMER CELEBRATION
MERCER ISLAND PARKS & RECREATION DEPARTMENT
CITY OF KIRKLAND
YARROW BAY MARINA



16750

Andrea Robitsch
Western Display
P.O. Box 932
Canby, OR 97013

Dear Ms. Robitsch,

I have received your Application for Approval of Marine Event, Form CG-4423, dated Friday, January 27, 2017, in which you requested approval for the Mercer Island Summer Celebration, Lake Washington, WA, July 8, 2017. I have reviewed your application and determined that the proposed event does not require a Coast Guard Marine Event Permit, as outlined in 33 CFR Part 100, in that the event does not introduce any extra or unusual hazards that would jeopardize the safety of human life on the navigable waters of the U.S. **For this reason, a Coast Guard Permit for Marine Event, Form CG-4424, is not required.**

You are reminded that, while no Coast Guard permit is required, you must comply with all existing Federal, State, and local laws and other requirements that may impact your ability to hold your event as proposed. You should take appropriate action to ensure compliance with all such requirements prior to holding your event. Although no Coast Guard permit will be issued at this time, it is your responsibility to contact this office if there are any changes to the event, including the number of participants and/or expected spectators, location, or any other significant changes that may necessitate reconsideration as to whether a permit is required. If there are changes that result in a risk to safety of life and/or to vessel traffic, you may be required to re-submit an event permit application. Failure to re-submit in the event of significant changes may result in termination of the event and fines under the Ports and Waterways Safety Act (33 U.S.C 1236).

I sincerely appreciate your proactive effort in bringing this marine event to my attention. Because of the dynamic nature of the waterway, boating, and maritime activities, the Coast Guard carefully considers the totality of the risks associated with each event on a case-by-case basis when determining whether a permit is needed. Although a Coast Guard Permit for Marine Event, Form CG-4424, is not required for this occasion, **you should continue to submit an Application for Approval of Marine Event, Form CG-4423, for this, and any similar events, you may sponsor in the future.** The information you provide with regard to all marine event permit applications is closely monitored by the Coast Guard, specifically by the Vessel Traffic Service (VTS) in the interest of maintaining the Coast Guard's awareness of your activity to further enhance safe vessel navigation. Additionally, a **Puget Sound Vessel Traffic Service Marine Event Permit Addendum** may be included with this letter which outlines additional requirements.

Furthermore, nothing in this determination is intended to restrict the Coast Guard's ability to take action authorized under the Ports and Waterways Safety Act, the Magnusson Act, or other authorities to ensure the safety of vessels and waterfront facilities, and the protection of the navigable waters and the resources therein. Such actions could include promulgation of Regulated Navigation Areas or Limited Access Areas, broadcasting safety notices or disseminating safety flyers, or other actions taken under the authorities granted the United States Coast Guard.

The decision that your proposed event does not require a Coast Guard permit in no way implies that the event is without risk or deemed completely safe, nor does it imply that the Coast Guard has "approved" the event. As the event sponsor, you are still responsible for the overall safety of the event and obtaining any appropriate permits from other Federal, State, or local authorities.

Additionally, weather conditions in the Puget Sound can be unpredictable and occasionally unsuitable for on-water events. It is imperative that the necessary precautions are taken to ensure the safety of event participants. Environmental factors affecting on-scene safety should be taken into account, including time of day, temperature, humidity, precipitation, wind, sea conditions, visibility, and other hazards. If conditions degrade to the point of becoming hazardous, you should consider canceling or postponing your event.

Please contact the USCG Sector Puget Sound Waterways Management Division at (206) 217-6051 if you have any questions.

Sincerely,



LCDR C. D. Sullivan

Chief, Waterways Management Division

U.S. Coast Guard

By direction



Washington State Patrol Fire Protection Bureau
Office of the State Fire Marshal
Pyrotechnic Operator License

17-1333

Licensee Data

Rob Lee
10635 NE 123rd Street
Kirkland, WA 98034
License Number: P-02749

Phone Number: (206) 947-5045
Email Address: rob_lee_98008@yahoo.com
Date of Issue: January 27, 2017
Date of Expiration: January 31, 2018

C.M. Duffy
State Fire Marshal

Licensee Signature

Licensee Wall Mount Card



Washington State Patrol Fire Protection Bureau
Office of the State Fire Marshal
Pyrotechnic Operator License

17-1333

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Date of Issue: January 27, 2017
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C.M. Duffy
State Fire Marshal

Licensee Signature

General Display Employer Portion

- 1) Cut along dotted lines to release the four license cards.
- 2) All four license cards are individually legal and valid evidence of licensing.
- 3) All four cards constitute an entire license for a single operator.
- 4) The Licensee must sign all four portions of the license.
- 5) ALL four license cards are legal and valid evidence of licensing.
- 6) The Licensee must carry either the wallet (landscape) or the lanyard card (portrait).

License Number: P-02749

Pyrotechnic Operator License

Washington State Patrol
Fire Protection Bureau **17-1333**

January 31, 2018 Rob Lee

Current/Valid Until Pyrotechnic Operator

C.M. Duffy *Rob Lee*

State Fire Marshal Licensee Signature

17-1333

License Number: P-02749

**Washington State Patrol
Fire Protection Bureau**

Pyrotechnic Operator
Licensing Type

January 31, 2018
Current and Valid Until

Rob Lee
Pyrotechnic Operator

Licensee Signature

C.M. Duffy
State Fire Marshal

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

<p>Name Of Additional Insured Person(s) Or Organization(s)</p> <p>ANY PERSON OR LEGAL ENTITY IN WHICH YOU HAVE A WRITTEN CONTRACT, AGREEMENT, OR PERMIT WHICH REQUIRES THAT YOU NAME THE CONTRACTING PARTY AS AN ADDITIONAL INSURED.</p> <p>THE CITY OF MERCER ISLAND, ITS EMPLOYEES AND PROPERTIES KING COUNTY PARKS DEPARTMENT WATERFRONT CONSTRUCTION COMPANY MERCER ISLAND SUMMER CELEBRATION MERCER ISLAND PARKS & RECREATION DEPARTMENT CITY OF KIRKLAND YARROW BAY MARINA</p> <p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>

- A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" but only to the extent caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - 1. In the performance of your ongoing operations; or
 - 2. In connection with your premises owned by or rented to you.
- B. The insurance afforded to an additional insured shall only include the insurance required by the terms of the written agreement and shall not be broader than the coverage provided within the terms of the Coverage Part.
- C. The Limits of Insurance afforded to an additional insured shall be the lesser of the following:
 - 1. The Limits of Insurance required by the written agreement between the parties; or
 - 2. The Limits of Insurance provided by this Coverage Part.
- D. With respect to the insurance afforded to an additional insured, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of any act or omission of an additional insured or any of its employees.





Washington State Patrol Fire Protection Bureau
Office of the State Fire Marshal
General Display Fireworks License

17-1181

Licensee Data

Western Display Fireworks, LTD
P.O. Box 932
Canby, OR 97013
License Number: C-01316

Operational Data

In State Agent: Incorp Services, Inc.
Phone Number: (503) 656-1999
Email Address: Heather Gobet <heather@westerndis

Date of Issue: January 6, 2017

Date of Expiration: January 31, 2018

C.M. Duffy
State Fire Marshal

Heather Gobet-Pomeroy
Licensee Signature



Washington State Patrol Fire Protection Bureau
Office of the State Fire Marshal
General Display Fireworks License

17-1181

Licensee Data

Western Display Fireworks, LTD
P.O. Box 932
Canby, OR 97013
License Number: C-01316

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In State Agent: Incorp Services, Inc.
Phone Number: (503) 656-1999
Email Address: Heather Gobet <heather@westerndis

Date of Issue: January 6, 2017

Date of Expiration: January 31, 2018

C.M. Duffy
State Fire Marshal

Heather Gobet-Pomeroy
Licensee Signature



Washington State Patrol Fire Protection Bureau
Office of the State Fire Marshal
General Display Fireworks License

17-1181

Licensee Data

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P.O. Box 932
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Date of Expiration: January 31, 2018

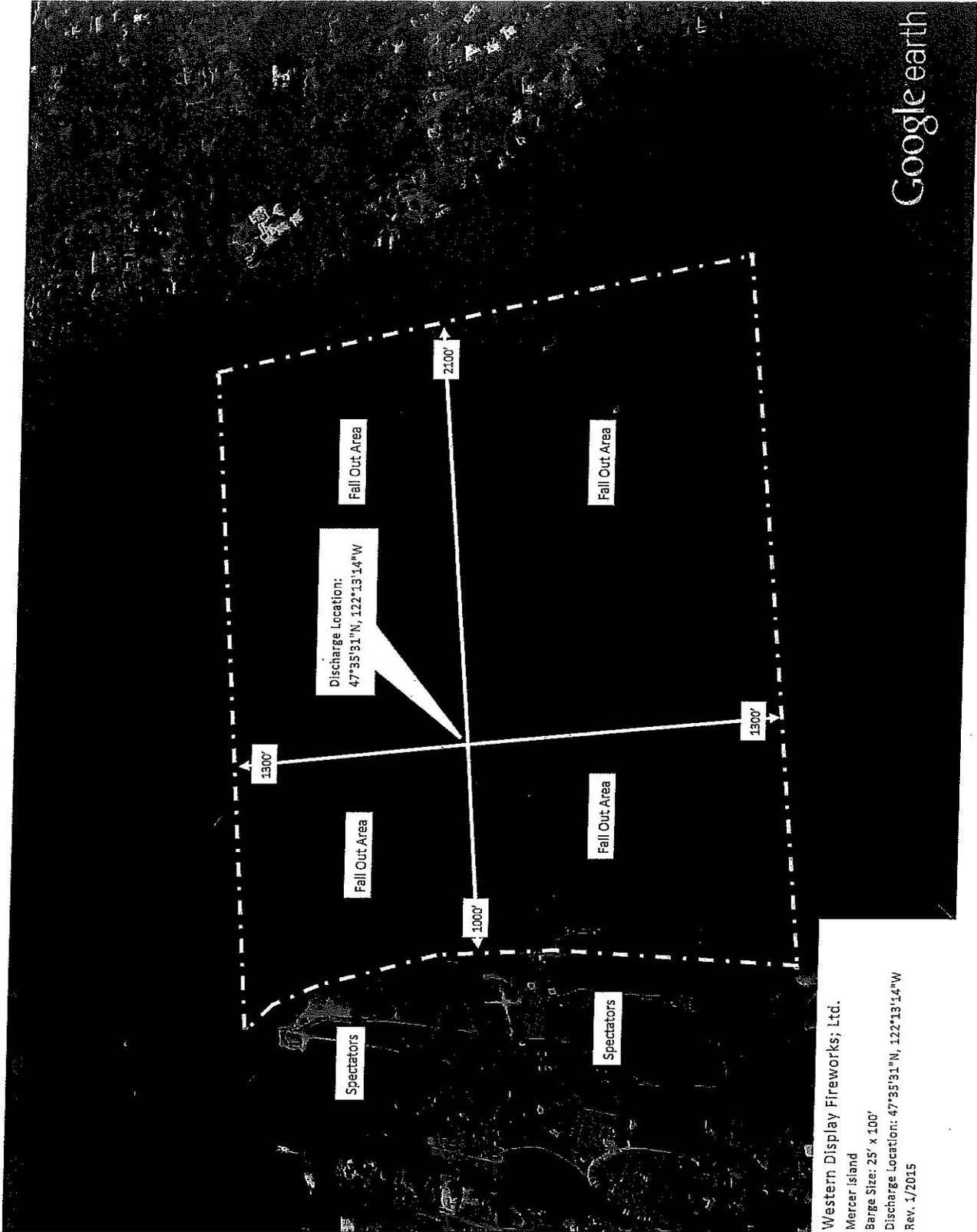
C.M. Duffy
State Fire Marshal

Heather Gobet-Pomeroy
Licensee Signature

The protocol for transferring of the shells onto the barge for the Mercer Island fireworks display is as follows:

- Shells will arrive at approximately 4:00pm on 7/8/17 by CDL/Hazmat Driver Bob Freece.
- The truck will be backed as near to the gate as possible and cones will be placed on either side of the rear of the vehicle between the truck and the gate.
- The sealed boxes of fireworks will remain in the transport truck until the transfer begins.
- The site around the truck and the dock to the barge will be secured by crew members.
- Before the transfer begins, crew members will be stationed at each dock point and any other access areas to keep any unnecessary people away during the short transfer.
- When Rob Lee and the Fire Department are in agreement, the transfer can begin.
- The sealed cases of shells will be unloaded onto waiting hand trucks and carts.
- ~~Once all the fireworks are loaded on to carts and hand trucks, crew members, as a group,~~ will move the down the length of the dock to the awaiting barge.
- This process should take approximately 10-15 minutes at most.
- No smoking will be allowed in the area.
- Shells boxes are to remain unopened until after the barge has left the dock.
- Every effort will be made to not have any negative effect on the marina operations during the transfer.

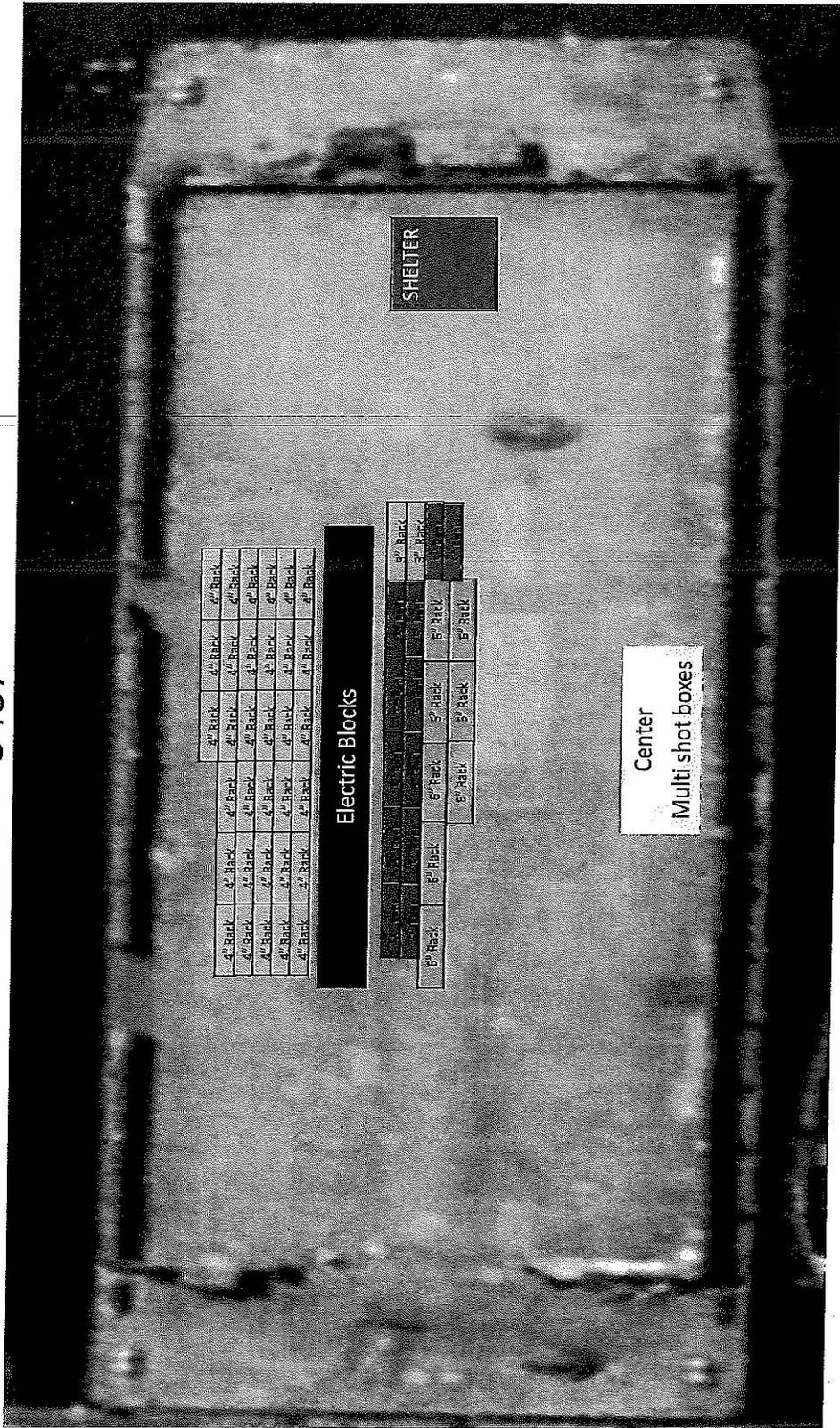
Please let us know if you have any questions or concerns.



Google earth

Western Display Fireworks, Ltd.
 Mercer Island
 Barge Size: 25' x 100'
 Discharge Location: 47°55'31" N, 122°13'14" W
 Rev. 1/2015

Mercer Island
5487



Barge Worksheet

4/24/2017

Show: Mercer Island

Show Date 7/8/2017

Description	Number		Factor (inch)	Square Inches
Multi Shot Cakes 1"- 1 1/2" (17 1/2 X 21)		X	735	0
Multi Shot Boxes 1" (17 1/2 X 21)	1	X	735	735
Multi Shot Boxes 1 1/2" (16 X 21)		X	672	0
Multi Shot Boxes 2" (12 X 12)	2	X	288	576
Multi Shot Boxes 2 1/2" (18 X 18)	0	X	648	0
Multi Shot Boxes 3" (18 X 18)	3	X	648	1944
	0	X		0
Candles, Each grouping of 5 (2 1/2 X 21)		X	532.5	0
			Factor (Sq Ft)	
2.5" Shells		X	2.5	0
3" Shells	20	X	3	60
4" Shells	165	X	4	660
5" Shells	56	X	5	280
6" Shells	36	X	12	432
8" Shells	0	X	16	0
10" Shells		X	20	0
12" Shells		X	24	0
16" Shells		X	32	0
Set Piece		X	0	0

Total Square Inches 3255

Total Square Feet Required Electrical 738.60

Total Square Feet Required - Hand Fired 1477.21

Western Display Fireworks Rev. 3/2015



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 5326
July 5, 2017
Consent Calendar**

AMENDMENT TO SMALL CELL FRANCHISE AGREEMENT WITH CROWN CASTLE (WA - CLEC LLC)

Proposed Council Action:

Adopt Ordinance No. 17-18 approving an amendment to Exhibit C (illustration of a PSE Pole Diagram) in the Small Cell Franchise Agreement with Crown Castle (WA - CLEC LLC).

DEPARTMENT OF	City Attorney (Kari Sand & Bio Park)
COUNCIL LIAISON	n/a
EXHIBITS	1. Ordinance No. 17-18
2017-2018 CITY COUNCIL GOAL	n/a
APPROVED BY CITY MANAGER	

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

In December 2016, the City Council approved Ordinance No. 16-12, granting Crown Castle a nonexclusive telecommunications franchise to install, construct, maintain, repair and operate small cell facilities within the public rights-of-ways. The Ordinance included a franchise agreement between the City and Crown Castle, which set forth the procedures for permitting and installing the facilities on existing PSE utility poles in Mercer Island.

During the permitting process, the parties discovered that Exhibit C to the franchise agreement depicting a typical PSE utility pole did not properly illustrate the sections or measurements of the existing PSE poles in the City. Specifically, the labeling and location of the pole section called “communications space” was inconsistent with the designation of the space in the National Electric Safety Code (“NESC”).

The NESC is a United States standard of the safe installation, operation, and maintenance of electric power and communication utility systems including power and communication poles and overhead lines. The purpose of the NESC is the practical safeguarding of persons during the installation, operation, or maintenance of electrical supply and communication lines, equipment, and associated work practices employed by a public or private electric supply, communications, or similar utility in the exercise of its function as a utility.

The revised Exhibit C better illustrates, consistent with NESC standards, the measurements and sections of PSE utility poles for purposes of safely locating, installing and maintaining Crown Castle’s small cell facilities thereon.

RECOMMENDATION

City Attorney and Assistant City Attorney

MOVE TO: Adopt Ordinance No. 17-18, amending the City's small cell franchise agreement with WA – CLEC LLC (Crown Castle) to revise page 1 of Exhibit C to the agreement in order to properly depict, consistent with NESC standards, the sections and measurements of a typical PSE utility pole in the City of Mercer Island.

**CITY OF MERCER ISLAND
ORDINANCE NO. 17-18**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, AMENDING ORDINANCE NO. 16-12 RELATING TO A NONEXCLUSIVE TELECOMMUNICATIONS FRANCHISE GRANTED TO WA – CLEC LLC TO INSTALL, CONSTRUCT, MAINTAIN, REPAIR AND OPERATE SMALL CELL FACILITIES WITHIN THE PUBLIC RIGHTS OF WAY, PROVIDING FOR SEVERABILITY AND RATIFICATION, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City granted WA – CLEC LLC, dba Crown Castle, a Delaware limited liability company (hereafter “Franchisee” or “Crown Castle”), a nonexclusive telecommunications franchise to install, construct, maintain, repair and operate small cell facilities within the City’s public rights-of-way; and

WHEREAS, the City granted Crown Castle the franchise by passing Ordinance No. 16-12, which referenced and adopted the Franchise Agreement between the City and Crown Castle; and

WHEREAS, the Franchise Agreement includes Exhibit C, which the parties intended would illustrate a typical Puget Sound Energy pole design, including the identification of certain use zones on electric utility poles; and

WHEREAS, the parties now desire to amend Exhibit C to more clearly illustrate the proposed locations for Crown Castle’s equipment on utility poles and to clarify the identification of certain use zones on electric utility poles;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: **Franchise Agreement Amended.** The Franchise Agreement between the City and Crown Castle that the Mercer Island City Council approved and adopted by passing Ordinance No. 16-12 is hereby amended as provided in the “First Amendment to Small Cell Facilities Franchise Agreement,” attached to this Ordinance as Attachment A, which the City Manager is hereby authorized to execute.

Section 2: **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 3: **Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4: **Effective Date and Publication.** Consistent with RCW 35A.47.040, this Ordinance, or a summary thereof, shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the 5th day of July 2017 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Bruce Bassett, Mayor

Approved as to Form:

ATTEST:

Kari Sand, City Attorney

Allison Spietz, City Clerk

Date of Publication: _____

ATTACHMENT A

FIRST AMENDMENT TO SMALL CELL FACILITIES FRANCHISE AGREEMENT

THIS FIRST AMENDMENT TO SMALL CELL FACILITIES FRANCHISE AGREEMENT (“Amendment”) is made by and between the City of Mercer Island (“City”) and WA-CLEC LLC (“Crown Castle”), effective on the date of the last signature below following approval of the Amendment by an ordinance of the Mercer Island City Council (“Effective Date”).

WHEREAS, the City and Crown Castle entered into the Small Cell Facilities Franchise Agreement effective on December 28, 2016 (“Agreement”); and

WHEREAS, the Agreement includes Exhibit C, which the parties intended would illustrate a typical Puget Sound Energy pole design, including the identification of certain use zones on electric utility poles; and

WHEREAS, the parties now desire to amend Exhibit C to more clearly illustrate the proposed locations for Crown Castle’s equipment on utility poles and to clarify the identification of certain use zones on electric utility poles;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Crown Castle agree as follows:

1. Defined Terms. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

2. Replacement Exhibit C. The first page entitled “PSE Pole Diagrams” of Exhibit C to the Agreement is hereby deleted in its entirety and is replaced with the attached revised first page of Exhibit C.

3. Added to the End of Provision 4.2. The following shall be added to the end of Provision 4.2 of the Agreement:

Additionally, Crown Castle shall be subject to a second administrative fee in the amount of two thousand eight hundred and fourteen dollars (\$2,814.00) for reimbursement of costs associated with the preparation, processing and approval of the First Amendment to this Franchise. Payment of the second administrative fee is due within 30 days after the Mercer Island City Council’s approval of the First Amendment ordinance.

4. Remainder of Agreement Unaffected. In all other respects, the remainder of the Agreement shall remain in full force and effect. Any portion of the Agreement that is inconsistent with this Amendment is hereby amended to be consistent.

IN WITNESS WHEREOF, City and Crown Castle have caused this Amendment to be duly executed effective on the latest signature date below.

CITY OF MERCER ISLAND

WA – CLEC LLC

By: _____

By: _____

Name: Julie T. Underwood

Name: _____

Title: City Manager

Title: _____

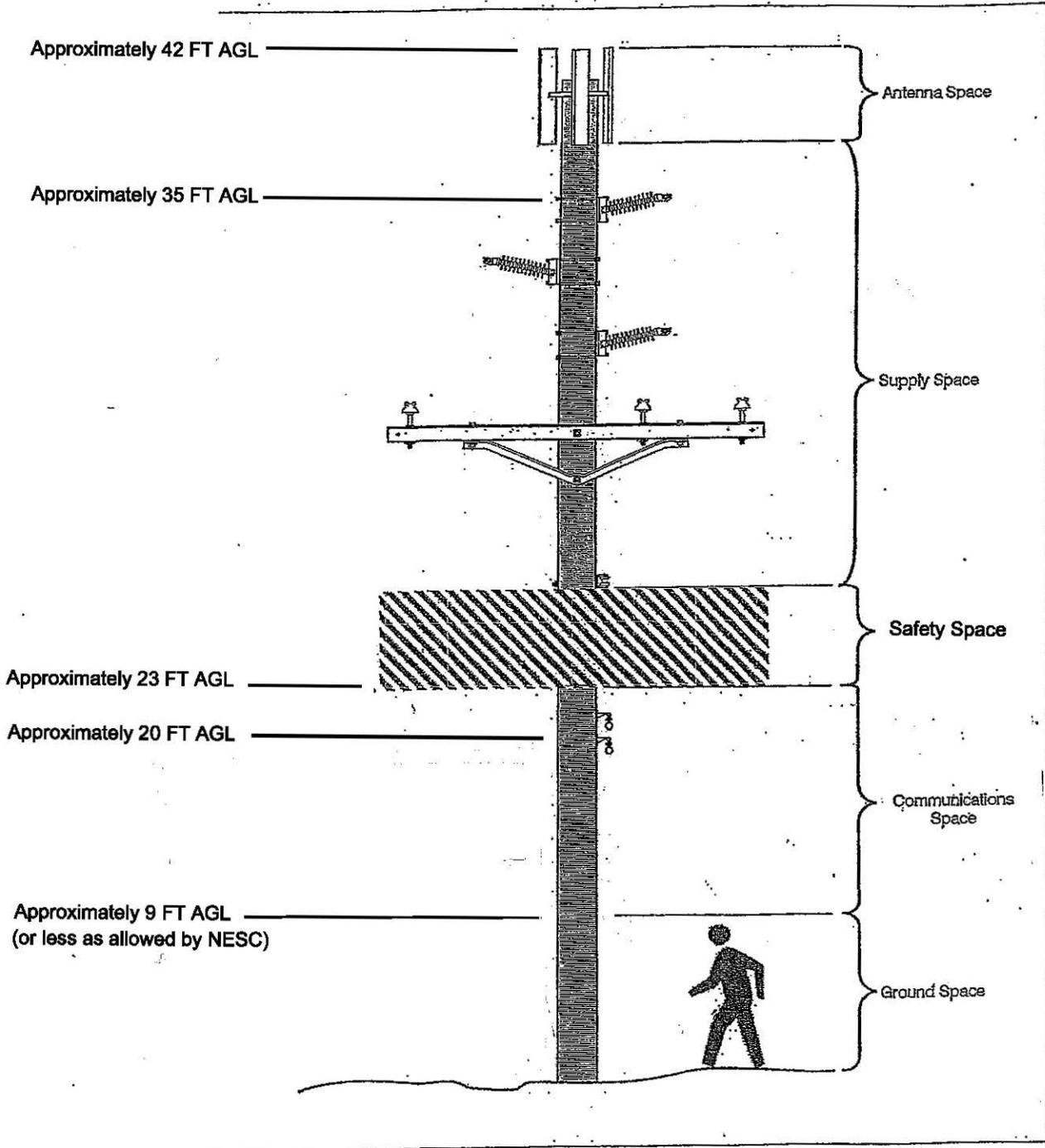
Date: _____

Date: _____

REVISED EXHIBIT C

EXHIBIT C

PSE Pole Diagrams





**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 5325
July 5, 2017
Regular Business**

**RESIDENTIAL DEVELOPMENT STANDARDS
CODE AMENDMENTS (CONTINUED 1ST
READING)**

Proposed Council Action:

Provide staff with any requested changes and advance Ordinance No. 17C-15 to second reading.

DEPARTMENT OF

Development Services Group (Planning Manager)

COUNCIL LIAISON

n/a

EXHIBITS

1. Proposed Ordinance No. 17C-15 (with Attachment A)
2. Planning Commission Accompanying Recommendations
3. Proposed Amendments to Planning Commission Recommendations, dated June 26, 2017
4. Councilmember Grausz's Review List with Council direction from June 19, 2017
5. Staff review of individual sites, dated June 28, 2017

2017-2018 CITY COUNCIL GOAL

2. Maintain the City's Residential Character

APPROVED BY CITY MANAGER

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

On June 5, 2017, the City Council received the Planning Commission's recommendations related to amendments to the Residential Development Standards and continued first reading to June 19, 2017. As part of the continuing community engagement surrounding these amendments, the City Council held a public hearing on June 12, 2017 to receive citizen input on the proposed amendments. The Planning Commission's recommended amendments to the Residential Development Standards are attached as Exhibit 1 together with the Planning Commission's accompanying and additional recommendations attached as Exhibit 2. Exhibits 1 and 2 are identical to those reviewed by the City Council on June 5, June 12, and June 19, 2017.

Please also refer to Agenda Bill 5313 from the Council June 5, 2017 meeting, which includes the staff report, a summary of the written public comment, the Planning Commission's recommended code amendments, accompanying recommendations, and follow up work plan items (available on the City's website at <http://bit.ly/2rFUaZl>).

Starting on June 19, 2017, the Council began its review of proposed amendments to the Planning Commission's recommendation. In particular, the Council discussed gross floor area, building height, and lot coverage standards. To aid in the review, the Council referred to a staff generated list of proposed amendments. This list of amendments has been updated to reflect the direction received by the Council to

date and is attached as Exhibit 3. The Council also referred to a list of proposed amendments prepared by Councilmember Grausz; and Councilmember Grausz's list is attached as Exhibit 4, along with a brief summary of the Council direction.

The City Council has requested that the City staff prepare materials for the Council to review the cumulative effect of all of the proposed amendments on several example properties. Staff has prepared this material in the form of a memorandum, attached as Exhibit 5.

Staff anticipates that the Council will discuss and provide further direction on the following on July 5:

- Variance criteria and limitations;
- Code interpretations;
- Tree code requirements; and,
- Other amendments proposed by the public or Councilmembers.

RECOMMENDATION

Planning Manager

Provide staff with direction for changes to Ordinance No. 17C-15 and set second reading for July 17, 2017.

MOVE TO: Set Ordinance No. 17C-15, amending the City's residential development standards, for second reading and adoption on July 17, 2017.

**CITY OF MERCER ISLAND
ORDINANCE NO. 17C-15**

AN ORDINANCE OF THE CITY OF MERCER ISLAND AMENDING MERCER ISLAND CITY CODE TITLES 8, 17, AND 19 MICC ON RESIDENTIAL DEVELOPMENT STANDARDS; PERMITTING CORRECTION OF SCRIVENER'S ERRORS DURING CODIFICATION; AUTHORIZING ISSUANCE OF INTERPRETATIONS AND RULES TO ADMINISTER THE AMENDED CODE; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Mercer Island City Code (MICC) establishes development regulations that are intended to result in the implementation of the Mercer Island Comprehensive Plan pursuant to RCW 36.70A.040; and,

WHEREAS, the Mercer Island City Council determined that amendments to the development regulations were necessary to ensure that residential development was occurring consistent with the provisions of the Mercer Island Comprehensive Plan; and,

WHEREAS, the Mercer Island City Council directed the Planning Commission to review the residential development standards and provide a recommendation to the City Council; and,

WHEREAS, the Mercer Island Planning Commission engaged in a thorough review of the residential development standards, hosted three community meetings, held public hearings on April 5, 2017 and June 12, 2017, reviewed myriad written comments from the public, and held 14 public meetings to consider amendments to the residential development standards; and,

WHEREAS, the Mercer Island Planning Commission has unanimously recommended adoption of the proposed amendments to the residential development standards; and,

WHEREAS, the Mercer Island Comprehensive Plan Land Use Element and Housing Element establish numerous goals and policies that are implemented through the adoption of revised residential development standards; and,

WHEREAS, a SEPA Determination of Non Significance was issued by the City on March 20, 2017; and,

WHEREAS, the Washington Department of Commerce granted expedited review of the proposed amendments to the development regulations on April 20, 2017;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: **Adoption of amendments to Titles 8, 17, and 19 of the Mercer Island City Code.** The amendments to the Mercer Island City Code as set forth in Attachment "A" to this ordinance are hereby adopted.

Section 2: **Codification of the regulations.** The City Council authorizes the Development Services Group Director and the City Clerk to correct errors in Attachment A, codify the regulatory provisions of the amendment into Titles 8, 17, and 19 of the Mercer Island City Code, and publish the amended code.

Section 3: **Interpretation.** The City Council authorizes the Development Services Group Director to adopt administrative rules, interpret, and administer the amended code as necessary to implement the legislative intent of the City Council.

Section 4: **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 5: **Effective Date.** This Ordinance shall take effect and be in force on 30 days after its passage and publication of a summary consisting of its title.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the _____ day of _____ 2017 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Bruce Bassett, Mayor

Approved as to Form:

ATTEST:

Kari Sand, City Attorney

Allison Spietz, City Clerk

Date of Publication: _____

PLANNING COMMISSION – RECOMMENDATION DRAFT
Draft Zoning Text Amendments
Residential Development Standards

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NUISANCE CONTROL CODE

8.24.020 Types of nuisances

CONSTRUCTION ADMINISTRATIVE CODE

17.14.010 Adoption

GENERAL PROVISIONS

19.01.050 Nonconforming structures, sites, lots and uses.

19.01.070 Variance and deviation procedures.

RESIDENTIAL

19.02.010 Single-family.

19.02.020 Lot requirements.

19.02.030 Accessory dwelling units.

19.02.040 Garages and other accessory buildings.

19.02.050 Fences, retaining walls and rockeries.

SUBDIVISIONS

19.08.020 Application procedures and requirements.

19.08.030 Design standards.

19.08.040 Plat improvements.

19.08.050 Final plats.

PROPERTY DEVELOPMENT

19.09.090 Building pad.

19.09.100 Preferred practices.

TREES

19.10.010 Purpose

19.10.020 Permit required.

19.10.030 Exemptions.

19.10.040 Tree removal review and approval.

19.10.050 Tree removal – Not associated with development proposal.

19.10.060 Tree retention associated with development proposal.

19.10.070 Tree replacement required.

19.10.080 Tree protection standards.

19.10.090 Application requirements.

19.10.100 Trees on public property.

19.10.110 Seasonal development limitations

19.10.120 Rounding.

- 1 19.10.130 Nuisance abatement.
- 2 19.10.140 Appeals.
- 3 19.10.150 Enforcement.

4
5 ADMINISTRATION

- 6 19.15.010 General procedures.
- 7 19.15.020 Permit review procedures.

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9 DEFINITIONS

- 10 19.16.010 Definitions.

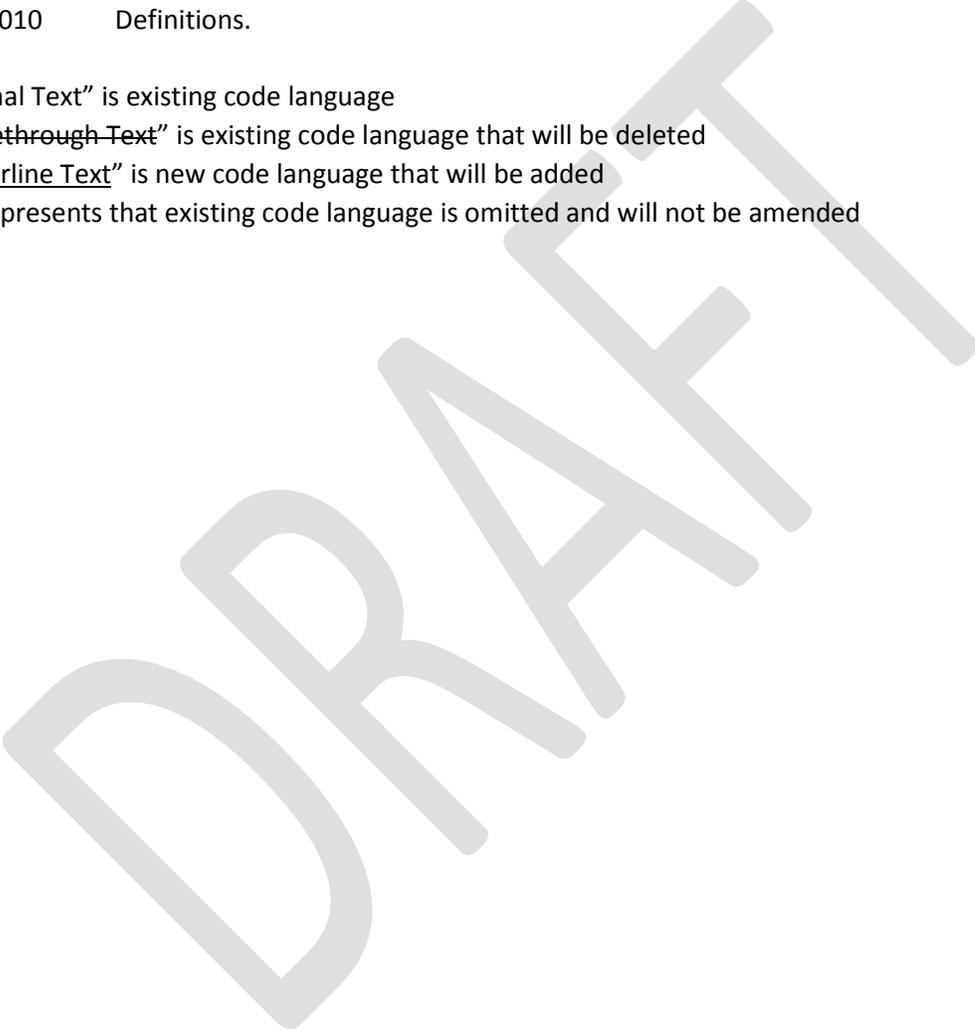
11
12 "Normal Text" is existing code language

13 "~~Strikethrough Text~~" is existing code language that will be deleted

14 "Underline Text" is new code language that will be added

15 "... " represents that existing code language is omitted and will not be amended

16
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18



1 Chapter 8.24
2 NUISANCE CONTROL CODE
3

4 **8.24.020 Types of nuisances.**

5 Each of the following conditions, actions or activities, unless otherwise permitted by law, is declared to
6 constitute a public nuisance, and is subject to criminal enforcement and penalties as provided in this
7 chapter. In addition, or in the alternative, whenever the enforcement officer determines that any of
8 these conditions, actions or activities exist upon any premises or in any lake, river, stream, drainage way
9 or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter:

10 ...

11 ~~Q. Production of any of the following sounds or noises between the hours of 10 pm to 7 am on Mondays~~
12 ~~through Fridays, excluding legal holidays, and between the hours of 10 pm and 9 am on Saturdays and~~
13 ~~Sundays and legal holidays, except in the cases of bona fide emergency or under permit from the city~~
14 ~~building department in case of demonstrated necessity:~~

- 15 ~~1. Sounds caused by the construction or repair of any building or structure,~~
- 16 ~~2. Sounds caused by construction, maintenance, repair, clearing or landscaping,~~
- 17 ~~3. Sounds created by the installation or repair of utility services,~~
- 18 ~~4. Sounds created by construction equipment including special construction vehicles.~~

19 ~~It is intended that the sounds described in this subsection refer to sounds heard beyond the property~~
20 ~~line of the source;~~

21 Q. Sounds from permitted activity.

- 22 1. The intent of this section is to regulate sounds heard beyond the property line of the source
23 for activity authorized by a permit issued by the City.
- 24 2. Sounds shall only be allowed between the hours of 7am to 7pm on Mondays through
25 Fridays, and between the hours of 9am and 6pm on Saturdays.
- 26 3. Sounds shall be prohibited at any time of day on Sunday and legal holidays.
- 27 4. The following sounds are explicitly regulated by this section:
 - 28 a. Sounds caused by the construction or repair of any building or structure;
 - 29 b. Sounds caused by construction, maintenance, repair, clearing or landscaping;
 - 30 c. Sounds created by the installation or repair of utility services; and,
 - 31 d. Sounds created by construction equipment including special construction vehicles.
- 32 5. The enforcement officer may authorize a variance to this section pursuant to Chapter 173-
33 60 of the Washington Administrative Code (WAC).

1 Chapter 17.14
2 CONSTRUCTION ADMINISTRATIVE CODE

3
4 **17.14.010 Adoption.**

5 The Construction Administrative Code is hereby adopted as follows:

6 ...

7 105.5 Expiration.

8
9 1. Every permit issued shall expire two years from the date of issuance. For non-residential or
10 mixed use construction, ~~the~~ building official may approve a request for an extended expiration
11 date where a construction schedule is provided by the applicant and approved prior to permit
12 issuance.

13
14 2. The building official may approve a request to renew a permit if an additional fee has been
15 paid, a construction schedule and management plan is provided and approved, and no changes
16 have been made to the originally approved plans by the applicant. Every permit that has been
17 expired for one year or less may be renewed for a period of one year for an additional fee as
18 long as no changes have been made to the originally approved plans. Requests for permit
19 renewals shall be submitted prior to permit expiration. When determining whether to approve
20 a building permit renewal, the building official may consider whether a previously approved
21 construction schedule for the building permit has been adhered to by the applicant. In cases
22 where a construction schedule has not been adhered to due to reasonably unforeseeable
23 delays, the building official may authorize renewal of the permit. Renewed permits shall expire
24 3 years from the date of issuance of the original permit. The building official shall not authorize
25 a permit renewal if the construction schedule supplied with the renewal request will not result
26 in the completion of work within the time period authorized under the permit renewal. For
27 permits that have been expired for longer than one year, a new permit must be obtained and
28 new fees paid. No permit shall be renewed more than once.

29
30 3. Electrical, mechanical and plumbing permits shall expire at the same time as the associated
31 building permit except that if no associated building permit is issued, the electrical, mechanical
32 and/or plumbing permit shall expire 180 days from issuance.

33
34 4. The building official may authorize a 30-day extension to an expired permit for the purpose of
35 performing a final inspection and closing out the permit as long as not more than 180 days has
36 passed since the permit expired. The 30-day extension would commence on the date of written
37 approval. If work required under a final inspection is not completed within the 30-day extension
38 period, the permit shall expire. However, the building official may authorize an additional 30-
39 day extension if conditions outside of the applicant's control exist and the applicant is making a
40 good faith effort to complete the permitted work.

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43 105.6 Construction management plan and construction schedule.

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1. Every permit issued for the construction of a new single family home with a gross floor area of more than 6,000 square feet, or as required for a permit renewal under section 105, shall provide a construction management plan and a construction schedule for approval by the building official.
2. Every permit issued for the remodel or addition to a single family home that will result in the modification of more than 6,000 square feet gross floor area, or the addition of more than 3,000 square feet gross floor area, or as required for a permit renewal under section 105, shall provide a construction management plan and a construction schedule for approval by the building official.
3. The construction management plan shall include measures to mitigate impacts resulting from construction noise, deliveries and trucking, dust / dirt, use of the street for construction related staging and parking, off-site parking, and haul routes. The building official may require additional information as needed to identify and establish appropriate mitigation measures for construction related impacts.
4. The construction schedule shall identify major milestones, anticipated future phases, and anticipated completion dates. The construction schedule shall establish a timeline for completion of exterior and interior building related construction activity and site work. The construction schedule shall incorporate appropriate measures to address unforeseeable delays and shall provide for contingencies. The building official may require additional information or revisions to the construction schedule.
5. The building official is authorized to take corrective measures as needed to ensure adherence to the approved construction management plan and construction schedule.

1 Chapter 19.01
2 GENERAL PROVISIONS

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6 **19.01.050 Nonconforming structures, sites, lots and uses.**

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8 A. General.

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12 7. Deviations. Existing structures and sites resulting from the approval of a previous deviation shall be considered "conforming" structures or sites, provided the structure or site complies with the deviation approval. Structures and sites resulting from a prior deviation approval are not subject to the provisions of Chapter 19.01 MICC

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18 B. Repairs and Maintenance.

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20 1. Ordinary Repairs and Maintenance. Ordinary repairs and maintenance of a legally
21 nonconforming structure are permitted. In no event may any repair or maintenance result in the
22 expansion of any existing nonconformity or the creation of any new nonconformity.

23
24 2. Decks. Repair and maintenance of a legally nonconforming deck, including total replacement,
25 is allowed, as long as there is no increase in the legal nonconformity and no new
26 nonconformances are created; provided, ~~in the R-8.4 zone,~~ any portion of a nonconforming deck
27 that is in a side yard and less than five feet from an interior lot line may be replaced only if the
28 deck is reconstructed to comply with current minimum side yard requirements.

29
30 ...

31
32 F. Nonconforming Sites.

33
34 1. Impervious Surface Coverage Limitation. A structure on a site that is legally nonconforming
35 because the maximum allowable surface coverage has been exceeded can be increased in
36 height and gross floor area (up to the maximum ~~height~~ permitted). No new impervious surfaces
37 are permitted outside the footprint of an existing structure unless the site is either brought into
38 conformance with all applicable impervious surface limitations or two square feet of legally
39 existing impervious surface is removed for every one square foot of new impervious surface.

40
41 2. Parking Requirements. These parking requirements apply to subsections (F)(2)(a) and (c) of
42 this section in the event of an intentional exterior alteration or enlargement, but do not apply in
43 the event of reconstruction following a catastrophic loss. In the event of catastrophic loss,
44 nonconforming parking may be restored to its previous legally nonconforming configuration.

1
2 a. Detached Single-family Dwelling Site. A proposed addition of more than 500 square
3 feet of gross floor area to a detached single-family dwelling site, ~~which that~~ is legally
4 nonconforming because it does not provide the number and type of parking spaces
5 required by current code provisions, shall provide parking spaces as provided by MICC
6 19.02.020(~~GE~~)(1).
7

8 b. Town Center. A structure in the Town Center that is legally nonconforming because it
9 does not provide the number and type of parking spaces required by current code
10 provisions shall provide parking spaces as required by MICC 19.11.130(B)(1)(a) and
11 subsections (1)(1) and (2) of this section, as applicable.
12

13 c. Sites Other Than for a Detached Single-Family Dwelling or in Town Center.
14

15 i. New Development and Remodels. A site other than those identified in
16 subsections (F)(2)(a) and (b) of this section that is legally nonconforming
17 because it does not provide the number or type of parking spaces required by
18 current code provisions shall provide parking spaces as required by the current
19 code provisions for the zone where the site is situated for all new development
20 and remodels greater than 10 percent of the existing gross floor area.
21

22 ii. Change of Use. A site other than those identified in subsection (F)(2)(a) and
23 (b) of this section that is legally nonconforming because it does not provide the
24 number or type of parking spaces required by current code provisions shall
25 provide parking spaces as required by the current code provisions for the zone
26 where the site is situated whenever there is a change of use.
27

28 3. Landscaping, Open Space and Buffer Requirements.

29 a. Regulated improvements. A site developed with a regulated improvement shall be
30 brought into conformance with current code requirements for landscaping, open space
31 and buffers, A site's landscaping, open space and buffers shall be brought into
32 conformance with current code requirements whenever a structure or use on the site
33 loses its legal nonconforming status. Landscaping, open spaces and buffers should be
34 brought into conformance with current code requirements as much as is feasible
35 whenever any changes are made to a legal nonconforming structure.

36 b. Single family landscaping. A site developed with a single family dwelling that is legally
37 nonconforming because the minimum landscaping required pursuant to Chapter 19.02
38 MICC has not been established or because maximum allowable hardscape has been
39 exceeded can be increased in height and gross floor area (up to the maximum height
40 and gross floor area permitted). No new hardscape or further reduction in landscaping
41 area is permitted unless:

42 i) The site is either brought into conformance with all applicable landscape
43 requirements; or,

- ii) Two square feet of legally existing hardscape is removed for every one square foot of new hardscape; or,
- iii) Two square feet of landscaping area is provided for every one square feet of additional non-landscaping area.

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9 **19.01.070 Variance and deviation procedures.**

10 An applicant for a permit under this development code may request a variance or deviation from those
11 numeric standards set out in the code that are applicable to the permit. The applicant shall make such a
12 request to the official or body designated in MICC 19.15.010 (E).

13
14 **A. Variance.**

15
16 1. An applicant may request a variance from any numeric standard applicable to the permit or
17 from any other standard that has been specifically designated as being subject to a variance.

18
19 2. A variance may be granted if the applicant demonstrates that the criteria set out in MICC
20 19.15.020(G)(4), and any additional variance criteria set out in the code section under which the
21 permit would be issued, are satisfied.

22
23 **B. Deviation.**

24 1. An applicant may request a deviation only from those numeric standards that have been
25 specifically designated as being subject to a deviation.

26 2. A deviation may be granted if the applicant demonstrates that the criteria set out in MICC
27 19.15.020(G)(5), and any additional deviation criteria set out in the code section under which
28 the permit would be issued, are satisfied.

1 Chapter 19.02
2 RESIDENTIAL

3
4 **19.02.005 Purpose and applicability.**

5 A. Purpose. The purpose of the residential chapter is to identify land uses and to establish development
6 standards that are appropriate within the residential zoning designations. The development standards
7 provide a framework for a site to be developed consistent with the policy direction of the adopted
8 Mercer Island Comprehensive Plan.

9
10 **B. Applicability.**

- 11 1. The provisions of this chapter shall apply to all development proposals in the R-8.4, R-9.6, R-
12 12, and R-15 zoning designations.
13 2. Unless otherwise indicated in this chapter, the applicant shall be responsible for the
14 initiation, preparation, and submission of all required plans or other documents prepared in
15 support of or necessary to obtain a permit and to determine compliance with this chapter.

16
17 **19.02.010 Single-family.**

18 ...
19
20
21 D. Building Height Limit. No building shall exceed 30 feet in height above the average building elevation
22 to the top of the structure except that on the downhill side of a sloping lot the building may extend to a
23 height of 35 feet measured from existing grade to the top of the exterior wall facade supporting the roof
24 framing, rafters, trusses, etc.; provided, the roof ridge does not exceed 30 feet in height above the
25 average building elevation. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads,
26 chimneys and fireplaces and other similar appurtenances may extend to a maximum of five feet above
27 the height allowed for the main structure.

28
29 The formula for calculating average building elevation is as follows:

30
31 **Formula:**

32
33 Average Building Elevation = (Mid-point Elevation of Individual Wall Segment) x (Length of Individual
34 Wall Segment) ÷ (Total Length of Wall Segments)

35
36 See Appendix G, Calculating Average Building Elevation.

37
38 **E. Gross Floor Area.**

- 39
40 1. The gross floor area of a single-family structure shall not exceed 45 percent of the lot
41 area.

1 ~~2. Lots created in a subdivision through MICC 19.08.030(G), Optional Standards for~~
2 ~~Development, may apply the square footage from the open space tract to the lot area not to~~
3 ~~exceed the minimum square footage of the zone in which the lot is located.~~
4
5

6 **19.02.020 ~~Lot requirements~~Development Standards.**

7 A. Minimum Net Lot Area.

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9 R-8.4: The net lot area shall be at least 8,400 square feet. Lot
10 width shall be at least 60 feet and lot depth shall be at
11 least 80 feet.
12

13 R-9.6: The net lot area shall be at least 9,600 square feet. Lot
14 width shall be at least 75 feet and lot depth shall be at
15 least 80 feet.
16

17 R-12: The net lot area shall be at least 12,000 square feet. Lot
18 width shall be at least 75 feet and lot depth shall be at
19 least 80 feet.
20

21 R-15: The net lot area shall be at least 15,000 square feet. Lot
22 width shall be at least 90 feet and lot depth shall be at
23 least 80 feet.
24

25 1. Minimum net lot area requirements do not apply to any lot that came into existence before
26 September 28, 1960; ~~however structures may be erected on the lot only if those structures~~
27 ~~comply with all other restrictions governing the zone in which the lot is located. In order to be~~
28 ~~used as a building site, lots that do not meet minimum net lot area requirements shall comply~~
29 ~~with MICC 19.01.050(G)(3).~~
30

31 2. In determining whether a lot complies with the minimum net lot area requirements, the
32 following shall be excluded: the area between lateral lines of any such lot and any part of such
33 lot which is part of a street.
34

35 B. Street Frontage. No building will be permitted on a lot that does not front onto a street acceptable to
36 the city as substantially complying with the standards established for streets.
37

38 C. Yard Requirements.

39
40 1. Minimum. Except as otherwise provided in this section, each lot shall have front, rear, and
41 side yards not less than the depths or widths following:
42

43 a. Front yard depth: 20 feet or more.
44

1 b. Rear yard depth: 25 feet or more.

2
3 c. Side yards shall be provided as follows:

4 i. Total depth:

5 (1) For lots with a lot width of 90 feet or less, the sum of the side yards
6 depth shall be at least 15 feet.

7 (2) For lots with a lot width of more than 90 feet, the sum of the side
8 yards depth shall be a width that is equal to at least 17 percent of the
9 lot width.

10 ii. Minimum side yard depth:

11 (1) The minimum side yard depth abutting an interior lot line is 5 feet
12 or 33% of the side yard total depth, whichever is greater.

13 (2) The minimum side yard depth abutting a street is 10 feet.

14 iii. Variable side yard depth requirement: For lots with an area of 6,000 square
15 feet or more, the minimum side yard depth abutting an interior lot line shall be
16 increased as follows:

17 (1) Single family dwellings shall provide a minimum side yard depth of
18 7.5 feet if the building:

19 a. For non-gabled roof end buildings, the height is more than
20 15 feet measured from the finished grade to the top of the
21 exterior wall facade adjoining the side yard, or;

22 b. For gabled roof end buildings, the height is more than 18
23 feet measured from the finished grade to the top of the
24 gabled roof end adjoining the side yard.

25 (2) Single family dwellings with a height of more than 25 feet measured
26 from the finished grade to the top of the exterior wall facade
27 adjoining the side yard, shall provide a minimum side yard depth of
28 10 feet.

29
30 ~~depth: The sum of the side yards shall be at least 15 feet; provided, no side yard~~
31 ~~abutting an interior lot line shall be less than five feet, and no side yard abutting a street~~
32 ~~shall be less than 10 feet.~~

33
34 2. Yard Determination.

35
36 a. Front Yard. The front yard is the yard abutting an improved street from which the lot
37 gains primary access or the yard abutting the entrance to a building and extending the
38 full width of the lot. If this definition does not establish a front yard setback, the code
39 official shall establish the front yard based upon orientation of the lot to surrounding
40 lots and the means of access to the lot.

41
42 i. Waterfront Lot. On a waterfront lot, regardless of the location of access to the
43 lot, the front yard may be measured from the property line opposite and
44 generally parallel to the ordinary high water line.

1
2 b. Rear Yard. The rear yard is the yard opposite the front yard. The rear yard shall
3 extend across the full width of the rear of the lot, and shall be measured between the
4 rear line of the lot and the nearest point of the main building including an enclosed or
5 covered porch. If this definition does not establish a rear yard setback for irregular
6 shaped lots, the code official may establish the rear yard based on the following
7 method: The rear yard shall be measured from a line or lines drawn from side lot line(s)
8 to side lot line(s), at least 10 feet in length, parallel to and at a maximum distance from
9 the front lot line.

10
11 c. Corner Lots. On corner lots the front yard shall be measured from the narrowest
12 dimension of the lot abutting a street. The yard adjacent to the widest dimension of the
13 lot abutting a street shall be a side yard. If a setback equivalent to or greater than
14 required for a front yard is provided along the property lines abutting both streets, then
15 only one of the remaining setbacks must be a rear yard. This code section shall apply
16 except as provided for in MICC 19.08.030(F)(1).

17
18 d. Side Yard. Any yards not designated as a front or rear yard shall be defined as a side
19 yard.
20

21 3. Intrusions into Required Yards.

22
23 a. Minor Building Elements.

24 i. Except as provided in subsection "ii." below, Porches, chimney(s) and
25 fireplace extensions, window wells, and unroofed, unenclosed outside stairways
26 and decks shall not project more than three feet into any required yard. Eaves
27 shall not protrude more than 18 inches into any required yard.; ~~provided,~~
28 ii. No penetration shall be allowed into the minimum five foot side yard
29 setback abutting an interior lot line except where an existing flat roofed house
30 has been built to the interior side yard setback line and the roof is changed to a
31 pitched roof with a minimum pitch of 4:12, the eaves may penetrate up to 18
32 inches into the side yard setback.
33

34 b. Platforms, Walks, and Driveways. Platforms, walks, at-grade stairs, and driveways not
35 more than 30 inches above existing grade or finished grade may be located in any
36 required yard.

37
38 c. Fences, Retaining Walls and Rockeries. Fences, retaining walls and rockeries are
39 allowed in required yards as provided in MICC 19.02.050.
40

41 d. Garages and Other Accessory Buildings. Garages and other accessory buildings are not
42 allowed in required yards, except as provided in MICC 19.02.040.
43

1 e. Heat Pumps, Air Compressors, Air Conditioning Units, and Other Similar Mechanical
2 Equipment. Heat pumps, air compressors, air conditioning units, and other similar
3 mechanical equipment may be located within any required yard provided they will not
4 exceed the maximum permissible noise levels set forth in WAC 173-60-040, which is
5 hereby incorporated as though fully set forth herein. Any such equipment shall not be
6 located within three feet of any lot line.

7
8 f. Architectural Features. ~~Detached, F~~reestanding architectural features such as
9 columns or pedestals that designate an entrance to a walkway or driveway and do not
10 exceed 42 inches in height are allowed in required yards.

11
12 g. Other Structures. Except as otherwise allowed in this subsection (C)(3), structures
13 over 30 inches in height from existing grade or finished grade, whichever is lower, may
14 not be constructed in or otherwise intrude into a required yard.

15
16 4. Setback Deviation. The Code Official may approve a deviation to front and rear setbacks pursuant to
17 MICC 19.15.020.

18 ~~4. Setback Deviation. On any lot with a critical area that makes it impractical to locate a building~~
19 ~~pad on the lot except by intruding into required yards, the code official shall have discretion to~~
20 ~~grant a deviation from yard setbacks for single lots, subdivisions and lot line revisions.~~

21
22 ~~a. The city shall provide notice of the proposed action as required by MICC 19.15.020(D)~~
23 ~~and (E).~~

24
25 ~~b. The decision to grant the deviation shall be pursuant to procedures contained in MICC~~
26 ~~19.15.010(E) and 19.15.020(G)(5).~~

27
28 ~~c. In granting any such deviation, the code official may require the submission of any~~
29 ~~reasonably necessary information.~~

30
31 ~~d. Yard setbacks shall not be reduced below the following minimums:~~

32
33 ~~i. Front and rear setbacks may not be reduced to less than 10 feet each;~~

34
35 ~~ii. Side setbacks may not be reduced to less than five feet.~~

36
37 D. Gross Floor Area.

38
39 1. The gross floor area of all buildings shall not exceed the lesser of:

40 a. 40 percent of the lot area; and

41
42 b. The following limit shall apply to single family dwellings and accessory buildings
43 based upon the zoning designation of the lot upon which the building is established:

- i. R-8.4: 5,000 square feet.
- ii. R-9.6: 8,000 square feet.
- iii. R-12: 10,000 square feet.
- iv. R-15: 12,000 square feet.

2. Gross floor area calculation. The gross floor area is the sum of the floor area(s) bounded by the exterior faces of each building on a residential lot, provided:

- a. The gross floor area shall be 150% of the floor area of that portion of a room(s) with a ceiling height of 10 feet to 16 feet, measured from the floor surface to the ceiling.
- b. The gross floor area shall be 200% of the floor area of that portion of a room(s) with a ceiling height of more than 16 feet, measured from the floor surface to the ceiling.
- c. Stair cases shall be counted as a single floor for the first two stories accessed by the stair case. Each additional story above two stories, the stair case shall count as a single floor area. For example, a stair case with a 10 foot by 10 foot dimension that accesses three stories shall be accounted as 200 square feet (100 square feet for the first two stories, and 100 square feet for the third story).

3. The allowed gross floor area of a single family dwelling may be increased from 40 percent of the lot area to 45 percent of the lot area, provided:

a. The combined total gross floor area of the single family dwelling and accessory buildings does not exceed the maximum allowed pursuant to subsection MICC 19.02.020(D)(1)(b) above; and

b. The allowed gross floor area of accessory buildings that are not partially or entirely used for an accessory dwelling unit shall not be increased through the use of this provision; and

c. The lot contains:

i. An accessory dwelling unit associated with the application for a new single family home; or

ii. A single family dwelling with at least one floor designed to accommodate a person or persons having a handicap or disability, within the meaning of the Fair Housing Amendments Act (FHAA), 42 U.S.C. 3602(h) or the Washington Law Against Discrimination (WLAD), Chapter 49.60 RCW. To qualify under this subsection, the main floor of the single family dwelling shall be designed to provide the following, consistent with the following summary of Fair Housing Act design requirements with no exception for site impracticality:

- 1. An accessible building entrance with a minimum of 36 inches clear on an accessible route;
- 2. Accessible doors with a minimum 32 inch clear width opening;
- 3. Accessible routes into and through the building, including a minimum clear width of 36 inches, changes in floor height limited to a 1/4 inch or less;

4. Light switches, electrical outlets, thermostats, and other environmental controls are located no higher than 48 inches and no lower than 15 inches;
 5. Reinforced walls in bathrooms for later installation of grab bars;
 6. Usable kitchens and bathrooms as described in the Fair Housing Accessibility guidelines, as amended; and,
- d. The total gross floor area authorized pursuant to subsection "b." above shall not exceed 5,000 square feet.

4. Lots created in a subdivision through MICC 19.08.030(G), Optional Standards for Development, may apply the square footage from the open space tract to the lot area not to exceed the minimum square footage of the zone in which the lot is located.

E. Building Height Limit.

1. Maximum building height. No building shall exceed 30 feet in height above the average building elevation to the highest point of the roof.
2. Maximum building height on downhill building façade. The maximum building façade height on the downhill side of a sloping lot shall not exceed 30 feet in height measured from existing grade or finished grade, whichever is lower, to the top of the exterior wall façade supporting the roof framing, rafters, trusses, etc.
3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure in subsections "1." and "2." above.
4. The formula for calculating average building elevation is as follows:

Formula:

Average Building Elevation = (Mid-point Elevation of Individual Wall Segment) x (Length of Individual Wall Segment) ÷ (Total Length of Wall Segments)

See Appendix G, Calculating Average Building Elevation.

F. Lot Coverage – Single family dwellings.

1. Applicability. This section shall apply to the development of single family dwellings including, but not limited to, the remodeling and construction of new single family dwellings. This section does not apply to regulated improvements.
2. Landscaping objective.

1 a. To ensure that landscape design reinforces the natural and wooded character of
2 Mercer Island, complements the site, the architecture of site structures and paved
3 areas, while maintaining the visual appearance of the neighborhood.

4
5 b. To ensure that landscape design is based on a strong, unified, coherent, and
6 aesthetically pleasing landscape concept.

7
8 c. To ensure that landscape plantings, earth forms, and outdoor spaces are designed to
9 provide a transition between each other and between the built and natural
10 environment.

11
12 d. To ensure suitable natural vegetation and landforms, particularly mature trees and
13 topography, are preserved where feasible and integrated into the overall landscape
14 design. Large trees and tree stands should be maintained in lieu of using new plantings.

15
16 e. To ensure planting designs include a suitable combination of trees, shrubs,
17 groundcovers, vines, and herbaceous material; include a combination of deciduous and
18 evergreen plant material; emphasize native plant material; provide drought tolerant
19 species; and exclude invasive species.

20
21 3. Lot coverage - landscaping Required.

22 a. Minimum area required. Development proposals for single family dwellings shall
23 provide the following minimum landscaping area based on the net lot area:

<u>Lot Slope</u>	<u>Maximum Lot Coverage (house, driving surfaces, and accessory buildings)</u>	<u>Landscaping Area Required (percentage of net lot area)</u>
<u>Less than 15%</u>	<u>40%</u>	<u>60%</u>
<u>15% to less than 30%</u>	<u>35%</u>	<u>65%</u>
<u>30% to 50%</u>	<u>30%</u>	<u>70%</u>
<u>Greater than 50% slope</u>	<u>20%</u>	<u>80%</u>

24 b. Hardscape, softscape, and driveways.

25 i. A minimum of 80% of the required landscaped area in subsection "a." above,
26 shall consist of softscape improvements.

27 ii. A maximum of 20% of the required landscaped area in subsection "a." above,
28 may consist of hardscape improvements including, but not limited to,
29 walkways, decks, etc. Provided that an at-grade, pervious sport court or similar
30 pervious recreational improvement with an area of up to 1,200 square is
31 exempt from the hardscape limitation within the landscaping area.

32 iii. Driveways are prohibited within the landscaping area.

33 For example, a flat lot with a net area of 10,000 square feet shall provide a minimum
34 6,000 square feet of landscaped area. Up to 1,200 square feet of the landscaped area
35 may be used for a walkway, patio, or deck or other hardscape area. An additional 1,200
36 square feet of the landscaped area may be used as an at-grade pervious sport court or
37 similar recreational area. The remainder of the area shall be used for softscape
38 improvements, such as landscaping, tree retention, etc.

1
2 3. ~~Deviation. The code official may grant a deviation, allowing an additional five percent of lot~~
3 ~~coverage over the maximum requirements; provided, the applicant demonstrates through the~~
4 ~~submittal of an application and supporting documentation that the proposal meets one of the~~
5 ~~following criteria:~~

6
7 a. ~~The proposal uses preferred practices, outlined in MICC 19.09.100, which are~~
8 ~~appropriate for the lot; or~~

9
10 b. ~~The lot has a unique shape or proportions (i.e., a flag lot, with a circuitous driveway~~
11 ~~corridor); or~~

12
13 c. ~~The proposal minimizes impacts to critical areas and provides the minimum extent~~
14 ~~possible for the additional impervious surfaces.~~

15
16 ~~The city shall provide notice for the proposed action as required by MICC 19.15.020(D) and (E),~~
17 ~~Administration.~~

18
19 4. ~~Variance. Public and private schools, religious institutions, private clubs and public facilities in~~
20 ~~single family zones with slopes of less than 15 percent may request a variance to increase the~~
21 ~~impervious surface to a maximum 60 percent impervious surface and such variance application~~
22 ~~will be granted if the hearing examiner determines that the applicant has demonstrated that the~~
23 ~~following criteria are satisfied:~~

24
25 a. ~~There will be no net loss of pervious surface from the existing pervious surface. No net loss~~
26 ~~will be determined by the code official and may be achieved by off site mitigation and/or by~~
27 ~~reconstructing existing parking areas to allow stormwater penetration. This replacement will be~~
28 ~~an exception to subsection (D)(2)(b) of this section prohibiting parking areas from being~~
29 ~~considered as pervious surfaces;~~

30
31 b. ~~All stormwater discharged shall be mitigated consistent with the most recent Washington~~
32 ~~State Department of Ecology Stormwater Management Manual for Western Washington,~~
33 ~~including attenuation of flow and duration. Mitigation will be required for any and all new and~~
34 ~~replaced impervious surfaces. In designing such mitigation, the use of a continuous simulation~~
35 ~~hydrologic model such as KCRTS or WWHM shall be required; event based models will not be~~
36 ~~allowed. In addition, mitigation designs shall utilize flow control best management practices~~
37 ~~(BMPs) and low impact development (LID) techniques to infiltrate, disperse and retain~~
38 ~~stormwater on site to mitigate the increased volume, flow and pollutant loading to the~~
39 ~~maximum extent feasible;~~

40
41 c. ~~The director must approve a storm drainage report submitted by the applicant and prepared~~
42 ~~by a licensed civil engineer assuring the city that city infrastructure, in concert with the project~~
43 ~~design, is adequate to accommodate storm drainage from the project site, or identifying~~

1 appropriate improvements to public and/or private infrastructure to assure this condition is
2 met, at the applicant's expense;

3
4 ~~d. A deviation under subsection (D)(3) of this section may not be combined to exceed this~~
5 ~~maximum 60 percent impervious surface coverage;~~

6
7 ~~e. The hearing procedures and public notice requirements set forth in MICC 19.15.020 shall be~~
8 ~~followed in connection with this variance proceeding.~~

9
10 GE. Parking.

11
12 1. ~~1-Applicability. This section shall apply to all new construction and remodels where more~~
13 ~~than 40 percent of the length of the structure's external walls have been intentionally~~
14 ~~structurally altered.~~

15 2. Parking required.

16 a. Each single-family dwelling shall have at least ~~three-two~~ parking spaces sufficient in
17 size to park a passenger automobile; provided, at least ~~two-one~~ of the stalls shall be
18 covered stalls.

19 b. ~~This provision shall apply to all new construction and remodels where more than 40~~
20 ~~percent of the length of the structure's external walls have been intentionally~~
21 ~~structurally altered;~~

22 c. ~~however, n~~No construction or remodel shall reduce the number of parking spaces
23 on the lot below the number existing prior to the project unless the reduced parking
24 still satisfies the requirements set out above.

25
26 2. Except as otherwise provided in this chapter, each lot shall provide parking deemed
27 sufficient by the code official for the use occurring on the lot; provided, any lot that contains
28 10 or more parking spaces shall also meet the parking lot requirements set out in Appendix
29 A of this development code.

30
31 HF. Easements. Easements shall remain unobstructed.

32
33 1. Vehicular Access Easements. No structures shall be constructed on or over any vehicular
34 access easement. A minimum ~~510~~-foot yard setback from the edge of any easement that affords
35 or could afford vehicular access to a property is required for all structures; provided, that
36 improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed
37 within the ~~105~~-foot yard setback so long as such improvements do not interfere with emergency
38 vehicle access or sight distance for vehicles and pedestrians.

39
40 2. Utility and Other Easements. No structure shall be constructed on or over any easement for
41 water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within
42 the language of the easement or is mutually agreed in writing between the grantee and grantor
43 of the easement.

1
2 I. Large lots. The intent of this section is to ensure that the construction of a single family dwelling on a
3 large lot does not preclude compliance with applicable standards related to subdivision or short
4 subdivision of the large lot. Prior to approval of a new single family dwellings and associated site
5 improvements, accessory buildings, and accessory structures on large lots, the applicant shall complete
6 one of the following:

7
8 1. Design for future subdivision. The proposed site design that shall accommodate potential
9 future subdivision of the lot as follows:

10
11 a. The proposed site design shall comply with the applicable design requirements of
12 Chapters 19.08 Subdivision, 19.09 Development, and 19.10 Trees MICC.

13
14 b. The proposed site design shall not result in a circumstance that would require the
15 removal of trees identified for retention, as part of a future subdivision.

16
17 c. The proposed site design shall not result in a circumstance that would require
18 modifications to wetlands, watercourses, and associated buffers as part of a future
19 subdivision.

20
21 d. Approval of a site design that could accommodate a potential future subdivision does
22 not guarantee approval of such future subdivision approval, nor does it confer or vest
23 any rights to a future subdivision.

24
25 2. Subdivide. Prior to application for a new single family dwelling, the property is subdivided or
26 short platted to create all potential lots and building pads permitted by zoning. The proposed
27 single family dwelling shall be located on a lot and within a building pad resulting from a
28 recorded final plat.

29
30 3. Limit subdivision. Record a notice on title, or execute a covenant, easement, or other
31 documentation approved by the city, prohibiting further subdivision of the large lot for a period
32 of five (5) years from the date of final inspection or certificate of occupancy.

33
34 J. Building Pad. New buildings shall be located within a building pad established pursuant to Chapter
35 19.09 MICC. Intrusions into yard setbacks authorized pursuant to MICC 19.02.020(C)(3) may be located
36 outside of the boundaries of the building pad.

37
38 ...

39
40 **19.02.040 Garages, ~~and~~ other accessory buildings, and accessory structures.**

41 A. Accessory buildings, including garages, are not allowed in required yards except as herein provided.

42
43 B. Attached Accessory Building. An attached accessory building shall comply with the requirements of
44 this code applicable to the main building.

1
2 C. Detached Accessory Buildings and Accessory Structures.

3 1. Gross Floor Area.

4 a. The combined total gross floor area for one or more accessory building(s) shall not
5 exceed 25 percent of the total gross floor area allowed on a lot within applicable zoning
6 designations pursuant to MICC 19.02.020. For example, on a lot where the total
7 allowed gross floor area is 5,000 square feet, the combined total gross floor area for all
8 accessory buildings is 1,250 square feet.

9
10 b. The gross floor area for a detached accessory building that is entirely or partially used
11 for an accessory dwelling unit, may be increased by the floor area authorized pursuant
12 to MICC 19.02.020(D)(3).

13
14 2. Height.

15 a. Detached accessory buildings, except for buildings that contain an accessory dwelling
16 unit, are limited to a single story and shall not exceed 17 feet in height above the
17 average building elevation to the highest point of the roof. Average building elevation is
18 calculated using the methodology established in MICC 19.02.020(E)(4).

19
20 b. Detached accessory buildings that are entirely or partially used for an accessory
21 dwelling unit, shall meet the height limits established for the primary building.

22
23 3. Detached Accessory buildings are not allowed in required yard setbacks; provided, one
24 detached accessory building with a gross floor area of 200 square feet or less and a height of 12
25 feet or less may be erected in the rear yard setback. If such an accessory building is to be
26 located less than five feet from any property line, a joint agreement with the adjoining property
27 owner(s) must be executed and recorded with the King County Department of Records and
28 thereafter filed with the city.

29
30 4. Accessory structures. The maximum height of an accessory structure that are not also
31 accessory buildings, shall not exceed 17 feet. The height of an accessory structure is measured
32 from the top of the structure, to the existing grade or finished grade, whichever is lower,
33 directly below the section of the structure being measured.

34
35 D. Garages and Carports. Garages and carports may be built to within 10 feet of the front property line if
36 the front yard of the lot, measured at the midpoint of the wall of the garage closest to the front yard
37 property line, is more than four feet above or below the existing grade at the point on the front
38 property line closest to the midpoint of the wall of the garage at its proposed location. The height of
39 such garage shall not exceed 12 feet from existing grade for that portion built within the front yard.

40
41 E. Pedestrian Walkways. Enclosed or covered pedestrian walkways may be used to connect the main
42 building to a garage or carport. Enclosed pedestrian walkways shall not exceed six feet in width and 12
43 feet in height calculated from finished grade or 30 feet above average building elevation, whichever is
44 less. (Ord. 08C-01 § 1; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

1
2
3 **19.02.050 Fences, retaining walls and rockeries.**

4 A. Location in Required Yard. Fences, retaining walls and rockeries may be located within any required
5 yard as specified below.

6
7 B. Location in Street.

8
9 1. Fences. No fence shall be located in any improved street. Fences may be allowed in
10 unimproved public streets subject to approval of the city engineer and the granting of an
11 encroachment agreement as required by MICC 19.06.060.

12
13 2. Retaining Walls and Rockeries. Retaining walls and rockeries may be allowed in any street
14 subject to the approval of the city engineer and the granting of an encroachment agreement
15 covering any public street as required by MICC 19.06.060.

16
17 C. Height Measurement.

18
19 1. Fences / gates. The height of a fence or gate is measured from the top of the fence or gate,
20 including posts, to the existing grade or finished grade, whichever is lower, directly below the
21 section of the fence or gate being measured.

22
23 2. Retaining Walls and Rockeries. The height of a retaining wall or rockery is measured from the
24 top of the retaining wall or rockery to the existing grade or finished grade, whichever is lower,
25 directly below the retaining wall or rockery.

26
27 D. Retaining Walls and Rockeries – Requirements.

28
29 1. Building Permit. A building permit is required for retaining walls or rockeries not exempted
30 from permit by Section 105.2 of the Construction Administrative Code, Chapter 17.14 MICC.

31
32 2. Engineer. Any rockery requiring a building permit shall be designed and inspected by a
33 licensed geotechnical engineer.

34
35 3. Drainage Control. Drainage control of the area behind the rockery shall be provided for all
36 rockeries.

37
38 4. Maximum Height in Required Yard – Cut Slopes.

39 a. No retaining walls or rockeries, or any combination of retaining walls or rockeries, to
40 the extent used to protect a cut or cuts into existing grade within any required yard,
41 shall exceed a total of 144 inches in height.

42 b. All retaining walls and/or rockeries within a required yard shall be included in
43 calculating the maximum height of 144 inches. ~~Such retaining walls or rockeries, or~~
44 ~~combination of retaining walls or rockeries, may~~

1 c. Retaining walls or rockeries may be topped by a fence up to 72 inches in height as
2 provided in MICC 19.02.050(E). or, if within that portion of any required yard that
3 lies within 20 feet of any improved street, by a fence up to 42 inches in height.
4

5 5. Maximum Height in Required Yard – Fill Slopes.

6 a. No retaining walls or rockeries, or any combination of retaining walls or rockeries, to
7 the extent used to raise grade and protect a fill slope, shall exceed a total of 72
8 inches in height within any required yard shall result in an increase in the finished
9 grade by more than 72 inches at any point.

10 b. All retaining walls and/or rockeries within a required yard shall be included in
11 calculating the maximum height of 72 inches.

12 c. Retaining walls or rockeries may be topped by a fence as provided in MICC
13 19.02.050(E).

14
15 A fence or guardrail may be placed on top of such retaining wall or rockery, but in no
16 event shall the combined height of the fence and any retaining wall or rockery
17 exceed 72 inches; provided, rockeries, retaining walls, fences, or any combination
18 thereof, are limited to a maximum height of 42 inches within that portion of any
19 required yard which lies within 20 feet of any improved street.
20

21 E. Fences and gates.

22
23 1. Maximum Height in Fences or gates in Required Yard.

24 a. Height limits.

25 i. Fences, gates, or any combination of retaining walls, rockeries and fences are
26 allowed to a maximum height of 72 inches within the required side or rear
27 yards, except as provided in subsection (D)(4) of this section.

28 ii. Fences, gates, or any combination of retaining walls, rockeries and fences are
29 allowed to a maximum height of 42 inches within required front yards.

30 b. Exceptions to height limits.

31 i. No fence shall exceed a maximum height of 72 inches.

32 ii. Fences within front yards may be designed to incorporate an open
33 latticework or similar architectural feature at the entrance of a
34 walkway, provided the total height of the entryway feature shall not
35 exceed 90 inches and the remaining fences shall not exceed 72 inches.
36 The open latticework or architectural feature shall be designed such
37 that at least 50 percent of its total surface area consists of evenly
38 distributed open spaces.

39 iii. Fences or gates located within the front yard may have a maximum
40 height of 72 inches, provided:

- 41 1. The proposed fence or gate is located along a property line
42 contiguous to either: Island Crest Way north of SE 53rd Place, or SE
43 40th Street between 92nd Avenue SE and 78th Avenue SE; and

2. ~~For regulated improvements, deviations shall be reviewed by the design commission under the procedures and criteria set forth in MICC 19.15.040.~~

~~GF.~~ Electric and Barbed Wire Fences. Electric fences and barbed wire fences are not allowed.

~~HG.~~ Exceptions. These provisions do not apply to fences required by state law to enclose public utilities, or to chain link fences enclosing school grounds or public playgrounds, or to screens used for safety measures in public recreation areas such as ballfields.

...

19.02.60 Lot Coverage – Regulated improvements.

A. Applicability. This section shall apply to regulated improvements (for example, schools or religious buildings) in the residential zoning designations of R-8.4, R-9.6, R-12, and R-15. This section does not apply to new single family dwellings or residential accessory buildings:

~~B1.~~ Maximum Impervious Surface Limits for Lots. The total percentage of a lot that can be covered by impervious surfaces (including buildings) is limited by the slope of the lot for all single-family zones as follows:

Lot Slope	Lot Coverage (limit for impervious surfaces)
Less than 15%	40%*
15% to less than 30%	35%
30% to 50%	30%
Greater than 50% slope	20%

*Public and private schools, religious institutions, private clubs and public facilities (excluding public parks or designated open space) in single-family zones with slopes of less than 15 percent may be covered by the percentage of legally existing impervious surface that existed on May 1, 2006, as determined by the code official.

~~C2.~~ Exemptions. The following improvements will be exempt from the calculation of the maximum impervious surface limits set forth in subsection ~~“(D)(1B.)”~~ of this section:

~~a1.~~ Decks/Platforms. Decks and platforms constructed with gaps measuring one-eighth inch or greater between the boards which provide free drainage between the boards as determined by the code official shall be exempt from the calculation of maximum impervious surface limits so long as the surface below the deck or platform is not impervious.

1
2 2b. Pavers. Pavers installed with a slope of five percent or less and covering no more than 10
3 percent of the total lot area will be calculated as only 75 percent impervious. Provided,
4 however, that all pavers placed in driveways, private streets, access easements, parking areas
5 and critical areas shall be considered 100 percent impervious.
6

7 ~~c. Patios/Terraces. Uncovered patios/ terraces constructed of pavers shall be exempt~~
8 ~~from the maximum impervious surface limits.~~
9

10 d3. Pedestrian-Oriented Walkways. Uncovered pedestrian walkways constructed with gravel or
11 pavers not to exceed 60 inches in width shall be exempt from the maximum impervious surface
12 limits.
13

14 e4. Public Improvements. Open storm water retention/detention facilities, public rights-of-way
15 and public pedestrian trails shall be exempt from the maximum impervious surface limits.
16

17 5f. Rockeries/Retaining Walls. Rockeries and retaining walls shall be exempt from the maximum
18 impervious surface limits.
19

20 6g. Residences for religious leaders located on properties use by places of worship.
21

22 ai. A structure primarily used as a residence for a religious leader provided by its
23 congregation and located on the same lot or lots as the improvements for a church,
24 synagogue, mosque, or other place of worship, shall be exempt from the maximum
25 impervious surface limits, subject to the limitations under subsection "bii." below. All
26 impervious surface areas directly and commonly associated with the residence such as,
27 but not limited to, the footprint of the residence, an attached or detached garage, a
28 patio and/or deck not otherwise exempted by MICC 19.02.0260(DC)(21)(a) and (e3), and
29 a driveway not otherwise used for general access to the place of worship, shall be
30 exempt.
31

32 bii. A residence and its associated impervious improvements, as described above, may
33 only be exempted if 4,999 square feet or less or up to 20% of lot area, whichever is less.
34 For these purposes, lot area means the lot or lots on which the place of worship is
35 located.
36

37 ciii. ~~Impervious surface~~ lot coverage exceeding 60% shall not be allowed whether by
38 variance ~~pursuant to~~ MICC 19.02.0620(D) or by this exemption.
39

40 D. Variance. Regulated improvements in the R-8.4, R-9.6, R-12, and R-15 zoning designations may
41 request a variance to increase impervious surface pursuant to MICC 19.15.020(G).
42

1 Chapter 19.07
2 ENVIRONMENT

3
4 ...

5 **19.07.040 Review and construction requirements.**

6 ...

7 C. Setback Deviation. An applicant may seek a deviation from required front and back yard setbacks
8 pursuant to MICC-~~19.15.020~~~~19.02.020(C)(4)~~.

9

10 D. Variances. Variances ~~pursuant to MICC 19.01.070~~ are not available to reduce any numeric
11 requirement of this chapter. However, the allowed alterations and the reasonable use exception
12 allowed pursuant to MICC [19.07.030](#) may result in city approvals with reduced numeric requirements.

13 ...

14

15

DRAFT

1 Chapter 19.08
2 SUBDIVISIONS

3
4 ...

5
6 **19.08.020 Application procedures and requirements.**

7 A. Applications for short subdivisions or alterations or vacation thereof, and lot line revisions shall be
8 reviewed by the code official. Applications for long subdivisions or alteration or vacation thereof shall
9 before the hearing examiner who shall make recommendations to the city council.

10
11 B. The code official may grant a variance, with restrictions if deemed necessary, from the four-acre
12 limitation for purpose of permitting short subdivision of property containing more than four acres into
13 four or less lots when all of the following circumstances shall be found to apply:

- 14 1. That there are special circumstances applicable to the particular lot, such type of ownership,
15 restrictive covenants, physiographic conditions, location or surroundings, or other factors;
- 16 2. That the granting of the variance will not result in future uncoordinated development nor
17 alter the character of the neighborhood; and
- 18 3. That granting the variance will not conflict with the general purposes and objectives of the
19 comprehensive plan or the development code.
20

21
22 C. Applicants shall prepare a concept sketch of the proposal for the preapplication meeting required
23 under MICC 19.09.010(A).

24
25 D. Preliminary Application Contents. In addition to any documents, information, or studies required
26 under Chapter 19.07 MICC, Critical Areas Environment, Chapter 19.10, Trees, or any other Chapter of
27 Title 19 MICC, an application for a long subdivision, short subdivision, or a lot line revision shall include
28 the documents set forth below and any other document or information deemed necessary by the code
29 official upon notice to the applicant. All documents shall be in the form specified by the code official and
30 shall contain such information as deemed necessary by the code official. The applicant shall submit the
31 number of copies of each document specified by the code official.
32

33
34 1. Development Application Cover Form. The development application cover form shall be
35 signed by all current property owners listed on the plat certificate, and shall list the legal parcel
36 numbers of all property involved in the project.
37

38
39 2. Long Subdivision, Short Subdivision, or Lot Line Revision Plan. The applicant shall provide
40 copies of fully dimensioned plans of the project prepared by a Washington registered civil
41 engineer or land surveyor, meeting the requirements of Chapter 19.07 MICC, Environment, and
42 containing any other information deemed necessary by the code official. The city engineer may
43 waive the requirement that an engineer or surveyor prepare the plans for a short subdivision or
44 lot line revision. The submitted plans shall ~~demonstrate that a~~ identify the proposed building

1 pad ~~has been designated location~~ for each proposed lot ~~per-pursuant to~~ MICC 19.09.090. ~~No~~
2 ~~cross-section dimension of a designated building pad shall be less than 20 feet in width.~~

3
4 3. Plat Certificate. Applicant shall provide a plat certificate issued by a qualified title insurance
5 company not more than 30 days before filing of the application showing the ownership and title
6 of all parties interested in the plat. If the plat certificate references any recorded documents (i.e.
7 easements, dedications, covenants, etc.) copies of those documents shall also be provided.
8

9 4. Legal Documents. Applicants shall provide copies of each of the following documents (if
10 applicable):

11 a. Proposed restrictive covenants.

12 b. Draft deeds to the city for any land to be dedicated.

13 c. Proposed easements.
14
15
16

17
18 5. Project Narrative. Applicants shall provide a clear and concise written description and
19 summary of the proposed project.
20

21 6. Neighborhood Detail Map. Applicants shall provide copies of a map drawn at a scale specified
22 by the code official showing the location of the subject site relative to the property boundaries
23 of the surrounding parcels within approximately 1,000 feet, or approximately 2,500 feet for
24 properties over four acres. The map shall identify the subject site with a darker perimeter line
25 than that of the surrounding properties.
26

27 7. Topography Map. The applicant shall provide copies of a topographical map showing the
28 existing land contours using vertical intervals of not more than two feet, completed and signed
29 by a Washington licensed surveyor. For any existing buildings, the map shall show the finished
30 floor elevations of each floor of the building. Critical slopes exceeding 30 percent must be
31 labeled and delineated by a clearly visible hatching.
32

33 8. Detailed Grading Plan. If the grade differential on the site of the proposed project will exceed
34 24 inches and/or if the amount of earth to be disturbed exceeds 50 cubic yards, the applicant
35 shall provide copies of a detailed grading plan drawn by a Washington licensed engineer.
36

37 9. Street Profiles. The applicant shall provide copies of a street profile showing the profiles and
38 grades of each street, together with typical cross sections indicating:

39 a. Width of pavement;

40 b. Location and width of sidewalks, trails, bike lanes, ditches, swales, etc.; and
41

42 c. Location of any utility mains.
43
44

1
2 10. Geotechnical Report. The applicant shall provide a geotechnical report meeting the
3 requirements of Chapter 19.07 MICC, Critical Lands. This requirement may be waived by the city
4 Engineer under the criteria set out in MICC 19.07.010.
5

6 11. Utility Plan. Conceptual plan showing the locations of existing and proposed utilities.
7

8 ~~E. Notice.~~

9
10 ~~1. Short Subdivisions and Lot Line Revisions. Public notice of an application for a short~~
11 ~~subdivision or a lot line revision shall be made in accordance with the procedures set forth in~~
12 ~~MICC 19.15.020.~~

13
14 ~~2. Long Subdivisions.~~

15
16 ~~a. Public notice of a long subdivision application shall be made at least 10 days prior to~~
17 ~~the open record hearing on the application in accordance with the procedures set forth~~
18 ~~in MICC 19.15.020 for an administrative or discretionary act; provided, notice shall also~~
19 ~~be published at least 10 days prior to the hearing in a newspaper of general circulation~~
20 ~~within the city.~~

21
22 ~~b. If the owner of a proposed long subdivision owns land adjacent to the proposed long~~
23 ~~subdivision, that adjacent land shall be treated as part of the long subdivision for notice~~
24 ~~purposes, and notice of the application shall be given to all owners of lots located within~~
25 ~~300 feet of the proposed long subdivision or the applicant's adjacent land.~~

26
27 ~~3. The city shall provide written notice to the Department of Transportation of an application for~~
28 ~~a long subdivision or short subdivision that is located adjacent to the right of way of a state~~
29 ~~highway. The notice shall include a legal description of the long subdivision or short subdivision~~
30 ~~and a location map.~~

31
32 ~~E.F. Preliminary Application Procedure.~~

33
34 1. Findings of Fact. All preliminary approvals or denials of long subdivisions or short subdivisions
35 shall be accompanied by written findings of fact demonstrating that:

36
37 a. The project does or does not make appropriate provisions for the public health,
38 safety, and general welfare and for such open spaces, drainage ways, streets or roads,
39 alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks
40 and recreation, playgrounds, schools and schoolgrounds and all other relevant facts,
41 including sidewalks and other planning features that assure safe walking conditions for
42 students who only walk to and from school;

43
44 b. The public use and interest will or will not be served by approval of the project; and

1
2 c. The project does or does not conform to applicable zoning and land use regulations.
3

4 2. Short Subdivisions and Lot Line Revisions. The code official shall grant preliminary approval
5 for a short subdivision or lot line revision if the application is in proper form and the project
6 complies with the design standards set out in MICC 19.08.030, the comprehensive plan, and
7 other applicable development standards.
8

9 3. Long Subdivisions.

10
11 a. At an open record hearing the planning commission shall review the proposed long
12 subdivision for its conformance with the requirements of MICC 19.08.030, the
13 comprehensive plan, and other applicable development standards.
14

15 b. The planning commission shall make a written recommendation on the long
16 subdivision, containing findings of fact and conclusions, to the city council not later than
17 14 days following action by the planning commission.
18

19 c. Upon receipt of the planning commission's recommendation, the city council shall at
20 its next public meeting set the date for the public hearing where it may adopt or reject
21 the planning commission's recommendations.
22

23 d. Preliminary approval of long subdivision applications shall be governed by the time
24 limits and conditions set out in MICC 19.15.020(E); except the deadline for preliminary
25 plat approval is 90 days, unless the applicant consents to an extension of the time
26 period.
27

28 4. Conditions for Preliminary Approval. As a condition of preliminary approval of a project, the
29 city council in the case of a long subdivision, or the code official in the case of a short subdivision
30 ~~or lot line revision~~, may require the installation of plat improvements as provided in MICC
31 19.08.040 which shall be conditions precedent to final approval of the ~~long-subdivision, short~~
32 ~~subdivision, or lot line revision~~.
33

34 ~~5. Expiration of Approval.~~

35
36 ~~a. Once the preliminary plat for a long subdivision has been approved by the city, the~~
37 ~~applicant has five years to submit a final plat meeting all requirements of this chapter to~~
38 ~~the city council for approval.~~
39

40 ~~b. Once the preliminary plat for a short subdivision has been approved by the city, the~~
41 ~~applicant has one year to submit a final plat meeting all requirements of this chapter. A~~
42 ~~plat that has not been recorded within one year after its preliminary approval shall~~
43 ~~expire, becoming null and void. The city may grant a single one-year extension, if the~~

1 applicant submits the request in writing before the expiration of the preliminary
2 approval.

3
4 ~~c. In order to revitalize an expired preliminary plat, a new application must be~~
5 ~~submitted.~~
6

7 **56.** No Construction Before Application Approval. No construction of structures, utilities, storm
8 drainage, grading, excavation, filling, or land clearing on any land within the proposed long
9 subdivision, short subdivision, or lot line revision shall be allowed prior to preliminary approval
10 of the application and until the applicant has secured the permits required under the Mercer
11 Island City Code.
12

13 **19.08.030 Design standards.**

14 A. Compliance with Other Laws and Regulations. The proposed subdivision shall comply ~~with~~ with
15 ~~arterial, capital facility, and land use elements of the comprehensive plan;~~ all other chapters of ~~the~~
16 ~~development code~~ Title 19 MICC; the Shoreline Management Act; and other applicable city, state, and
17 federal legislation.
18

19 B. Public Improvements.
20

- 21 1. The subdivision shall be reconciled as far as possible with current official plans for acquisition
22 and development of arterial or other public streets, trails, public buildings, utilities, parks,
23 playgrounds, and other public improvements.
24
25 2. If the preliminary plat includes a dedication of a public park with an area of less than two
26 acres and the donor has designated that the park be named in honor of a deceased individual of
27 good character, the city shall adopt the designated name.
28

29 C. Control of Hazards.
30

31 1. Where the project may adversely impact the health, safety, and welfare of, or inflict expense
32 or damage upon, residents or property owners within or adjoining the project, other members
33 of the public, the state, the city, or other municipal corporations due to flooding, drainage
34 problems, critical slopes, unstable soils, traffic access, public safety problems, or other causes,
35 the city council in the case of a long subdivision, or the code official in the case of a short
36 subdivision ~~or lot line revision~~, shall require the applicant to adequately control such hazards or
37 give adequate security for damages that may result from the project, or both.
38

39 2. If there are soils or drainage problems, the city engineer may require that a Washington
40 registered civil engineer perform a geotechnical investigation of each lot in the project. The
41 report shall recommend the corrective action likely to prevent damage to the areas where such
42 soils or drainage problems exist. Storm water shall be managed in accordance with the criteria
43 set out in MICC 15.09.030 and shall not increase likely damage to downstream or upstream
44 facilities or properties.

1
2 3. Alternative tightline storm drains to Lake Washington shall not cause added impact to the
3 properties, and the applicant shall submit supportive calculations for storm drainage detention.
4

5 D. Streets, Roads and Rights-of-Way.
6

7 1. The width and location of rights-of-way for major, secondary, and collector arterial streets
8 shall be as set forth in the comprehensive arterial plan.
9

10 2. Public rights-of-way shall comply with the requirements set out in MICC 19.09.030.
11

12 3. Private access roads shall meet the criteria set out in MICC 19.09.040.
13

14 4. Streets of the proposed subdivision shall connect with existing improved public streets, or
15 with existing improved private access roads subject to easements of way in favor of the land to
16 be subdivided.
17

18 E. Residential Lots.
19

20 1. The area, width, and depth of each residential lot shall conform to the requirements for the
21 zone in which the lot is located. Any lot which is located in two or more zones shall conform to
22 the zoning requirements determined by the criteria set out in MICC 19.01.040(G)(2).
23

24 2. Each side line of a lot shall be approximately perpendicular or radial to the center line of the
25 street on which the lot fronts.
26

27 3. The proposed subdivision shall identify the location of building pads for each proposed lot per
28 MICC 19.09.090. No cross-section dimension of a designated building pad shall be less than 20
29 feet in width.
30

31 4. The proposed subdivision shall incorporate preferred development practices pursuant to
32 MICC 19.09.100 where feasible.
33

34 5. The proposed subdivision shall be designed to comply with the provisions of Chapter 19.10
35 MICC.
36

37
38 F. Design Standards for Special Conditions.
39

40 1. Subdivisions abutting an arterial street as shown on the comprehensive arterial plan shall be
41 oriented to require the rear or side portion of the lots to abut the arterial and provide for
42 internal access streets.
43

1 2. Where critical areas meeting the criteria set out in Chapter 19.07 MICC are present within the
2 subdivision, the code official or city council may:

3
4 a. Require that certain portions of the long subdivision or short subdivision remain
5 undeveloped with such restrictions shown on the official documents;

6
7 b. Increase the usual building set-back requirements; and/or

8
9 c. Require appropriate building techniques to reduce the impact of site development.
10

11 G. Optional Standards for Development. In situations where designing a ~~long subdivision or short~~
12 subdivision to the requirements of subsections A through F of this section would substantially hinder the
13 permanent retention ~~trees; interfere with the protection critical areas of wooded or steep areas or other~~
14 ~~natural features~~; preclude the provision of parks, playgrounds, or other noncommercial recreational
15 areas for neighborhood use and enjoyment; or would negatively impact the physiographic features
16 and/or existing ground cover of the subject area, the applicant may request that the project be
17 evaluated under the following standards:

18
19 1. The use of the land in the long subdivision or short subdivision shall be one permitted in the
20 zone in which the long subdivision or short subdivision is located.

21
22 2. The number of lots shall not exceed the number that would otherwise be permitted within
23 the area being subdivided, excluding the shorelands part of any such lot and any part of such lot
24 that is part of a street.

25
26 3. An area suitable for a private or public open space tract shall be set aside for such use.

27
28 4. The lots may be of different areas, but the minimum lot area, minimum lot width, and
29 minimum lot depth shall each be at least 75 percent of that otherwise required in the zone in
30 which the long subdivision or short subdivision is located. In no case shall the lot area be less
31 than 75 percent of that otherwise required in the zone. Lot size averaging must be incorporated
32 if lot width or depth requirements are 75 percent of the minimum that would otherwise be
33 required for the zone without utilizing the optional development standards. Any designated
34 open space or recreational tract shall not be considered a lot.

35
36 5. The ownership and use of any designated open space or recreational tract, if private, shall be
37 shared by all property owners within the long subdivision or short subdivision. In addition, a
38 right of entry shall be conveyed to the public to be exercised at the sole option of the city
39 council if such area shall cease to be an open space or recreational tract.

40
41 6. The open space or recreational tract must remain in its approved configuration and be
42 maintained in accordance with approved plans. Any deviation from the foregoing conditions
43 must receive expressed approval from the ~~planning commission~~ Hearing Examiner.
44

1
2 **19.08.040 Plat improvements.**

3 A. Streets, Utilities and Storm Drainage. The ~~long subdivision, short subdivisions, or lot line revision~~ shall
4 include provisions for streets, water, sanitary sewers, storm drainage, utilities and any easements or
5 facilities necessary to provide these services. All utilities shall be placed underground unless waived by
6 the city engineer. Detailed plans for these provisions shall not be required until after the approval of the
7 preliminary plat and shall be a condition precedent to the official approval of the subdivision.

8
9 B. Performance Bond. The owner(s) of a project shall deposit with the city a performance bond or funds
10 for a set-aside account in an amount equal to 150 percent of the cost of the required improvements, as
11 established by the city engineer. Such security shall list the exact work that shall be performed by the
12 owner(s) and shall specify that all of the deferred improvements shall be completed within the time
13 specified by the city engineer, and if no time is so specified, then not later than one year. The city may
14 also require a bond or set-aside account securing the successful operation of improvements or survival
15 of required landscaping for up to two years after final approval.

16
17 C. Site Supervision. Any and all services performed by city employees in field inspection of construction
18 of plat improvements, clearing, and/or grading processes, shall be charged to the developer at 100
19 percent of direct salary cost, plus 35 percent of such cost for overhead. Any outside consultants retained
20 by the city to evaluate any phase of plat design or construction shall be charged at actual cost, plus any
21 additional administrative costs. Billings tendered to the owner(s) shall be payable within 30 days.

22
23 D. Construction Seasons. Either the city engineer or the building official may:

- 24
25 1. Limit the construction project to a specific seasonal time period.
26
27 2. Prevent land clearing, grading, filling, and foundation work on lots with critical slopes or
28 geologic hazard areas between October 1 and April 1, as set out in MICC 19.07.020; and
29
30 3. Require short term soil and drainage control measures such as, but not limited to: hemping,
31 seeding, gravel or light asphalt base roads, temporary siltation and detention ponds. (Ord. 99C-
32 13 § 1).

33
34
35 **19.08.050 Final plats.**

36
37 ...
38
39 C. Contents of the Final Plat. All final plats submitted to the city shall meet the requirements set out in
40 Chapter 58.09 RCW, Chapter 332-130 WAC, and those requirements set out below.

41
42 Final plats submitted to the city shall consist of one mylar and one copy containing the information set
43 out below. The mylar and copy shall be 18 inches by 24 inches in size, allowing one-half inch for borders.
44 If more than one sheet is required for the mylar and copy, each sheet, including the index sheet, shall be

1 the specified size. The index sheet must show the entire subdivision, with street and highway names and
2 block numbers.

3
4 1. Identification and Description.

5
6 a. Name of the long subdivision, short subdivision or lot line revision.

7
8 b. A statement that the long subdivision or short subdivision has been made with the
9 free consent and in accordance with the desires of the owner or owners.

10
11 c. Location by section, township and range, or by other legal description.

12
13 d. The name and seal of the registered engineer or the registered land surveyor.

14
15 e. Scale shown graphically, date and north point. The scale of the final plat shall be such
16 that all distances and bearings can be clearly and legibly shown thereon in their proper
17 proportions. Where there is a difference between the legal and actual field distances
18 and bearings, both distances and bearings shall be shown with the field distances and
19 bearings shown in brackets.

20
21 f. A description of property platted which shall be the same as that recorded in
22 preceding transfer of said property or that portion of said transfer covered by plat.
23 Should this description be cumbersome and not technically correct, a true and exact
24 description shall be shown upon the plat, together with original description. The correct
25 description follow the words: "The intent of the above description is to embrace all the
26 following described property."

27
28 g. A vicinity map showing the location of the plat relative to the surrounding area.

29
30 2. Delineation.

31
32 a. Boundary plat, based on an accurate traverse, with angular and lineal dimensions.

33
34 b. Exact location, width, and name of all streets within and adjoining the plat, and the
35 exact location and widths of all roadways, driveways, trail easements. The name of a
36 street shall not duplicate that of any existing street in the city, unless the platted street
37 be a new section or continuation of the existing street.

38
39 c. True courses and distances to the nearest established street lines or official
40 monuments which shall accurately describe the location of the plat.

41
42 d. Municipal, township, county or section lines accurately tied to the lines of the
43 subdivision by courses and distances.

1 e. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.

2
3 f. All easements for rights-of-way provided for public services or utilities. Utility
4 easements shall be designated as public or private.

5
6 g. All lot and block numbers and lines, with accurate dimensions in feet and hundredths.
7 Blocks in numbered additions to subdivisions bearing the same name may be numbered
8 or lettered consecutively through the several additions. The square footage for each lot
9 less vehicular easements shall be shown.

10
11 h. Accurate location of all monuments, which shall be concrete commercial monuments
12 four inches by four inches at top, six inches by six inches at bottom, and 16 inches long.
13 One such monument shall be placed at each street intersection and at locations to
14 complete a continuous line of sight and at such other locations as are required by the
15 engineer.

16
17 i. All plat meander lines or reference lines along bodies of water shall be established
18 above the ordinary high water line of such water.

19
20 j. Accurate outlines and legal description of any areas to be dedicated or reserved for
21 public use, with the purpose indicated thereon and in the dedication; and of any area to
22 be reserved by deed covenant for common uses of all property owners.

23
24 k. Critical areas as identified under Chapter 19.07 MICC.

25
26 l. Corner pins made of rebar with caps.

27
28 m. Designated building pads pursuant to MICC 19.09.090.

29
30 3. Other Marginal Data on Final Plat.

31
32 a. If the plat is subject to dedications to the city or any other party, the dedications shall
33 be shown and shall be duly acknowledged. The plat shall also contain a waiver of all
34 claims for damages against the city which may be occasioned to the adjacent land by
35 the established construction, drainage and maintenance of any streets dedicated to the
36 city.

37
38 b. A copy of the protective covenants, if any.

39
40 c. Certification by Washington registered civil engineer or land surveyor to the effect
41 that the plat represents a survey made by that person and that the monuments shown
42 thereon exist as located and that all dimensional and geodetic details are correct.

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d. Proper forms for the approvals of the city engineer and the mayor, on behalf of the city council, in the case of a long subdivision; or the city engineer and the code official in the case of short subdivisions or lot line revisions, with space for signatures.

e. Certificates by the county assessor showing that the taxes and assessments on the land to be submitted have been paid in accordance with law, including a deposit for the taxes for the following year.

f. Approval by the county department of records.

g. Conditions of approval created at preliminary subdivision approval that affect individual lots or tracts.

DRAFT

1 Chapter 19.09
2 PROPERTY DEVELOPMENT

3
4 **19.09.040 Private access roads and driveways.**

5 A. The following are the minimum requirements for private access roads. To accommodate fire
6 suppression and rescue activities, the Mercer Island fire chief may require that the widths of private
7 access roads or driveways or the size of turn-arounds be increased or that turn-arounds be provided
8 when not otherwise required by this section.

9
10 B. All private access roads serving three or more single-family dwellings shall be at least 20 feet in width.
11 All private access roads serving ~~less than two~~ three single-family dwellings shall be at least 16 feet in
12 width, with at least 12 feet of that width consisting of pavement and the balance consisting of well
13 compacted shoulders.

14
15 C. All corners shall have a minimum inside turning radius of 28 feet.

16
17 D. All private access roads in excess of 150 feet in length, measured along the centerline of the access
18 road from the edge of city street to the end of the access road, shall have a turn-around with an inside
19 turning radius of 28 feet.

20
21 E. All cul-de-sacs shall be at least 70 feet in diameter; provided, cul-de-sacs providing access to three or
22 more single-family dwellings shall be at least 90 feet in diameter.

23
24 F. Driveways serving one single family dwelling shall be at least 8 feet in width. Driveways providing
25 vehicle access to parking for regulated improvements shall comply with the parking lot dimension
26 requirements of Appendix A.

27
28 ~~FG.~~ Gradient.

29
30 1. No access road or driveway shall have a gradient of greater than 20 percent.

31
32 2. For all access roads and driveways with a gradient exceeding 15 percent, the road surface
33 shall be cement concrete pavement with a brushed surface for traction. Access roads and
34 driveways with gradients of 15 percent or less may have asphalt concrete surface.

35
36 ...

37
38 **19.09.090 Building pad.**

39 A. Designation. New subdivisions ~~must~~ shall designate a building pad for each lot as follows:

- 40
41 1. The ~~applicant must determine the building pad shall be located to minimize or prevent~~
42 impacts as indicated in the following: location of a building pad by considering
43 a. Removal of trees and vegetation required for retention pursuant to Chapter 19.10
44 MICC shall be prevented;

- 1 b. -Disturbance of the existing, natural topography as a result of anticipated
2 development within the building pad shall be minimized;-
3 c. Impacts to critical areas and critical area buffers shall be minimized, consistent with
4 the provisions of Chapter 19.07 MICC; and,
5 the relationship of the proposed building pad to existing/proposed homes.

6 Access to the building pad ~~must shall~~ be consistent with the standards ~~for driveway access~~
7 contained in MICC 19.09.040.

8
9 2. Building pads shall not be located within:

- 10 a. Required setbacks;
11 b. Streets or rights of way; and; yard setbacks, rights of way and
12 c. Critical areas or its buffers; provided, however, building pads may be located within
13 landslide-geohazard hazard areas when all of the following are met: {
14 i. a) A qualified professional determines that the criteria of MICC 19.07.060(D),
15 Site Development, is satisfied; (b)
16 ii. b) Building pads are sited to minimize impacts to the extent reasonably
17 feasible; and
18 ii. (c) b) Building pads are not located in steep slopes or within 10 feet from the
19 top of a steep slope, unless such slopes, as determined by a qualified
20 professional, consist of soil types determined not to be landslide prone.

21
22 3. No cross-section dimension of a building pad shall be less than 20 feet in width.

23
24 B. No Designated Building Pad Area.

- 25
26 1. New development proposals on a lot On lots without a previously designated building pad area,
27 development shall be located shall establish a building pad outside of critical areas unless
28 otherwise allowed by Chapter 19.07 MICC. consistent with the provisions of MICC 19.09.090(A)
29 above.
30
31 2. A building pad on a large lot shall also comply with the provisions of 19.09.100.

32
33 C. New buildings shall be located within the building pad established by subsection "A." or "B." above.

34
35
36 **19.09.100 Preferred practices.**

37 The applicant must use reasonable best efforts to comply with Proposed development shall incorporate
38 all of the following preferred development practices where feasible:

39
40 A. Use common access drives and utility corridors.

41
42 B. Development, including roads, walkways and parking areas in critical areas, should be avoided, or if
43 not avoided, adverse impacts to critical areas will be mitigated to the greatest extent reasonably
44 feasible.

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C. Retaining walls should be designed to minimize grading, including the placement of fill, on or near an existing natural slope used to maintain existing natural slopes in place of graded artificial slopes.

DRAFT

1 Chapter 19.10
2 TREES

3
4 **19.10.010 Purpose.**

5 Protecting, enhancing, and maintaining trees are key community values expressed in the Mercer Island
6 Comprehensive Plan. The purpose of this chapter is to establish standards and procedures that will
7 result in the retention of trees on Mercer Island.

8
9 The city recognizes that trees:

- 10 A. Contribute to the residential character on Mercer Island;
11 B. Provide a public health benefit;
12 C. Provide wind protection, ecological benefits to wetlands and watercourses, and aid in the
13 stabilization of geologically hazardous areas;
14 D. Improve surface water quality and control and benefit Lake Washington; and,
15 E. Reduce noise and air pollution.

16
17 The city further acknowledges that the value of protecting, enhancing, and maintaining trees should be
18 balanced with the other community goals of:

- 19 F. Reasonable enjoyment and use of private property by the property owner; and,
20 G. Providing delivery of reliable utility service.

21
22 **19.10.020 Permit required.**

23 Permit approval is required to cut, or remove directly or indirectly through site grading, any large tree
24 unless the activity is exempted pursuant to MICC 19.10.030. Permit approval may take the form of a
25 tree removal permit or, alternatively, tree removal may be authorized through another construction
26 permit approval. For example a homeowner who wishes to remove a large tree may apply for a tree
27 removal permit, while a property owner building an addition to an existing home, may request tree
28 approval as part of the building permit approval.

29
30 **19.10.030 Exemptions.**

31 Except where undertaken within critical areas and associated buffers, or on public property, the
32 following activities are exempt from the permitting, retention, and protection provisions of this chapter:

- 33 A. Emergency tree removal. Any hazardous tree that poses an imminent threat to life or property may
34 be removed. The city must be notified within fourteen (14) days of the emergency tree removal with
35 evidence of the threat for removing the tree to be considered exempt from this chapter. The code
36 official may require that the property owner obtain a permit and / or require replacement, if the city
37 arborist determines:
38 1. That the emergency tree removal was not warranted; or
39 2. The removed tree was retained as part of a prior approval of a permit or as a condition of land
40 use approval.
41 B. Small tree removal. Removal of trees that meet the definition of small trees.
42 C. Undesired / nuisance tree removal. Removal of Alder, Bitter Cherry, or Black Cottonwood, Norway
43 Maple, Horse Chestnut, Portugal Laurel and any plant identified in the weeds of concern, noxious, or
44 invasive weed lists established by Washington State or King County, as amended.

1 D. View easement / covenants. Tree removal required to enable any person to satisfy the terms and
2 conditions of any covenant, condition, view easement or other easement, or other restriction
3 encumbering the lot that was recorded on or before July 31, 2001;

4 E. Tree pruning. Tree pruning, as defined in MICC 19.16.010, on private property.

5
6 **19.10.040 Tree removal review and approval.**

7 A. R-8.4, R-9.6, R-12, and R-15 zoning designations - Tree removal not associated with a development
8 proposal. For example, tree removal for the maintenance of a landscaped yard area, which is not
9 associated with a new subdivision or new construction.

10 1. Tree removal not associated with a development proposal and located within critical areas,
11 critical area buffers, or the shoreline jurisdiction shall comply with the applicable provisions of
12 Chapter 19.07 MICC.

13 2. Applications for tree removal not associated with a development proposal shall provide
14 sufficient information to the City arborist to document the location, diameter, and species of the
15 tree removed pursuant to 19.10.090(A). The City arborist may require additional information to
16 confirm compliance with the provisions of Chapter 19.07 MICC.

17
18 B. R-8.4, R-9.6, R-12, and R-15 zoning designations - Tree removal associated with a development
19 proposal. For example, tree removal that will allow for the construction of a new home, an addition, or
20 associated with the approval of a new subdivision.

21 1. Tree removal associated with a development proposal shall comply with all of the provisions
22 of this chapter in addition to the applicable requirements of Chapter 19.07 MICC.

23 2. Applications for tree removal associated with a development proposal shall comply with MICC
24 19.10.090.

25
26 C. Commercial or multifamily zoning designations - Tree removal. A tree permit is required and will be
27 granted if it meets any of the following criteria:

28 1. It is necessary for public safety, removal of hazardous trees, or removal of diseased or dead
29 trees;

30 2. It is necessary to enable construction work on the property to proceed and the owner has
31 used reasonable best efforts to design and locate any improvements and perform the
32 construction work in a manner consistent with the purposes set forth in MICC 19.10.010;

33 3. It is necessary to enable any person to satisfy the terms and conditions of any covenant,
34 condition, view easement or other easement, or other restriction encumbering the lot that was
35 recorded on or before July 31, 2001; and subject to MICC 19.10.0980(A)(2)(B);

36 4. It is part of the city's forest management program or regular tree maintenance program and
37 the city is the applicant;

38 5. It is desirable for the enhancement of the ecosystem or slope stability based upon
39 professional reports in form and content acceptable to the city arborist.

40
41
42 D. Design Commission review required in commercial zones. A tree permit for a development proposal,
43 resulting in regulated improvements located in a commercial zone, that has previously received design

1 commission approval, must first be reviewed, and approved by the city's design commission prior to
2 permit issuance by the city.

3
4 E. Public property.

- 5 1. A private property owner may apply for a tree permit to prune or cut trees on any city street,
6 pursuant to MICC 19.10.100.
7 2. Pruning or cutting of trees within a public park by a private property owner is prohibited.

8
9 E. Private utility companies. A tree permit will be issued to private utility companies to cut trees
10 located on public or private property if necessary for public safety, removal of hazardous trees, removal
11 of diseased or dead trees, as part of any private utility tree maintenance program approved by the city,
12 or for construction work. Regardless of whether or not a permit is required, all cutting or pruning of
13 trees by private utility companies shall be performed under the supervision of a certified arborist and at
14 the sole cost and expense of the utility company.

15
16 **19.10.050 Tree removal – Not associated with development proposal.**

17 A tree permit is required for the removal of any large tree, and is subject to the requirements of MICC
18 19.15.010. Tree removal that is not associated with a development proposal is exempt from MICC
19 19.10.060 and MICC 19.10.070. For example, tree removal for the maintenance of a landscaped yard
20 area for a single family home, is exempt from tree retention and replacement required pursuant to
21 Chapter 19.10 MICC. This section shall not be construed as an exemption to the tree retention and
22 replacement requirements of Chapter 19.07 MICC.

23
24 **19.10.060 Tree retention associated with development proposal.**

25 A. Applicability. In the R-8.4, R-9.6, R-12, and R-15 zoning designations, tree retention is required for the
26 following development proposals:

- 27 1. An addition or remodel to an existing single family dwelling that will result in the addition of
28 more than 500 square feet of gross floor area on a lot with a net lot area of 6,000 square feet or
29 more;
30 2. A new single family dwelling on a lot with a net lot area of 6,000 square feet or more;
31 3. A subdivision or short subdivision.

32
33 B. Tree retention associated with an addition or remodel to an existing single family dwelling.

34 Construction of an addition or remodel to a single family dwelling that will result in the addition of more
35 than 500 square feet of gross floor area is subject to the following retention standards:

- 36 1. A minimum of 30% of trees with a diameter of 10 inches or greater shall be retained over a
37 rolling five year period.
38 2. Reasonable best efforts to retain large trees outside the area of land disturbance associated
39 with the construction of the addition to the single family dwelling.
40 3. Provide tree replacement pursuant to MICC 19.10.070.

41
42 C. Tree retention associated with the construction of a new single family dwelling. Construction of a
43 new single family dwelling is subject to the following retention standards:

1 1. A minimum of 30% of trees with a diameter of 10 inches or greater shall be retained over a
2 rolling five year period.

3 2. Reasonable best efforts to retain large trees outside the area of land disturbance associated
4 with the construction of the new single family dwelling.

5 3. Provide tree replacement pursuant to MICC 19.10.070.
6

7 D. Tree retention associated with a new subdivision or short subdivision. A development proposal for a
8 new subdivision or short subdivision is subject to the following retention standards:

9 1. A minimum of 30% of trees with a diameter of 10 inches or greater shall be retained over a
10 rolling five year period.

11 2. Reasonable best efforts to retain large trees outside the area of land disturbance associated
12 with the construction of new single family dwellings within the proposed subdivision.

13 3. Provide tree replacement pursuant to MICC 19.10.070.
14

15 E. Retention of priority trees.

16 1. Trees that meet the following criteria are prioritized for retention:

17 a. Trees that are in overall good health and have a greater likelihood of longevity; and

18 b. Trees that are part of a healthy copse or grove; or

19 c. Large trees with a diameter of 24 inches or greater; or

20 d. Trees that meet the definition of exceptional trees.

21 2. Priority trees that are retained during development shall credited as 1.5 trees for the
22 purposes of meeting the retention requirement. For example, a development proposal that is
23 required to retain 8 trees, may reduce the actual number of trees retained to 6 trees by
24 retaining 4 priority trees, and 2 “non-priority” trees. The 4 retained priority trees shall be
25 counted as 6 trees for the purposes of meeting the retention requirement.
26

27 F. Retention of exceptional trees. Exceptional trees shall be retained, except as follows:

28 1. Construction of an addition or remodel to a single family dwelling that will result in the
29 addition of more than 500 square feet of gross floor area shall retain exceptional trees and the
30 development proposal shall be designed to meet this standard. The city arborist may authorize
31 removal of exception trees in the following circumstances:

32 a. Retention of an exceptional tree(s) will result in an unavoidable hazardous situation;
33 or,

34 b. Retention of an exceptional tree(s) will prevent the construction of more than 50% of
35 the maximum gross floor area allowed under Chapter 19.02 MICC.

36 2. Construction of a new single family dwelling shall retain exceptional trees and the
37 development proposal shall be designed to meet this standard. The city arborist may authorize
38 removal of exception trees in the following circumstances:

39 a. Retention of an exceptional tree(s) will result in an unavoidable hazardous situation;
40 or,

41 b. Retention of an exceptional tree(s) will prevent the construction of more than 50% of
42 the maximum gross floor area allowed under Chapter 19.02 MICC.

43 3. A development proposal for a new subdivision or short subdivision shall retain exceptional
44 trees and the development proposal shall be designed to meet this standard. Use of the

1 optional subdivision design standards pursuant to MICC 19.08.030 is authorized for the
2 retention of exceptional trees. The city arborist may authorize removal of exception trees in the
3 following circumstances:

4 a. Retention of an exceptional tree(s) will result in an unavoidable hazardous situation;
5 or,

6 b. Retention of an exceptional tree(s) will prevent creation of a residential lot that is
7 otherwise allowed by Title 19 MICC.

8
9 E. Calculation of rolling five year period. For the purposes of this chapter, the rolling five year period
10 begins five years prior to the date of application for a development approval that is subject to tree
11 retention.

12
13 F. Compliance required. Development proposals on lots that have removed more than 70% of large
14 trees within the rolling five year period, such that the 30% tree retention requirement cannot be met,
15 shall not receive approval unless and until compliance has been achieved. For example, a lot that has
16 removed all of the trees in year “one”, may not receive a preliminary subdivision approval in year “four”.
17 However, the preliminary subdivision approval may be granted in year “six”, such that the rolling five
18 year period does not include the tree removal in year “one”.

19
20 **19.10.070 Tree replacement.**

21 Trees that are cut pursuant to a tree permit shall be replaced on the subject property as specified in this
22 section.

23
24 A. Tree replacement ratio. Trees removed pursuant to MICC 19.10.040, shall have the following base
25 replacement ratio:

<u>Diameter of removed tree</u>	<u>Number of replacement trees required</u>
<u>10 inches up to 24 inches</u>	<u>1</u>
<u>24 inches up to 36 inches</u>	<u>2</u>
<u>More than 36 inches</u>	<u>4</u>

26
27 **B. Replacement Trees.**

28 1. Location. Replacement trees shall be located in the following order of priority from most
29 important to least important:

30 a. On-site replacement adjacent to or within critical tree areas as defined in Chapter
31 19.16 MICC;

32 b. On-site replacement outside of critical tree areas adjacent to other retained trees
33 making up a grove or stand of trees;

34 c. On-site replacement outside of critical tree areas; and,

35 d. Off-site in adjacent public right-of-way where explicitly authorized by the city.

36 2. Species. In making a determination regarding the species of replacement trees, the city
37 arborist shall defer to the species selected by the property owner unless the city arborist
38 determines that the species selected is unlikely to survive for a period of at least 10 years,
39 represents a danger or nuisance, would threaten overhead or underground utilities or would fail
40 to provide adequate protection to any critical tree area.

1 3. Size.

2 a. Coniferous trees shall be at least 6 feet tall; and

3 b. Deciduous trees shall be at least 1.5 inches in caliper.

4 The city arborist may authorize the planting of smaller-sized replacement trees if the applicant
5 can demonstrate that smaller trees are more suited to the species, the site conditions,
6 neighborhood character, and the purposes of this section, and that such replacement trees will
7 be planted in sufficient quantities to meet the intent of this section.

8 4. Reduction. The city arborist may reduce the number of replacement trees as follows, where
9 other measures designed to mitigate the tree loss by restoring the tree canopy coverage and its
10 associated benefits are considered to be effective and consistent with the purposes of this
11 chapter. The city arborist may consider, but is not limited to, the following measures:

12 a. Replacement of hazardous, undesired, or short-lived trees with healthy new trees
13 that have a greater chance of long-term survival;

14 b. Restoration of critical tree areas with native vegetation; and,

15 c. Protection of small trees to provide for successional stages of tree canopy.

16
17 C. Fee-in-lieu. If the city arborist determines there is insufficient area to replant on the site or within the
18 adjacent public right-of-way, the city arborist may authorize payment of a fee-in-lieu provided:

19 1. There is insufficient area on the lot for proposed on-site tree replacement to meet the tree
20 replacement requirements of this chapter; or

21 2. Tree replacement or management provided within public right-of-way or a city park in the
22 vicinity will be of greater benefit to the community.

23 3. Fees provided in lieu of on-site tree replacement shall be determined based upon:

24 a. The expected tree replacement cost including labor, materials, and maintenance for
25 each replacement tree; and,

26 b. The most current Council of Tree and Landscaper Appraisers Guide for Plant
27 Appraisal.

28 4. Any fee in lieu is also optional for the applicant and requires an explicit written agreement.

29
30 D. Maintenance of Replacement Trees. The applicant shall maintain all replacement trees in a healthy
31 condition for a period of two years after planting. The applicant shall be obligated to replant any
32 replacement tree that dies, becomes diseased, or is removed during this two-year time period.

33
34 E. Private Utility Company. If the permit is granted to a private utility company and the property owner
35 is unwilling to place any replacement trees on the owner's property, the private utility company shall
36 pay to the city the amount necessary to purchase and plant replacement trees on public property
37 necessary to mitigate the impact of the removed trees based upon arborist industry standards. Monies
38 paid to the city for replacement trees shall be used for that purpose.

39
40 **19.10.080 Tree protection standards.**

41 A. To ensure long-term viability of trees identified for protection, permit plans and construction
42 activities shall comply with the following minimum required tree protection:

43 1. All minimum required tree protection measures shall be shown on the development plan set
44 and tree re-planting / restoration / protection plan.

1 2. Tree protection barriers shall be installed five feet beyond the drip line of large trees to be
2 protected prior to any land disturbance. No construction related activity or work shall occur
3 within the tree protection barriers.

4 3. Tree protection barriers shall be a minimum of four feet high, constructed of chain link, or
5 polyethylene laminar safety fencing or other material, subject to approval by the city arborist.
6 On large or multiple-project sites, the city arborist may also require that signs requesting
7 subcontractor cooperation and compliance with tree protection standards be posted at site
8 entrances.

9 4. Where tree protection areas are remote from areas of land disturbance, and where approved
10 by the city arborist, alternative forms of tree protection may be used in lieu of tree protection
11 barriers, provided that protected trees are completely surrounded with continuous rope or
12 flagging and are accompanied by "Tree Save Area – Keep Out" signs or similar signage
13 authorized by the city arborist.

14
15 B. Preventative Measures. In addition to the above minimum protection measures, the applicant shall
16 support the protection measures by employing recommended International Society of Arboriculture
17 techniques or best practices, which shall be subject to review and approval by the city arborist.

18
19 C. Alternative Methods. The city arborist may approve construction related activity or work within the
20 tree protection barriers if the city arborist concludes:

- 21 1. That such activity or work will not threaten the long term health of the retained tree(s); and,
22 2. That such activity or work complies with the protective methods and best building practices
23 established by the International Society of Arboriculture.

24
25 **19.10.090 Application requirements.**

26 The city shall establish and maintain a tree removal permit application form to allow property owners to
27 request city review of tree removal for compliance with applicable city regulations. The application shall
28 include at a minimum, the following:

29 A. General Information.

- 30 1. The name, address, and telephone number of the applicant and owner of the property and
31 the street address.
32 2. The proposed location, species, diameter, and number of trees proposed to be cut or public
33 tree proposed to be pruned.
34 3. A site plan reflecting the location of large trees and the relative location of structures,
35 driveways, and buildings.

36
37 B. Critical Tree Area. An application covering a tree located in a critical tree area, as defined in Chapter
38 19.16 MICC, shall include a proposed time schedule for the cutting, land restoration, implementation of
39 erosion control and other measures that will be taken in order to prevent damage to the critical tree
40 area.

41
42 C. Development plan set. An application for a development proposal that requires tree retention, and
43 that will result in the removal of one or more trees and as a result of construction work, shall include the
44 following:

1 1. Detailed site plan. The site plan shall include the following information at a minimum:

- 2 a. Location of all proposed improvements, including building footprint, access, utilities,
3 applicable setbacks, buffers, and required landscaped areas clearly identified. If a short
4 plat or subdivision is being proposed and the location of all proposed improvements
5 cannot be established, a phased tree retention plan review is required as described
6 below;
7 b. Accurate location of large trees on the subject property (surveyed locations may be
8 required). The site plan must also include the trunk location and critical root zone of
9 large trees that are on adjacent property with driplines extending over the subject
10 property line;
11 c. Trees labeled corresponding to the tree inventory numbering system;
12 d. Location of tree protection measures;
13 e. Indicate limits of disturbance (LOD) drawn to scale around all trees potentially
14 impacted by site disturbances resulting from grading, demolition, or construction
15 activities (including approximate LOD of off-site trees with overhanging driplines);
16 f. Proposed tree status (trees to be removed or retained) noted by an 'X' or by ghosting
17 out;
18 g. Proposed locations of any required replacement trees.

19 2. A Tree Retention Plan and Arborist Report. The tree retention plan shall contain the following
20 information:

- 21 a. A tree inventory containing the following:
22 i. A numbering system of all existing large trees on the subject property (with
23 corresponding tags on trees); the inventory shall also include large trees on
24 adjacent property with driplines extending into the development proposal site;
25 ii. Size (diameter);
26 iii. Proposed tree status (retained or removed);
27 iv. Tree type or species;
28 v. Brief general health or condition rating of these trees (i.e. poor, fair, good,
29 etc.)
30 b. An arborist report, prepared by a qualified arborist, containing the following:
31 i. A complete description of each tree's diameter, species, critical root zone,
32 limits of allowable disturbance, health, condition, and viability;
33 ii. A description of the method(s) used to determine the limits of allowable
34 disturbance (i.e., critical root zone, root plate diameter, or a case-by-case basis
35 description for individual trees);
36 iii. Any special instructions specifically outlining any work proposed within the
37 limits of the disturbance protection area (i.e., hand-digging, air spade, tunneling,
38 root pruning, any grade changes, clearing, monitoring, and aftercare);
39 iv. For trees not viable for retention, a description of the reason(s) for removal
40 based on poor health, high risk of failure due to structure, defects, unavoidable
41 isolation (windfirmness), or unsuitability of species, etc., and for which no
42 reasonable alternative action is possible must be given (pruning, cabling, etc.);
43 v. Describe the impact of necessary tree removal to the remaining trees,
44 including those in a grove or on adjacent properties;

1 vi. For development applications, a discussion of timing and installation of tree
2 protection measures. Such measures must include fencing and be in
3 accordance with the tree protection standards as outlined in MICC 19.10; and
4 vii. The suggested location and species of supplemental trees to be used when
5 required. The report shall include planting and maintenance specifications to
6 ensure long term survival.

7 3. Additional Information. The city arborist or code official may require additional
8 documentation, plans, or information as needed to ensure compliance with applicable city
9 regulations.

10
11 E. Peer review and conflict of interest.

12 1. The city may require peer review of the tree permit application by a qualified arborist to
13 verify the adequacy of the information and analysis. The applicant shall bear the cost of the peer
14 review.

15 2. The code official may require the applicant retain a replacement qualified arborist or may
16 require a peer review where the code official believes a conflict of interest exists. For example, if
17 an otherwise qualified arborist is employed by a tree removal company and prepares the
18 arborist report for a development proposal, a replacement qualified arborist or a peer review
19 may be required.

20
21
22 **19.10.100 Trees on public property.**

23 An application for a tree permit to cut a tree on public property or a request to have the city prune a
24 public tree located on a city street shall be reviewed by the city arborist based upon the following
25 conditions and criteria:

26
27 A. By the city. An annual tree permit will be issued to the city to cut any public trees necessary for public
28 safety, removal of hazardous trees, removal of diseased or dead trees, as part of the city's forest
29 management program or regular tree maintenance program or for construction work on public
30 property.

31
32 B. By private property owners in city street. A private property owner may apply for a tree permit to cut
33 or prune a public tree located on any city street if the owner demonstrates in the following order that all
34 of the criteria are satisfied:

35 1. The owner establishes that the tree is located on a city street;

36 2. The city arborist determines that proposed pruning or cutting can be performed without
37 adversely affecting any critical tree areas;

38 3. The city arborist determines that proposed cutting or pruning of public trees is:

39 i. Necessary for access to private property;

40 ii. Necessary for installation of required public improvements (e.g. sidewalk, public
41 utilities, etc);

42 iii. Required to resolve a possible hazard to public or private health or safety; or,

- iv. Requested by a valid petition executed by at least 60 percent of the property owners located within a 300-foot radius of the subject tree in favor of the proposed pruning of the tree; and
- 5. The private property owner provides tree replacement consistent with MICC 19.10.070.
- 6. The owner pays a fee to cover all costs associated with reviewing the pruning or cutting request;
- 7. The pruning or cutting is performed at the sole cost and expense of the private property owner; and,
- 7. Tree topping is prohibited.

C. Pruning or cutting of trees within a public park by a private property owner is prohibited.

19.10.110 Seasonal development limitations.

No cutting of trees located in geologic hazard areas or protected slope areas is allowed between October 1 and April 1 unless: (i) a tree permit with explicit authorization for removal between October 1 and April 1 has been granted; or (ii) removal is required due to an emergency situation involving immediate danger to life or property. The city arborist may authorize tree removal between October 1 and April 1 if the city arborist determines that such environmentally critical areas will not be adversely impacted by the proposed cutting and the applicant demonstrates compelling justification based on a geotechnical evaluation of the site. The city arborist may require hydrology, soils and storm water studies, erosion control measures, restoration plans, and/or an indemnification/release agreement.

19.10.120 Rounding.

When the retention or replacement calculations results in a fraction, the fraction shall be rounded to the nearest whole number as follows:

- A. Fractions of 0.50 or above shall be rounded up to the closest whole number; and
- B. Fractions below 0.50 shall be rounded down to the closest whole number.

19.10.130 Nuisance abatement.

A. Trees and vegetation which meet the definition of a nuisance shall be subject to the provisions of Chapter 8.24 MICC, Nuisance Control Code.

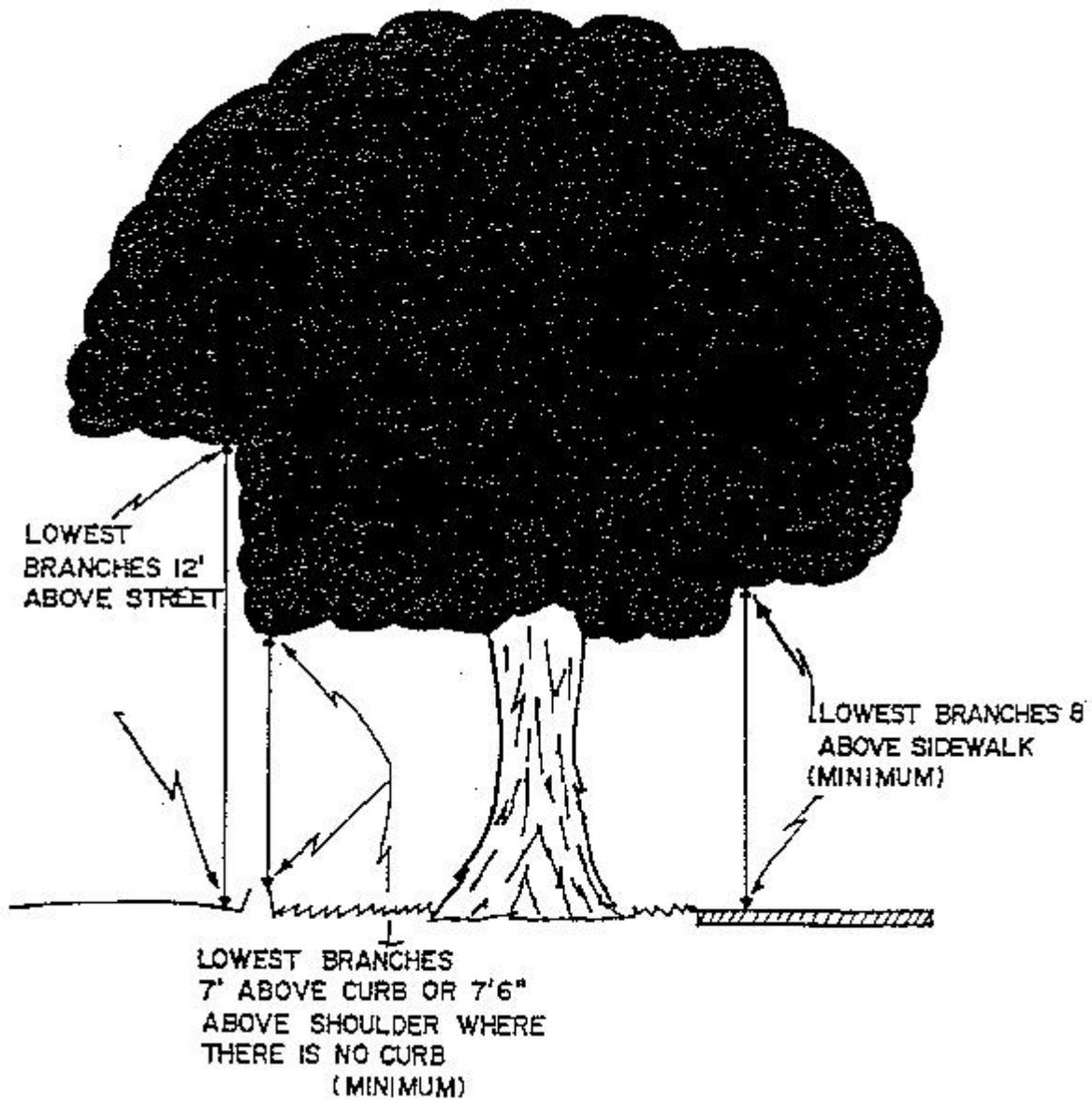
B. In addition to the provisions of Chapter 8.24 MICC, Nuisance Control Code, the following requirements shall apply to trees and vegetation:

- 1. Branches over roads shall be trimmed to a minimum of 12 feet above the road surface. (see Figure 1).
- 2. Branches over sidewalks shall be trimmed to a minimum of eight feet above the sidewalk and one foot behind the sidewalk (see Figure 1).
- 3. Street trees and other vegetation will be spaced according to the following spacing requirements to facilitate the safe flow of traffic (see Figure 2):

1
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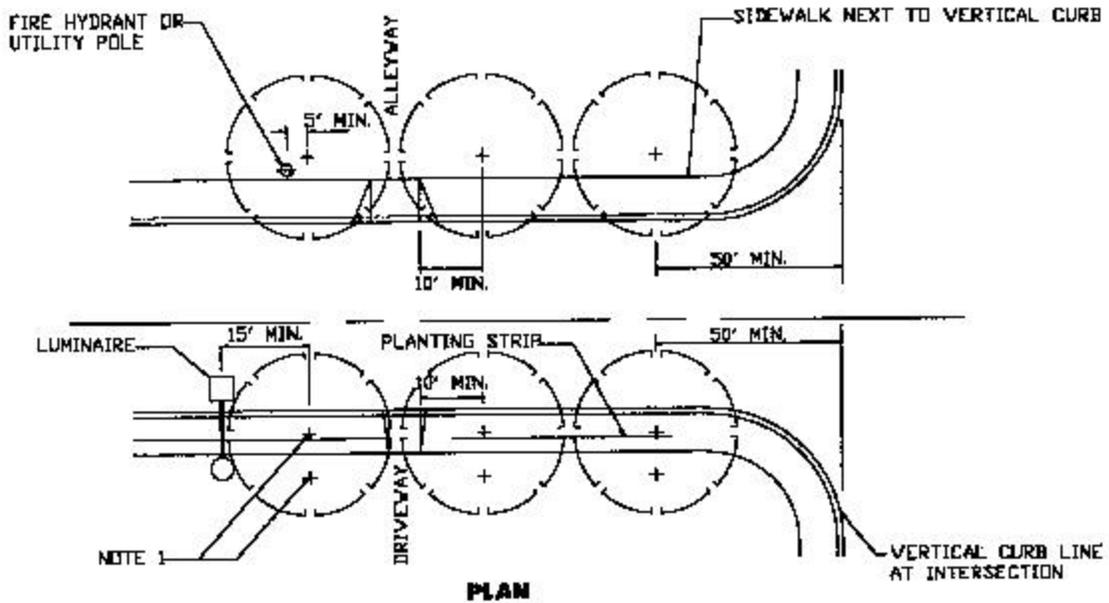
- a. No tree plantings are allowed within a 30-foot sight triangle at any street intersection.
- b. Shrubs shall not exceed 36 inches in height above the street level within this triangle.
- c. Ten-foot minimum spacing shall be observed for small trees.
- d. Hedges are not allowed between the sidewalk and the curb, and must be planted at least five feet behind the sidewalk.
- e. Hedges must be trimmed at least three feet behind the sidewalk.
- f. Plantings of trees, shrubs or hedges are not allowed between the street/road edge and a ditch.

DRAFT



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2
3

Figure 1



NOTES:

1. TREES SHALL GENERALLY BE PLANTED BACK OF THE SIDEWALK. PLANTING STRIPS WILL BE APPROVED ONLY AS PART OF A LANDSCAPING PLAN IN WHICH PLANT MAINTENANCE, LANDSCAPING PLAN IN COMPATIBILITY WITH UTILITIES, AND TRAFFIC SAFETY ARE DULY CONSIDERED.
2. IF PLANTING STRIPS ARE APPROVED:
 - A. MIN. DISTANCE FROM CENTER OF ANY TREE TO NEAREST EDGE OF VERTICAL CURB SHALL BE 4 FEET.
 - B. TREES SHALL BE STAKED ON A MANNER NOT TO OBSTRUCT SIDEWALK TRAFFIC.
 - C. IN CASE OF BLOCK-OUTS, MIN. CLEAR SIDEWALK WIDTH SHALL BE 5 FEET IN RESIDENTIAL OR 8 FEET IN BUSINESS DISTRICTS.
3. ON BUS ROUTES, PLANS SHALL BE COORDINATED WITH METRO SERVICE PLANNING.

	CITY OF MERCER ISLAND STANDARD DETAILS URBAN FORESTRY
STREET TREE STANDARDS	
1-1-2000	NO SCALE

1
2 [Figure 2](#)

3
4
5 [19.10.140 Appeals.](#)

1 Any person or persons aggrieved by any action or decision of city staff made pursuant to any section of
2 this chapter, may appeal such action or decision in accordance with the appeal procedure set forth in
3 Chapter 19.15 MICC.

4
5 **19.10.150 Enforcement.**

6 A. Violation. It is a violation of this chapter for any person to fail to comply with the requirements of this
7 chapter.

8
9 **B. Civil Penalty and Remediation.**

10 1. Civil Penalty. The penalty for violating this chapter shall be a fine equal to up to three times
11 the value of the damaged or cut tree or removed vegetative cover, plus the cost of reasonable
12 remediation. Trees and other vegetation shall be appraised according to the method specified
13 by the Council of Landscape and Tree Appraisers, most current edition.

14 2. Remediation. Remediation for tree removed in violation of this chapter shall include, but is
15 not limited to, the following:

- 16 a. Removal of the remaining plant parts or debris;
- 17 b. Preparation of a re-planting plan in a form approved by the code official for re-
- 18 planting the area where trees were removed in violation of this chapter;
- 19 c. Payment of the costs to review, approve, and administer the remediation process;
- 20 d. Installation of the required re-plantings as reflected on the re-planting plan; and,
- 21 e. Maintenance of the required re-plantings for a period of two years.

22
23 **C. Tree retention enforcement. Trees identified for retention through the approval of development**
24 **proposal that are subsequently removed, or are damaged to the extent that removal is required, with**
25 **prior written approval by the City arborist, whether the removal or damage is intentional or**
26 **unintentional, shall result in a civil penalty pursuant to section "B." above, in addition to required**
27 **replanting and remediation. The code official may waive the civil penalty if the code official determines**
28 **that appropriate tree protection standards were in place and maintained and natural disaster or events**
29 **entirely outside the knowledge and control of the property owner, resulted in the tree loss.**

30
31
32 **19.10.010 Purpose.**

33 ~~—These regulations are adopted to promote the public health, safety and general welfare of the~~
34 ~~citizens of Mercer Island, including minimizing erosion, siltation and water pollution in Lake~~
35 ~~Washington, surface water and ground water runoff, risks of slides, and the need for additional~~
36 ~~storm drainage facilities; preserving trees for the reduction of noise, wind protection, slope~~
37 ~~stabilization, animal habitat, and reduction in air pollution; removing diseased or hazardous trees;~~
38 ~~implementing the city's comprehensive plan; designating and preserving historical trees; and~~
39 ~~providing for the delivery of reliable utility service, reasonable development of property and~~
40 ~~reasonable preservation or enhancement of property views.~~

41
42 **19.10.020 Permit requirements.**

43 ~~approximate approximate~~

1 ~~A. No Permit Required. Except as otherwise provided in subsection B of this section, no tree permit is~~
2 ~~required for an owner or an owner's agent to cut or prune trees located on the owner's property as~~
3 ~~follows:~~

- 4
- 5 ~~1. Outside Critical Tree Area. No tree permit is required to cut any tree located outside a critical~~
6 ~~tree area;~~
 - 7
 - 8 ~~2. Pruning. No tree permit is required to perform pruning of any tree; and~~
 - 9
 - 10 ~~3. Size of Tree. No tree permit is required to cut any small tree.~~

11

12 ~~B. Permit Required. A tree permit is required to cut a tree as follows:~~

- 13
- 14 ~~1. Construction Work. A tree permit is required to cut any large tree as a result of construction~~
15 ~~work;~~
- 16
- 17 ~~2. Landmark Tree/Grove. A tree permit is required to cut a landmark tree or any tree located in~~
18 ~~a landmark grove;~~
- 19
- 20 ~~3. Critical Tree Area. A tree permit is required to cut any large tree located in a critical tree area;~~
- 21
- 22 ~~4. Commercial Zone. A tree permit is required to cut any large tree located in a commercial~~
23 ~~zone;~~
- 24
- 25 ~~5. Emergency. A tree on private property may be cut without a tree permit in an emergency~~
26 ~~situation involving immediate danger to life or property so long as the city arborist is notified~~
27 ~~within seven days of the tree having been cut, is provided such additional information as the city~~
28 ~~arborist requests in order to verify the emergency, and a tree permit is obtained within 20 days~~
29 ~~following the cutting of the tree if a tree permit is required under this section;~~
- 30
- 31 ~~6. Public Tree.~~
 - 32
 - 33 ~~a. By the City. The city is obligated to comply with the permit requirements as set forth~~
34 ~~in this chapter;~~
 - 35
 - 36 ~~b. By Private Property Owners. No private property owner may cut or prune a public~~
37 ~~tree. A private property owner can request the city to prune a tree located on any city~~
38 ~~street subject to the conditions set forth in MICC 19.10.040(A)(2);~~
- 39
- 40 ~~7. Private Utility Company. A tree permit is required for a private utility company to cut any tree.~~

41

42

43 ~~19.10.030 Seasonal development limitations.~~

1 No-cutting of trees located in geologic hazard areas or protected slope areas is allowed between
2 October 1 and April 1 unless: (i) an administrative waiver has been granted; or (ii) it is required due to an
3 emergency situation involving immediate danger to life or property. The city arborist may grant an
4 administrative waiver to this seasonal development limitation if the city arborist determines that such
5 environmentally sensitive areas will not be adversely impacted by the proposed cutting and the
6 applicant demonstrates compelling justification by a geotechnical evaluation of the site. The city arborist
7 may require hydrology, soils and storm water retention studies, erosion control measures, restoration
8 plans, and/or an indemnification/release agreement.

9
10
11 **19.10.040 Criteria.**

12 **A. Trees on Public Property.** An application for a tree permit to cut a tree on public property or a request
13 to have the city prune a public tree located on a city street shall be reviewed by the city arborist based
14 upon the following conditions and criteria:

15
16 1. **By the City.** An annual tree permit will be issued to the city to cut any public trees necessary for public
17 safety, removal of hazardous trees, removal of diseased or dead trees, as part of the city's forest
18 management program or regular tree maintenance program or for construction work on public
19 property.

20
21 2. **By Private Property Owners.** A private property owner may request the pruning of a public tree
22 located on any city street if the owner demonstrates in the following order that all of the criteria are
23 satisfied:

24
25 a. The owner establishes that the tree is located on a city street;

26
27 b. The owner submits a valid petition executed by at least 60 percent of the property owners
28 located within a 300-foot radius of the subject tree in favor of the proposed pruning of the tree;

29
30 c. The city arborist determines that the proposed pruning can be performed without adversely
31 affecting any critical tree areas;

32
33 d. The owner pays a fee to cover all costs associated with reviewing the pruning request; and

34
35 e. The pruning is performed by the city but at the sole cost and expense of the private property owner.

36 **B. Trees on Private Property.** When a tree permit is required to cut a tree on private property, the tree
37 permit will be granted if it meets any of the following criteria:

38
39 1. It is necessary for public safety, removal of hazardous trees, or removal of diseased or dead trees;

40
41 2. It is necessary to enable construction work on the property to proceed and the owner has used
42 reasonable best efforts to design and locate any improvements and perform the construction work in a
43 manner consistent with the purposes set forth in MICC 19.10.010;

1 ~~3. It is necessary to enable any person to satisfy the terms and conditions of any covenant, condition,~~
2 ~~view easement or other easement, or other restriction encumbering the lot that was recorded on or~~
3 ~~before July 31, 2001; and subject to MICC 19.10.080(A)(2);~~
4

5 ~~4. It is part of the city's forest management program or regular tree maintenance program and the city is~~
6 ~~the applicant;~~
7

8 ~~5. The permit seeks to cut one of the following common, short-lived "weedy" tree species: Alder, Bitter~~
9 ~~Cherry, or Black Cottonwood; or~~
10

11 ~~6. It is desirable for the enhancement of the ecosystem or slope stability based upon professional~~
12 ~~reports in form and content acceptable to the city arborist.~~
13

14 ~~**C. Trees Cut/Pruned by Private Utility Companies.** A tree permit will be issued to private utility~~
15 ~~companies to cut trees located on public or private property if necessary for public safety, removal of~~
16 ~~hazardous trees, removal of diseased or dead trees, as part of any private utility tree maintenance~~
17 ~~program approved by the city, or for construction work. Regardless of whether or not a permit is~~
18 ~~required, all cutting or pruning of trees by private utility companies shall be performed under the~~
19 ~~supervision of a certified arborist and at the sole cost and expense of the utility company.~~
20 ~~retention~~
21

22 ~~**19.10.050 Commission review required in commercial zones.**~~

23 ~~A tree permit covering regulated improvements located in a commercial zone, that have previously~~
24 ~~received design commission approval, must first be reviewed and approved by the city's design~~
25 ~~commission prior to permit issuance by the city.~~
26

27 ~~**19.10.060 Tree replacement.**~~

28 ~~Any trees that are cut pursuant to a tree permit shall be replaced on the subject property as specified in~~
29 ~~this section.~~
30

31 ~~**A. Private Utility Company.** If the permit is granted to a private utility company and the property owner~~
32 ~~is unwilling to place any replacement trees on the owner's property, the private utility company shall~~
33 ~~pay to the city the amount necessary to purchase and plant replacement trees on public property~~
34 ~~necessary to mitigate the impact of the removed trees based upon arborist industry standards. Monies~~
35 ~~paid to the city for replacement trees shall be used for that purpose.~~
36

37 ~~**B. Species.** In making a determination regarding the species of replacement trees, the city arborist shall~~
38 ~~defer to the species selected by the property owner unless the city arborist determines that the species~~
39 ~~selected is unlikely to survive for a period of at least 10 years, represents a danger or nuisance, would~~
40 ~~threaten overhead or underground utilities or would fail to provide adequate protection to any critical~~
41 ~~tree area.~~
42

43 ~~**C. Size.** All replacement trees shall be at least six feet tall, unless a smaller size tree or shrub is approved~~
44 ~~by the city arborist.~~

1
2 ~~D. Replacement Trees – Number. In making a determination regarding the number of replacement~~
3 ~~trees required, the city arborist shall apply a replacement ratio based on a sliding scale of 0:1 up to 4:1,~~
4 ~~depending upon the criteria in the following priority order:~~

5
6 ~~1. Percentage of slope, slope stability, topography and general soil conditions;~~

7
8 ~~2. Trunk size and canopy of tree to be cut and trunk size and canopy of replacement tree;~~

9
10 ~~3. Size and shape of lot and area available to be replanted; and~~

11
12 ~~4. Proximity to any critical tree area and/or the existence and retention of vegetative cover in any critical~~
13 ~~tree area.~~

14
15 ~~E. Maintenance of Replacement Trees. The applicant shall maintain all replacement trees in a healthy~~
16 ~~condition for a period of two years after planting. The applicant shall be obligated to replant any~~
17 ~~replacement tree that dies, becomes diseased or is removed during this two-year time period.~~

18
19
20 ~~**19.10.070 Bald eagle and other federal and state requirements.**~~

21 ~~In addition to any requirement of this chapter, persons must comply with all applicable federal and state~~
22 ~~laws, rules and regulations including without limitation the Endangered Species Act, the Bald Eagle~~
23 ~~Protection Act and the Migratory Bird Treaty Act, as now existing or hereinafter adopted or amended.~~

24
25
26 ~~**19.10.080 Permit applications.**~~

27 ~~A. Form. An application for a tree permit shall be submitted on a form provided by the city and shall~~
28 ~~include the following information:~~

29
30 ~~1. General Information.~~

31
32 ~~a. The applicant shall give the name, address and telephone number of the applicant~~
33 ~~and owner of the property and the street address.~~

34
35 ~~b. The applicant must provide information on the proposed location, species, diameter~~
36 ~~and number of trees proposed to be cut or public tree proposed to be pruned.~~

37
38 ~~c. The applicant must agree to pay all costs of cutting, pruning, removing debris,~~
39 ~~cleaning, purchasing and planting replacement trees and any traffic control needed.~~

40
41 ~~2. Critical Tree Area. An application covering a tree located in a critical tree area shall include a~~
42 ~~proposed time schedule for the cutting, land restoration, implementation of erosion control and~~
43 ~~other measures that will be taken in order to prevent damage to the critical tree area.~~

1 ~~3. Construction Work. An application covering a tree to be cut as a result of construction work~~
2 ~~shall include the following:~~

3
4 ~~a. Plot Plan. Two prints of the plot plan at a scale of one inch equals 10 feet (1" = 10') or~~
5 ~~larger. The scale and north indicator shall be given on the plan. The plot plan shall:~~

6
7 ~~i. Indicate topography by contours at a minimum of five foot intervals, and the~~
8 ~~grading by dashed contour lines for existing grades and by solid contour lines for~~
9 ~~existing grades to be changed. The entire area to be cut and/or filled shall be~~
10 ~~indicated, and temporary storage of any excavated or fill material also~~
11 ~~indicated;~~

12
13 ~~ii. Indicate the location of existing and proposed improvements including, but~~
14 ~~not limited to, structures, driveways, ponds, the location of building (zoning)~~
15 ~~setbacks and grade changes; and~~

16
17 ~~iii. Indicate the location, diameter and/or size, and species of all large trees.~~
18 ~~Trees proposed to be cut shall be identified and differentiated from those trees~~
19 ~~not being cut. For a permit involving any critical tree area, the applicant shall~~
20 ~~also identify vegetative cover that will be retained or removed.~~

21
22 ~~b. Restoration/Protection Plan. An applicant shall provide a plan for protecting trees~~
23 ~~that are not intended to be cut, a plan for conducting all construction work in~~
24 ~~accordance with best construction practices and a plan for erosion control and~~
25 ~~restoration of land during and immediately following the construction period.~~

26
27 ~~4. Public Trees. An application for a permit by a private utility company to cut a public tree~~
28 ~~pursuant to MICC 19.10.040(C) or by a private property owner to prune a public tree on any city~~
29 ~~street pursuant to MICC 19.10.040 (A)(2), shall include all such information as the city arborist~~
30 ~~may require in order to verify that all conditions of those sections have been satisfied. If there is~~
31 ~~a dispute as to whether a tree is located on public property or private property, the city arborist~~
32 ~~may require a survey, at the applicant's expense, that is not more than one year old indicating~~
33 ~~the boundaries of the private property and the public property.~~

34
35 ~~B. City Review. The city arborist shall complete a review and make a decision within 30 days from the~~
36 ~~date a complete application is submitted unless an extension, not to exceed 20 days, is authorized by~~
37 ~~the city manager or designee.~~

38
39 ~~C. Permit Expiration. Any permit granted hereunder shall expire one year from the date of issuance.~~
40 ~~Upon a showing of good cause, a permit may be extended for one year. Any material change in plans or~~
41 ~~information from that presented with the permit application that occurs prior to the cutting requires~~
42 ~~submittal of an amended application for review and approval by the city arborist. The permit may be~~
43 ~~suspended or revoked by the city arborist because of incorrect material information supplied or any~~
44 ~~violation of the provisions of this chapter.~~

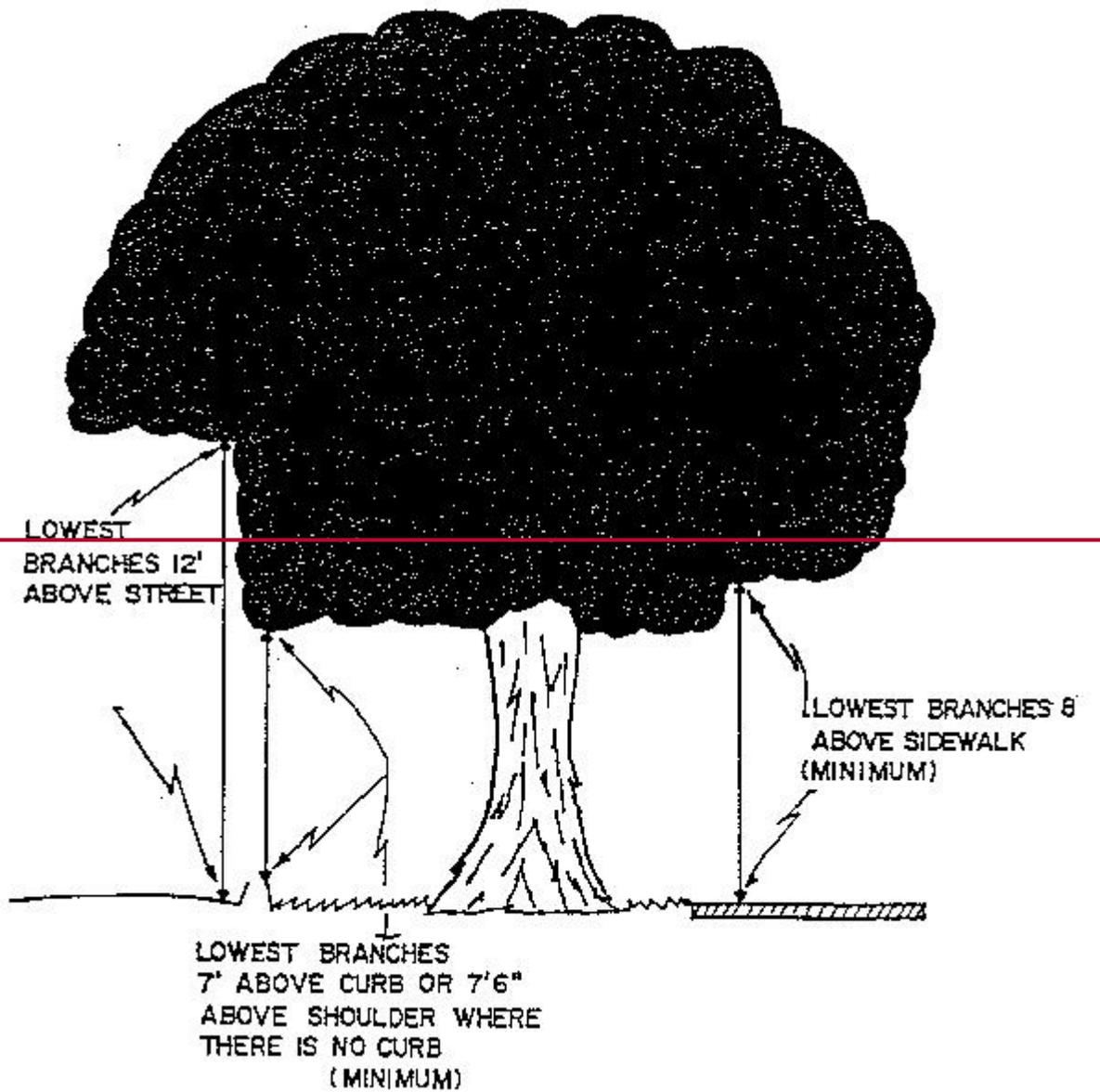
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19.10.090 Nuisance abatement.

A. ~~Trees and vegetation which meet the definition of a nuisance shall be subject to the provisions of Chapter 8.24 MICC, Nuisance Control Code.~~

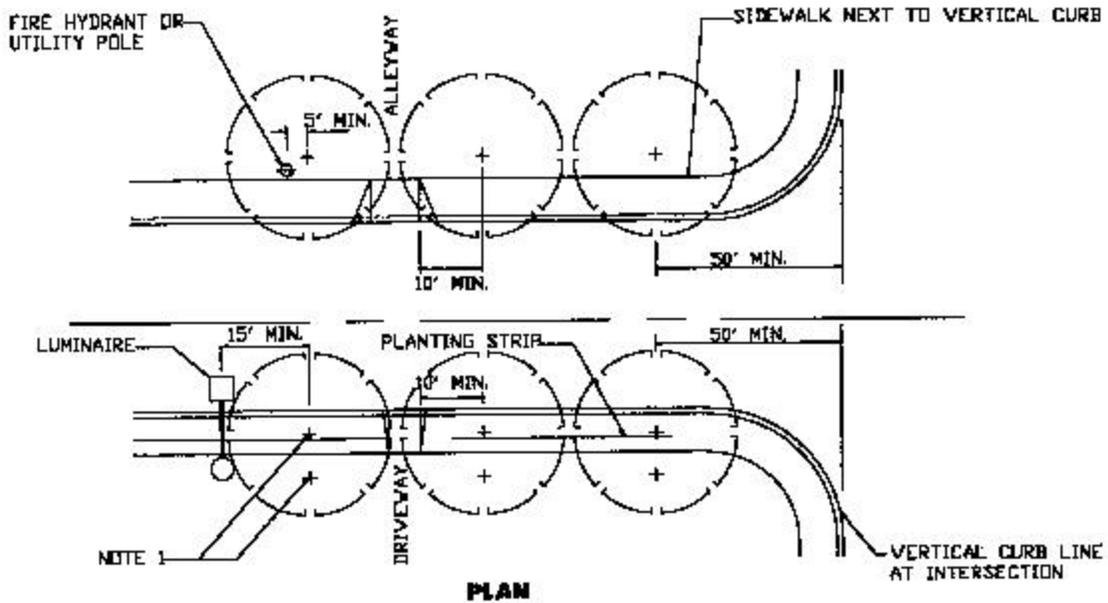
B. ~~In addition to the provisions of Chapter 8.24 MICC, Nuisance Control Code, the following requirements shall apply to trees and vegetation:~~

- ~~1. Branches over roads shall be trimmed to a minimum of 12 feet above the road surface. (see Figure 1).~~
- ~~2. Branches over sidewalks shall be trimmed to a minimum of eight feet above the sidewalk and one foot behind the sidewalk (see Figure 1).~~
- ~~3. Street trees and other vegetation will be spaced according to the following spacing requirements to facilitate the safe flow of traffic (see Figure 2):~~
 - ~~a. No tree plantings are allowed within a 30-foot sight triangle at any street intersection.~~
 - ~~b. Shrubs shall not exceed 36 inches in height above the street level within this triangle.~~
 - ~~c. Ten-foot minimum spacing shall be observed for small trees.~~
 - ~~d. Hedges are not allowed between the sidewalk and the curb, and must be planted at least five feet behind the sidewalk.~~
 - ~~e. Hedges must be trimmed at least three feet behind the sidewalk.~~
 - ~~f. Plantings of trees, shrubs or hedges are not allowed between the street/road edge and a ditch.~~



1
2
3

Figure 1



NOTES:

1. TREES SHALL GENERALLY BE PLANTED BACK OF THE SIDEWALK. PLANTING STRIPS WILL BE APPROVED ONLY AS PART OF A LANDSCAPING PLAN IN WHICH PLANT MAINTENANCE, LANDSCAPING PLAN IN COMPATIBILITY WITH UTILITIES, AND TRAFFIC SAFETY ARE DULY CONSIDERED.
2. IF PLANTING STRIPS ARE APPROVED:
 - A. MIN. DISTANCE FROM CENTER OF ANY TREE TO NEAREST EDGE OF VERTICAL CURB SHALL BE 4 FEET.
 - B. TREES SHALL BE STAKED ON A MANNER NOT TO OBSTRUCT SIDEWALK TRAFFIC.
 - C. IN CASE OF BLOCK-OUTS, MIN. CLEAR SIDEWALK WIDTH SHALL BE 5 FEET IN RESIDENTIAL OR 8 FEET IN BUSINESS DISTRICTS.
3. ON BUS ROUTES, PLANS SHALL BE COORDINATED WITH METRO SERVICE PLANNING.

	CITY OF MERCER ISLAND STANDARD DETAILS URBAN FORESTRY
STREET TREE STANDARDS	
1-1-2000	NO SCALE

1
2 **Figure 2**

3
4
5 **19.10.100 Appeals.**

1 Any person or persons aggrieved by any action or decision of city staff made pursuant to any section of
2 this chapter, may appeal such action or decision to the planning commission in accordance with the
3 appeal procedure set forth in MICC 19.15.020(J).
4

5
6 **19.10.110 Fees.**

7 Fees shall be set forth in a schedule adopted by the city council by resolution with any modifications,
8 which will be made from time to time by the city council. Fees shall be based on the time required to
9 review and inspect applications subject to the provisions of this chapter.
10

11
12 **19.10.120 Enforcement.**

13 A. Violation. It is a violation of this chapter for any person to fail to comply with the requirements of this
14 chapter.
15

16 B. Civil Penalty. The penalty for violating this chapter shall be a fine equal to up to three
17 times the value of the damaged or cut tree or removed vegetative cover, plus the cost
18 of reasonable remediation. Trees and other vegetation shall be appraised according to
19 the method specified by the Council of Landscape and Tree Appraisers, most current
20 edition. Reasonable remediation is the cost to develop a plan of remediation and
21 remove the remaining plant parts or debris, the cost to clean up the area, the cost to
22 replant the area, and the cost to administer the remediation process.
23

24
25 **19.10.130 Best pruning practices.**

26 The city arborist shall prepare and distribute educational materials describing the best practices,
27 policies, techniques, methods and procedures for pruning trees.
28

29
30 **19.10.140 Landmark trees.**

31 A. Designation of Landmark Trees and Landmark Groves.
32

33 1. The city shall maintain a register of landmark trees and landmark groves.
34

35 2. A property owner may propose to the city that a tree or grove of trees located on his or her
36 private property be designated as a landmark tree or landmark grove. Any city resident may
37 propose to the city that a tree or grove of trees located on public property be designated as a
38 landmark tree or landmark grove. No tree or grove of trees may be designated without the
39 approval of the property owner(s) on which the tree or grove, or any portion of the tree's
40 branches or canopy, is located. Once such approval is given, however, it may not subsequently
41 be withdrawn by the property owner or by a subsequent property owner.
42

1 ~~3. Upon receipt of a proposed designation and the approval of the property owner, the city~~
2 ~~arborist shall determine whether the tree or grove satisfies the definition of landmark tree or~~
3 ~~landmark grove.~~

4
5 ~~4. If the city arborist approves the proposed designation, it shall be memorialized in a covenant~~
6 ~~signed by the city and the property owner(s) and in form acceptable to the city attorney. The~~
7 ~~covenant shall require that the tree(s) or grove be maintained in a manner that is consistent~~
8 ~~with the provisions of this section. The covenant shall be recorded by the county auditor. The~~
9 ~~city shall pay recording fees. The covenant and designation shall be effective from the date of~~
10 ~~recording until such time as a tree permit has been issued for the cutting of the tree or grove of~~
11 ~~trees.~~

12
13 ~~5. Upon request of a property owner, the city arborist shall provide reasonable advice and~~
14 ~~consultation on maintenance of any landmark tree or landmark grove without charge to the~~
15 ~~property owner.~~

16
17 **B. Tree Permit Requirements.**

18
19 ~~1. A tree permit to cut a landmark tree or a tree that is in a landmark grove as a result of~~
20 ~~construction work will only be granted if the applicant has used reasonable best efforts to~~
21 ~~design and locate the project so as to avoid having to cut the landmark tree or any trees in the~~
22 ~~landmark grove.~~

23
24 ~~2. A tree permit to cut a landmark tree or a tree in a landmark grove other than as a result of~~
25 ~~construction work will only be granted if the applicant demonstrates that the tree removal is~~
26 ~~necessary for safety, removal of hazardous trees, removal of diseased or dead branches or trees,~~
27 ~~or if retention of the tree or grove will have a material, adverse and unavoidable impact on the~~
28 ~~use of the property the use of the property.~~

1 Chapter 19.15
2 ADMINISTRATION

3
4
5 **19.15.010 General procedures.**

6
7 ...
8
9 D. Actions. There are four categories of actions or permits that are reviewed under the provisions of the
10 development code.

11
12 1. Ministerial Actions. Ministerial actions are based on clear, objective and nondiscretionary
13 standards or standards that require the application of professional expertise on technical issues.

14
15 2. Administrative Actions. Administrative actions are based on objective and subjective
16 standards that require the exercise of limited discretion about nontechnical issues.

17
18 3. Discretionary Actions. Discretionary actions are based on standards that require substantial
19 discretion and may be actions of broad public interest. Discretionary actions are only taken after
20 an open record hearing.

21
22 4. Legislative Actions. Legislative actions involve the creation, amendment or implementation of
23 policy or law by ordinance. In contrast to the other types of actions, legislative actions apply to
24 large geographic areas and are of interest to many property owners and citizens. Legislative
25 actions are only taken after an open record hearing.

26
27 E. Summary of Actions and Authorities. The following is a nonexclusive list of the actions that the city
28 may take under the development code, the criteria upon which those decisions are to be based, and
29 which boards, commissions, elected officials, or city staff have authority to make the decisions and to
30 hear appeals of those decisions.

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Ministerial Actions			
Tree Removal Permit	Code official	Chapter 19.10 MICC	Hearing examiner
Right-of-Way Permit	City engineer	Chapter 19.09 MICC	Hearing examiner
Home Business Permit	Code official	MICC 19.02.010	Hearing examiner
Special Needs Group Housing Safety Determination	Police chief	MICC 19.06.080(A)	Hearing examiner

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Lot Line Revision	Code official	Chapter 19.08 MICC	Hearing examiner
Design Review – Minor Exterior Modification Outside Town Center	Code official	MICC 19.15.040 , Chapters 19.11 and 19.12 MICC	Design commission
Design Review – Minor Exterior Modification in Town Center with a Construction Valuation (as defined by MICC 17.14.010) Less Than \$100,000	Code official	Chapters 19.11 and 19.12 MICC, MICC 19.15.040	Design commission
Design Review – Minor Exterior Modification in Town Center with a Construction Valuation (as defined by MICC 17.14.010) \$100,000 or Greater	Design commission	Chapters 19.11 and 19.12 MICC, MICC 19.15.040	Hearing examiner
Final Short Plat Approval	Code official	Chapter 19.08 MICC	Superior court
Seasonal Development Limitation Waiver	Building official or city arborist	MICC 19.10.030 , 19.07.060 (D)(4)	Hearing examiner
Development Code Interpretations	Code official	MICC 19.15.020 (L)	Hearing Examiner
Shoreline Exemption	Code official	MICC 19.07.110 and 19.15.020 (G)(6)(c)(i)	Hearing examiner ¹
Administrative Actions			
Accessory Dwelling Unit Permit	Code official	MICC 19.02.030	Hearing examiner
Preliminary Short Plat	Code official	Chapter 19.08 MICC	Hearing examiner
Deviation	Code official	MICC 19.15.020 (G), 19.01.070, 19.02.050(F), 19.02.020(C)(4) and (D)(3)	Hearing examiner
Critical Areas Determination	Code official	Chapter 19.07 MICC	Hearing Examiner Planning commission

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Shoreline – Substantial Development Permit	Code official	MICC 19.07.110 and 19.15.020(G)(6)	Shoreline hearings board
SEPA Threshold Determination	Code official	MICC 19.07.120	Hearing Examiner
Short Plat Alteration and Vacations	Code official	MICC 19.08.010(G)	Hearing examiner
Long Plat Alteration and Vacations	City council via hearing examiner	MICC 19.08.010(F)	Superior court
Temporary Encampment	Code official	MICC 19.06.090	Superior court
Wireless Communications Facility	Code official	MICC 19.06.040	Hearing examiner
Wireless Communications Facility Height Variance	Code official	MICC 19.01.070 , 19.06.040(H) and 19.15.020(G)	Hearing examiner
Minimum Parking Requirement Variances for MF, PBZ, C-O, B and P Zones	Code official via design commission and city engineer	MICC 19.01.070 , 19.03.020(B)(4) , 19.04.040(B)(9) , 19.05.020(B)(9) and 19.15.020(G)	Hearing examiner
Discretionary Actions			
Conditional Use Permit	Hearing examiner	MICC 19.11.150(B) , 19.15.020(G)	Superior Court
Reclassification (Rezone)	City council via hearing examiner ²	MICC 19.15.020(G)	Superior court
Formal Design Review – Major New Construction	Design commission	MICC 19.15.040 , Chapters 19.11 and 19.12 MICC	Hearing examiner
Preliminary Long Plat Approval	City council via hearing examiner ²	Chapter 19.08 MICC	Superior court
Final Long Plat Approval	City council via code official	Chapter 19.08 MICC	Superior court
Variance	Hearing examiner	MICC 19.15.020(G) , 19.01.070	Superior court

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Variance from Short Plat Acreage Limitation	Code official	MICC 19.08.020	Hearing examiner
Critical Areas Reasonable Use Exception	Hearing examiner	MICC 19.07.030 (B)	Superior court
Street Vacation	City council via planning commission ²	MICC 19.09.070	Superior court
Shoreline Conditional Use Permit	Code official and Department of Ecology ³	MICC 19.15.020 (G)(6)	State Shorelines Hearings Board
Shoreline Variance	Code official and Department of Ecology ³	MICC 19.15.020 (G)(6)	State Shorelines Hearings Board
Impervious Surface Variance	Hearing examiner	MICC 19.02.0520(D)(4)	Superior court
Legislative Actions			
Code Amendment	City council via planning commission ²	MICC 19.15.020 (G)	Growth management hearings board
Comprehensive Plan Amendment	City council via planning commission ²	MICC 19.15.020 (G)	Growth management hearings board
¹ Final rulings granting or denying an exemption under MICC 19.15.020 (G)(6) are not appealable to the shoreline hearings board (SHB No. 98-60).			
² The original action is by the planning commission which holds a public hearing and makes recommendations to the city council which holds a public meeting and makes the final decision.			
³ Must be approved by the city of Mercer Island prior to review by DOE per WAC 173-27-200 and RCW 90.58.140 (10).			

1
2
3

19.15.020 Permit review procedures.

1 The following are general requirements for processing a permit application under the development
2 code. Additional or alternative requirements may exist for actions under specific code sections (see
3 MICC 19.07.080, 19.07.110, and 19.08.020).

4
5 A. Preapplication. Applicants for development permits are encouraged to participate in informal
6 meetings with city staff and property owners in the neighborhood of the project site. Meetings with the
7 staff provide an opportunity to discuss the proposal in concept terms, identify the applicable city
8 requirements and the project review process. Meetings or correspondence with the neighborhood serve
9 the purpose of informing the neighborhood of the project proposal prior to the formal notice provided
10 by the city.

11
12 B. Application.

13
14 1. All applications for permits or actions by the city shall be submitted on forms provided by the
15 development services group. An application shall contain all information deemed necessary by
16 the code official to determine if the proposed permit or action will comply with the
17 requirements of the applicable development regulations. The applicant for a development
18 proposal shall have the burden of demonstrating that the proposed development complies with
19 the applicable regulations and decision criteria.

20
21 2. All applications for permits or actions by the city shall be accompanied by a filing fee in an
22 amount established by city ordinance.

23
24 C. Determination of Completeness.

25
26 1. The city will not accept an incomplete application. An application is complete only when all
27 information required on the application form and all submittal items required by code have
28 been provided to the satisfaction of the code official.

29
30 2. Within 28 days after receiving a development permit application, the city shall mail or provide
31 in person a written determination to the applicant, stating either that the application is
32 complete or that the application is incomplete and what is necessary to make the application
33 complete. An application shall be deemed complete if the city does not provide a written
34 determination to the applicant stating that the application is incomplete.

35
36 3. Within 14 days after an applicant has submitted all additional information identified as being
37 necessary for a complete application, the city shall notify the applicant whether the application
38 is complete or what additional information is necessary.

39
40 4. If the applicant fails to provide the required information within 90 days of the determination
41 of incompleteness, the application shall lapse. The applicant may request a refund of the
42 application fee minus the city's cost of determining the completeness of the application.

43
44 D. Notice of Application.

1
2 1. Within 14 days of the determination of completeness, the city shall issue a notice of
3 application for all administrative, discretionary, and legislative actions listed in MICC
4 19.15.010(E).
5

6 2. The notice of application shall include the following information:
7

8 a. The dates of the application, the determination of completeness, and the notice of
9 application;
10

11 b. The name of the applicant;
12

13 c. The location and description of the project;
14

15 d. The requested actions and/or required studies;
16

17 e. The date, time, and place of the open record hearing, if one has been scheduled;
18

19 f. Identification of environmental documents, if any;
20

21 g. A statement of the public comment period, which shall be not less than 14 days nor
22 more than 30 days following the date of notice of application; and a statement of the
23 rights of individuals to comment on the application, receive notice and participate in any
24 hearings, request a copy of the decision once made and any appeal rights;
25

26 h. The city staff contact and phone number;
27

28 i. The identification of other permits not included in the application to the extent known
29 by the city;
30

31 j. A description of those development regulations used in determining consistency of
32 the project with the city's comprehensive plan; and
33

34 k. Any other information that the city determines appropriate.
35

36 3. Open Record Hearing. If an open record hearing is required on the permit, the city shall:
37

38 a. Provide the notice of application at least 15 days prior to the hearing; and
39

40 b. Issue any threshold determination required under MICC 19.07.110 at least 15 days
41 prior to the hearing.
42

43 4. Notice shall be provided in the bi-weekly DSG bulletin, posted at City Hall and made available
44 to the general public upon request.

1
2 5. All comments received on the notice of application must be received by the development
3 services group by 5 pm on the last day of the comment period.
4

5 6. Except for a determination of significance, the city shall not issue a threshold determination
6 under MICC 19.07.110 or issue a decision on an application until the expiration of the public
7 comment period on the notice of application.
8

9 7. A notice of application is not required for the following actions; provided, the action is either
10 categorically exempt from SEPA or an environmental review of the action in accordance with
11 SEPA has been completed:
12

13 a. Building permit;

14 b. Lot line revision;

15 c. Right-of-way permit;

16 d. Storm drainage permit;

17 e. Home occupation permit;

18 f. Design review – minor new construction;

19 g. Final plat approval;

20 h. Shoreline exemption permit;

21 i. Critical lands determination; ~~and~~

22 j. Seasonal development limitation waiver; ~~and,~~

23 ~~k. Tree removal permit.~~
24
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35 E. Public Notice.

36
37 1. In addition to the notice of application, a public notice is required for all administrative,
38 discretionary, and legislative actions listed in MICC 19.15.010(E).
39

40 2. Public notice shall be provided at least 10 days prior to any required open record hearing. If
41 no such hearing is required, public notice shall be provided 10 days prior to the decision on the
42 application.
43

44 3. The public notice shall include the following:

- 1
2 a. A general description of the proposed project and the action to be taken by the city;
3
4 b. A nonlegal description of the property, vicinity map or sketch;
5
6 c. The time, date and location of any required open record hearing;
7
8 d. A contact name and number where additional information may be obtained;
9
10 e. A statement that only those persons who submit written comments or testify at the
11 open record hearing will be parties of record; and only parties of record will receive a
12 notice of the decision and have the right to appeal; and
13
14 f. A description of the deadline for submitting public comments.

15
16 4. Public notice shall be provided in the following manner:

17
18 a. Administrative and Discretionary Actions. Notice shall be mailed to all property
19 owners within 300 feet of the property and posted on the site in a location that is visible
20 to the public right-of-way.

21 i. Long Subdivisions. Additional notice for long subdivisions shall be provided as
22 follows:

23 (A) Public notice shall also be published at least 30 days prior to the
24 open record hearing on the application in a newspaper of general
25 circulation within the city.

26
27 (B) If the owner of a proposed long subdivision owns land contiguous to
28 the proposed long subdivision, that contiguous land shall be treated as
29 part of the long subdivision for notice purposes, and notice of the
30 application shall be given to all owners of lots located within 300 feet of
31 the proposed long subdivision and the applicant's contiguous land.

32
33 (C) The city shall provide written notice to the Department of
34 Transportation of an application for a long subdivision or short
35 subdivision that is located adjacent to the right-of-way of a state
36 highway. The notice shall include a legal description of the long
37 subdivision or short subdivision and a location map.

38
39 b. Legislative Action. Notice shall be published in a newspaper of general circulation
40 within the city.

41
42 F. Open Record Hearing.
43

1 1. Only one open record hearing shall be required prior to action on all discretionary and
2 legislative actions except design review and street vacations.

3
4 2. Open record hearings shall be conducted in accordance with the hearing body's rules of
5 procedures. In conducting an open record hearing, the hearing body's chair shall, in general,
6 observe the following sequence:

7
8 a. Staff presentation, including the submittal of any additional information or
9 correspondence. Members of the hearing body may ask questions of staff.

10
11 b. Applicant and/or applicant representative's presentation. Members of the hearing
12 body may ask questions of the applicant.

13
14 c. Testimony by the public. Questions directed to the staff, the applicant or members of
15 the hearing body shall be posed by the chairperson at his/her discretion.

16
17 d. Rebuttal, response or clarifying statements by the applicant and/or the staff.

18
19 e. The public comment portion of the hearing is closed and the hearing body shall
20 deliberate on the action before it.

21
22 3. Following the hearing procedure described above, the hearing body shall:

23
24 a. Approve;

25
26 b. Conditionally approve;

27
28 c. Continue the hearing; or

29
30 d. Deny the application.

31
32 G. Decision Criteria. Decisions shall be based on the criteria specified in the Mercer Island City Code for
33 the specific action. An applicant for a development proposal shall have the burden of demonstrating
34 that the proposed development complies with the applicable regulations and decision criteria. A
35 reference to the code sections that set out the criteria and standards for decisions appears in MICC
36 19.15.010(E). For those actions that do not otherwise have criteria specified in other sections of the
37 code, the following are the required criteria for decision:

38
39 1. Comprehensive Plan Amendment.

40
41 a. The amendment is consistent with the Growth Management Act, the county-wide
42 planning policies, and the other provisions of the comprehensive plan and city policies;
43 and:
44

1 i. There exists obvious technical error in the information contained in the
2 comprehensive plan; or

3
4 ii. The amendment addresses changing circumstances of the city as a whole.
5

6 b. If the amendment is directed at a specific property, the following additional
7 findings shall be determined:
8

9 i. The amendment is compatible with the adjacent land use and development
10 pattern;
11

12 ii. The property is suitable for development in conformance with the standards
13 under the potential zoning; and
14

15 iii. The amendment will benefit the community as a whole and will not adversely
16 affect community facilities or the public health, safety, and general welfare.
17

18 2. Reclassification of Property (Rezoning).

19
20 a. The proposed reclassification is consistent with the policies and provisions of the
21 Mercer Island comprehensive plan;
22

23 b. The proposed reclassification is consistent with the purpose of the Mercer Island
24 development code as set forth in MICC 19.01.010;
25

26 c. The proposed reclassification is an extension of an existing zone, or a logical transition
27 between zones;
28

29 d. The proposed reclassification does not constitute a "spot" zone;
30

31 e. The proposed reclassification is compatible with surrounding zones and land uses;
32 and
33

34 f. The proposed reclassification does not adversely affect public health, safety and
35 welfare.
36

37 3. Conditional Use Permit.

38
39 a. The permit is consistent with the regulations applicable to the zone in which the lot is
40 located;
41

42 b. The proposed use is determined to be acceptable in terms of size and location of site,
43 nature of the proposed uses, character of surrounding development, traffic capacities of
44 adjacent streets, environmental factors, size of proposed buildings, and density;

1
2 c. The use is consistent with policies and provisions of the comprehensive plan; and

3
4 d. Conditions shall be attached to the permit assuring that the use is compatible with
5 other existing and potential uses within the same general area and that the use shall not
6 constitute a nuisance.
7

8 4. Variances. An applicant or property owner may request a variance from any numeric
9 standard, except for the standards contained within Chapter 19.07 MICC. A variance shall be
10 granted by the city only if the applicant can meet all criteria in "a." through "g.". A variance for
11 increased impervious surface pursuant to subsection "h." shall be granted by the city only if the
12 applicant can meet criteria "a." through "h.":

13
14 a. The strict enforcement of the provisions of Title 19 MICC will create an unnecessary
15 hardship to the property owner;

16
17
18 b. The variance is the minimum necessary to grant relief to the property owner;

19
20 ca. No use variance shall be allowed;

21
22 db. There are special circumstances applicable to the particular lot such as the size,
23 shape, topography, or location of the lot; the trees, groundcover, or other physical
24 conditions of the lot and its surroundings; or factors necessary for the successful
25 installation of a solar energy system such as a particular orientation of a building for the
26 purposes of providing solar access;

27
28 ee. The granting of the variance will not be materially detrimental to the public welfare
29 or injurious to the property or improvements in the vicinity and zone in which the
30 property is situated;

31
32 ef. The granting of the variance will not alter the character of the neighborhood, nor
33 impair the appropriate use or development of adjacent property; and

34
35 eg. The variance is consistent with the policies and provisions of the comprehensive plan
36 and the development code.

37
38 h. The basis for requesting the variance is not the direct result of a past action by the
39 current or prior property owner.

40
41 i. Public and private schools, religious institutions, private clubs and public facilities in
42 single-family zones with slopes of less than 15 percent may request a variance to
43 increase the impervious surface to a maximum 60 percent impervious surface and such

1 variance application will be granted if the hearing examiner determines that the
2 applicant has demonstrated that the following criteria are satisfied:

3
4 i. There will be no net loss of pervious surface from the existing pervious
5 surface. No net loss will be determined by the code official and may be achieved
6 by off-site mitigation and/or by reconstructing existing parking areas to allow
7 stormwater penetration. This replacement will be an exception to subsection
8 (D)(2)(b) of this section prohibiting parking areas from being considered as
9 pervious surfaces;

10
11 ii. All stormwater discharged shall be mitigated consistent with the most recent
12 Washington State Department of Ecology Stormwater Management Manual for
13 Western Washington, including attenuation of flow and duration. Mitigation will
14 be required for any and all new and replaced impervious surfaces. In designing
15 such mitigation, the use of a continuous simulation hydrologic model such as
16 KCRTS or WWHM shall be required; event based models will not be allowed. In
17 addition, mitigation designs shall utilize flow control best management practices
18 (BMPs) and low impact development (LID) techniques to infiltrate, disperse and
19 retain stormwater on site to mitigate the increased volume, flow and pollutant
20 loading to the maximum extent feasible;

21
22 iii. The director must approve a storm drainage report submitted by the
23 applicant and prepared by a licensed civil engineer assuring the city that city
24 infrastructure, in concert with the project design, is adequate to accommodate
25 storm drainage from the project site, or identifying appropriate improvements
26 to public and/or private infrastructure to assure this condition is met, at the
27 applicant's expense; and,

28
29 iv. The variance may not be used with other provisions to exceed this maximum
30 60 percent impervious surface coverage.

31
32
33
34 5. Setback Deviation. A setback deviation shall be granted by the city only if the applicant
35 demonstrates all of the following:

36
37 a. Setback deviation criteria. Setback deviations shall be subject to the following
38 criteria:

39
40 ia. No use deviation shall be allowed;

41
42 bii. The granting of the deviation will not be materially detrimental to the public
43 welfare or injurious to the property or improvements in the vicinity and zone in
44 which the property is situated;

1
2 €iii. The granting of the deviation will not alter the character of the
3 neighborhood, nor impair the appropriate use or development of adjacent
4 property; and

5
6 €iv. The deviation is consistent with the policies and provisions of the
7 comprehensive plan and the development code.

8
9 v. The basis for requesting the deviation is not the direct result of a past action
10 by the current or prior property owner.

11
12 vi. The setback deviation is associated with the approval of development of a
13 single lot or subdivision that is constrained by critical areas or critical area
14 buffers.

15
16 vii. The building pad resulting from the proposed deviation will result in less
17 impact to critical areas or critical areas buffers.

18
19 viii. Yard setbacks shall not be reduced below the following minimums:

20
21 (A) . Front and rear setbacks may not be reduced to less than 10 feet
22 each;

23
24 (B) . Side setbacks may not be reduced to less than five feet.

25
26 ...

27
28 K. Expiration of Approvals.

29 1. General. Except for long and short subdivisions, building permits or ~~unless as~~ otherwise
30 conditioned in the approval process, permits shall expire one year from the date of notice of
31 decision if the activity approved by the permit is not exercised. ~~Responsibility for knowledge of~~
32 ~~the expiration date shall be with the applicant.~~

33 2. Long and short subdivision.

34
35 a. Once the preliminary plat for a long subdivision has been approved by the city, the
36 applicant has five years to submit a final plat meeting all requirements of this chapter to
37 the city council for approval.

38
39 b. Once the preliminary plat for a short subdivision has been approved by the city, the
40 applicant has one year to submit a final plat meeting all requirements of this chapter. A
41 plat that has not been recorded within one year after its preliminary approval shall
42 expire, becoming null and void. The city may grant a single one-year extension, if the
43 applicant submits the request in writing before the expiration of the preliminary
44 approval.

1
2 c. In order to renew an expired preliminary plat, a new application must be submitted.

3
4 3. Responsibility for knowledge of the expiration date shall be with the applicant.

5
6 L. Code Interpretations.

7 1. Upon ~~request~~ formal application or as determined necessary, the code official ~~shall~~ may issue
8 a written interpretation of ~~interpret~~ the meaning or application of provisions of the
9 development code. In issuing the interpretation, the code official shall consider the following:

10 a. The plain language of the code section in question;

11 b. Purpose and intent statement of the chapters in question;

12 c. Legislative intent of the City Council provided with the adoption of the code sections
13 in question;

14 d. Policy direction provided by the Mercer Island Comprehensive Plan;

15 e. Relevant judicial decisions;

16 f. Consistency with other regulatory requirements governing the same or similar
17 situation;

18 g. The expected result or effect of the interpretation; and,

19 h. Previous implementation of the regulatory requirements governing the situation.

20 2. The code official may also bring any issue of interpretation before the planning commission
21 for determination. Anyone in disagreement with an interpretation by the code official may also
22 request a review ~~appeal~~ of the code official's interpretation ~~by~~ to the ~~planning~~
23 commission ~~hearing examiner~~.

1 Chapter 19.16
2 DEFINITIONS
3

4 Accessory Buildings: A separate building or a portion of the main building, the use of which is related to
5 and supports that of the main building on the same lot.

6 1. Attached Accessory Building: An accessory building that shares a portion of one of its walls
7 with the main building, is separated from the main building by less than five feet, or is attached
8 to the main building by a structure other than a fence.

9 2. Detached Accessory Building: An accessory building that does not share a portion of any of its
10 walls with the main building and is separated from the main building by more than five feet and
11 is not attached to the main building by a structure other than a fence or a pedestrian walkway.

12 For example, detached accessory buildings may include, but are not limited to, garages,
13 cabanas, guest rooms, and other similar buildings.

14 ...

15
16 Accessory Structure: A separate structure that is not an accessory building, but is accessory and
17 subordinate or incidental to the main building on the same lot including, but not limited to, the
18 following: decks, porches, fences, trellises, and similar structures.

19 ...
20

21
22 “Applicant” means a property owner or a public agency or private utility or any person or entity
23 designated or named in writing by the property or easement owner to be the applicant, in an
24 application for a development permit, land use application, or other city approval.

25 ...
26

27
28 Development proposal: The application for a permit or other approval from the City of Mercer Island
29 relative to the use or development of land.

30 ...
31

32
33 Development proposal site: The boundaries of the lot or lots for which an applicant has or should have
34 applied for approval from the City of Mercer Island to carry out a development proposal.

35 ...
36

37
38 Driveway: The vehicular access on to a lot containing one single family dwelling, or the required
39 vehicular access to, or through, an area designed for parking.

40 ...
41
42

1 Feasible ~~(SMP)~~: An action that is required to achieve project approval, such as a design requirement,
2 development project condition, mitigation, or preservation requirement, and that meets all of the
3 following conditions:

- 4 ~~(1)~~ 1. ~~The~~ The action can be accomplished with technologies and methods that have been used in
5 the past in similar circumstances, or studies or tests have demonstrated in similar circumstances
6 that such approaches are currently available and likely to achieve the intended results; ~~(2)~~
7 2. ~~The~~ The action provides a reasonable likelihood of achieving its intended purpose; and
8 3. ~~(3)~~ ~~The~~ The action does not physically preclude achieving the project's primary intended legal
9 use. In cases where these guidelines require certain actions unless they are infeasible, the
10 burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the
11 reviewing agency may weigh the action's relative public costs and public benefits, considered in
12 the short- and long-term time frames.

13 ...
14 ...
15 ...
16 Floor: The continuous, supporting surface extending horizontally through a building or structure that
17 serves as the level base of a room upon which a person stands or travels.

18 ...
19 ...
20 ...
21 Formal design review: Design review conducted by the Design Commission.

22 ...
23 ...
24 ...
25 Gross Floor Area: The total square footage of floor area bounded by the exterior faces of the building.

26 1. The gross floor area of a single-family dwelling shall include:

- 27 a. The main building, including but not limited to attached accessory buildings.
28 b. All garages and covered parking areas, and detached accessory buildings with a gross
29 floor area over 120 square feet.
30 c. That portion of a basement which projects above existing grade as defined and
31 calculated in Appendix B of this development code.

32 d. Stair cases.

33 e. Decks that are attached to the second or third story of a single family dwelling and
34 are covered by a roof. For the purposes of calculating the gross floor area of covered
35 decks, the entire deck area covered by the roof shall be accounted for as floor area,
36 provided an 18" eave extending beyond the edge of the deck shall not be included in
37 the gross floor area.

38 f. Space under stairways or stairwells that is used, for example, as a closet or storage
39 space if that space meets the definition of "Floor".

40 2. The gross floor area of a single family dwelling does not include:

41 a. Second- or third-story uncovered decks, or uncovered rooftop decks.

42 32. In the Town Center, gross floor area is the area included within the surrounding exterior
43 finish wall surface of a building, excluding courtyards and parking surfaces.

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Tree, Exceptional: A tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource. An exceptional tree is a tree that is rare or exceptional by virtue of its size, species, condition, cultural / historic importance, age, and / or contribution as part of a tree grove. Trees with a diameter of more than 36 inches, or with a diameter that is equal to or greater than the diameter listed in the Exceptional Tree Table are considered exceptional trees unless they are also hazardous trees:

Exceptional Tree Table

<u>Species</u>	<u>Threshold Diameter</u>
<u>Native Species</u>	
<u>Oregon ASH – <i>Fraxinus latifolia</i></u>	<u>2 ft</u>
<u>Quaking ASPEN – <i>Populus tremuloides</i></u>	<u>1 ft</u>
<u>Paper BIRCH – <i>Betula papyrifera</i></u>	<u>1 ft 8 in</u>
<u>CASCARA – <i>Rhamnus purshiana</i></u>	<u>8 in</u>
<u>Western Red CEDAR – <i>Thuja plicata</i></u>	<u>2 ft 6 in</u>
<u>Pacific CRABAPPLE – <i>Malus fusca</i></u>	<u>1 ft</u>
<u>Pacific DOGWOOD – <i>Cornus nuttallii</i></u>	<u>6 in</u>
<u>Douglas FIR – <i>Pseudotsuga menziesii</i></u>	<u>2’6 in</u>
<u>Grand FIR – <i>Abies grandis</i></u>	<u>2 ft</u>
<u>Black HAWTHORN – <i>Crataegus douglasii</i></u>	<u>6 in</u>
<u>Western HEMLOCK – <i>Tsuga heterophylla</i></u>	<u>2 ft</u>
<u>MADRONA – <i>Arbutus menziesii</i></u>	<u>6 in</u>
<u>Bigleaf MAPLE – <i>Acer macrophyllum</i></u>	<u>2 ft 6 in</u>
<u>Dwarf or Rocky Mountain MAPLE – <i>Acer glabrum</i> var. <i>Douglasii</i></u>	<u>6 in</u>
<u>Vine MAPLE – <i>Acer circinatum</i></u>	<u>8 in</u>
<u>Oregon White or Garry OAK – <i>Quercus garryana</i></u>	<u>6 in</u>
<u>Lodgepole PINE – <i>Pinus contorta</i></u>	<u>6 in</u>
<u>Shore PINE – <i>Pinus contorta</i> ‘contorta’</u>	<u>1 ft</u>
<u>Western White PINE – <i>Pinus monticola</i></u>	<u>2 ft</u>
<u>Western SERVICEBERRY – <i>Amelanchier alnifolia</i></u>	<u>6 in</u>
<u>Sitka SPRUCE – <i>Picea sitchensis</i></u>	<u>6 in</u>
<u>WILLOW (All native species) – <i>Salix</i> sp. (<i>Geyeriana</i> ver <i>meleina</i>, <i>eriocephala</i> ssp. <i>mackenzieana</i>, <i>Hookeriana</i>, <i>Piperi</i>, <i>Scouleriana</i>, <i>sitchensis</i>)</u>	<u>8 in</u>
<u>Pacific YEW – <i>Taxus brevifolia</i></u>	<u>6 in</u>
<u>Non-native Species</u>	
<u>Orchard (Common) APPLE – <i>Malus</i> sp.</u>	<u>1 ft 8 in</u>
<u>European ASH – <i>Fraxinus excelsior</i></u>	<u>1 ft 10 in</u>
<u>Green ASH – <i>Fraxinus pennsylvanica</i></u>	<u>2 ft 6 in</u>
<u>Raywood ASH – <i>Fraxinus oxycarpa</i></u>	<u>2 ft</u>
<u>European BEECH – <i>Fagus sylvatica</i></u>	<u>2 ft 6 in</u>
<u>European White BIRCH – <i>Betula pendula</i></u>	<u>2 ft</u>

<u>Atlas CEDAR – <i>Cedrus atlantica</i></u>	<u>2 ft 6 in</u>
<u>Deodor CEDAR – <i>Cedrus deodara</i></u>	<u>2 ft 6 in</u>
<u>Incense CEDAR – <i>Calocedrus decurrens</i></u>	<u>2 ft 6 in</u>
<u>Flowering CHERRY – <i>Prunus</i> sp. (<i>serrula</i>, <i>serrulata</i>, <i>sargentii</i>, <i>subhirtella</i>, <i>yedoensis</i>)</u>	<u>1 ft 11 in</u>
<u>Lawson CYPRESS – <i>Chamaecyparis lawsoniana</i></u>	<u>2 ft 6 in</u>
<u>Kousa DOGWOOD – <i>Cornus kousa</i></u>	<u>1 ft</u>
<u>Eastern DOGWOOD – <i>Cornus florida</i></u>	<u>1 ft</u>
<u>American ELM – <i>Ulmus americana</i></u>	<u>2 ft 6 in</u>
<u>English ELM – <i>Ulmus procera</i></u>	<u>2 ft 6 in</u>
<u>GINGKO – <i>Ginkgo biloba</i></u>	<u>2 ft</u>
<u>Common HAWTHORN <i>Crataegus laevigata</i></u>	<u>1 ft 4 in</u>
<u>Washington HAWTHORN – <i>Crataegus phaenopyrum</i></u>	<u>9 in</u>
<u>European HORNBEAM – <i>Carpinus betulus</i></u>	<u>1 ft 4 in</u>
<u>KATSURA – <i>Cercidiphyllum japonicum</i></u>	<u>2 ft 6 in</u>
<u>Littleleaf LINDEN – <i>Tilia cordata</i></u>	<u>2 ft 6 in</u>
<u>Honey LOCUST – <i>Gleditsia triacanthos</i></u>	<u>1 ft 8 in</u>
<u>Southern MAGNOLIA – <i>Magnolia grandiflora</i></u>	<u>1 ft 4 in</u>
<u>Paperbark MAPLE – <i>Acer griseum</i></u>	<u>1 ft</u>
<u>Japanese MAPLE – <i>Acer palmatum</i></u>	<u>1 ft</u>
<u>Red MAPLE – <i>Acer rubrum</i></u>	<u>2 ft 1 in</u>
<u>Sugar MAPLE – <i>Acer saccharum</i></u>	<u>2 ft 6 in</u>
<u>Sycamore MAPLE – <i>Acer pseudoplatanus</i></u>	<u>2 ft</u>
<u>MONKEY PUZZLE TREE – <i>Araucaria araucana</i></u>	<u>1 ft 10 in</u>
<u>MOUNTAIN-ASH – <i>Sorbus aucuparia</i></u>	<u>2 ft 5 in</u>
<u>Pin OAK – <i>Quercus palustris</i></u>	<u>2 ft 6 in</u>
<u>Red OAK – <i>Quercus rubra</i></u>	<u>2 ft 6 in</u>
<u>Callery PEAR – <i>Pyrus calleryana</i></u>	<u>1 ft 1 in</u>
<u>Austrian Black PINE – <i>Pinus nigra</i></u>	<u>2 ft</u>
<u>Ponderosa PINE – <i>Pinus ponderosa</i></u>	<u>2 ft 6 in</u>
<u>Scot's PINE – <i>Pinus sylvestris</i></u>	<u>2 ft</u>
<u>London PLANE – <i>Platanus acerifolia</i></u>	<u>2 ft 6 in</u>
<u>Flowering PLUM – <i>Prunus cerasifera</i></u>	<u>1 ft 9 in</u>
<u>Coastal REDWOOD – <i>Sequoia sempervirens</i></u>	<u>2 ft 6 in</u>
<u>Giant SEQUOIA – <i>Sequoiadendron giganteum</i></u>	<u>2 ft 6 in</u>
<u>Japanese SNOWBELL – <i>Styrax japonica</i></u>	<u>1 ft</u>
<u>American SWEETGUM – <i>Liquidambar styraciflua</i></u>	<u>2 ft 3 in</u>
<u>TULIP TREE – <i>Liriodendron tulipifera</i></u>	<u>2 ft 6 in</u>
<u>WILLOW (All non-native species)</u>	<u>2 ft</u>

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...

Tree, Grove: A grove means a group of 8 or more trees each 10 inches in diameter that form a continuous canopy. Trees that are part of a grove shall also be considered exceptional trees, unless they also meet the definition of a hazardous tree.

1
2 ...

3
4 Large (Regulated) Tree, Large (Regulated): Any conifer tree that is six feet tall with a diameter of 24 inches or more or any deciduous tree with a diameter of more than six inches.

5
6
7 ...

8
9 Small Tree, Small: Any conifer tree that is less than six feet tall with a diameter of less than 24 inches or any deciduous tree with a diameter of six inches or less.

10
11 ...

12
13
14 Hazardous Tree, Hazardous: Any tree that receives an 11 or 12 rating under the International Society of Arboricultural rating method set forth in Hazard Tree Analysis for Urban Areas (copies of this manual are available from the city arborist) and may also mean any tree that receives a 9 or 10 rating, at the discretion of the city arborist.

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17 ...

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21 Hardscape: The solid, hard, elements or structures that are incorporated into landscaping. The hardscape includes, but is not limited to, structures, buildings, paved areas, stairs, walkways, decks, pergolas, patios, and similar constructed elements. The hardscape within landscaping is usually made up of materials that include, but are not limited to wood, stone, concrete, gravel, and pervious pavements or pavers, and similar materials. Hardscape does not include solid, hard elements or structures that are covered by a minimum of two feet of soil intended for softscape (for example, a septic tank covered with at least two feet of soil and planted shrubs is not hardscape). Hardscape areas do not include driveways.

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27 Landscaping: The arrangement and planting of softscape elements (e.g. trees, grass, shrubs and flowers), and the installation of hardscape elements (e.g. placement of fountains, patios, street furniture and ornamental concrete or stonework).

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33 Lot, Large: A lot that contains sufficient area, and is of sufficient dimension, to be subdivided. Large lots shall contain a minimum area as follows:

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38
39 1. R-8.4: 16,800 square feet.
40 2. R-9.6: 19,200 square feet.
41 3. R-12: 24,000 square feet.
42 4. R-15: 30,000 square feet.

43 ...

1 Lot area: The area contained within the established boundaries of a lot. The lot area includes, but is not
2 limited to, areas encumbered by critical areas, shorelines, and public or private easements.

3
4 ...

5 Lot area, net: The area contained within the established boundaries of a lot, less any area used for public
6 or private easements.

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8 ...

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10 Lot coverage, maximum: The maximum area of a residentially zoned lot that may be covered by a
11 combination of buildings and vehicular driving surfaces.

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13 ...

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15 Reasonable Best Efforts: An applicant has used reasonable best efforts to perform an action when an
16 applicant demonstrates that one of the following prevents compliance with the applicable standard:

- 17 1. The action cannot be accomplished with technologies and methods that have been used in
18 the past in similar circumstances, or studies or tests have demonstrated in similar
19 circumstances that such approaches unlikely to achieve the intended results;
- 20 2. The action does not provide a reasonable likelihood of achieving its intended purpose; or
- 21 3. The action physically precludes achieving the project's primary intended legal use.

22 In cases where the code requires "reasonable best efforts" to comply with standards, the burden of
23 proving that reasonable best efforts have been taken, and compliance is infeasible, is on the applicant.

24 In determining whether reasonable best efforts have been taken the reviewing agency may weigh the
25 applicant's actions to comply with the applicable standard and the action's relative public costs and
26 public benefits, considered in the short- and long-term time frames. The reviewing agency may also
27 evaluate whether an applicant's prior actions have contributed to the applicant's inability to comply
28 with the applicable standard.

29 ...

30
31 Qualified Arborist: means an individual with relevant education and training in arboriculture or urban
32 forestry, having two (2) or more of the following credentials:

- 33
- 34 1. International Society of Arboriculture (ISA) Certified Arborist;
- 35 2. Tree Risk Assessor Certification (TRACE) as established by the Pacific Northwest Chapter of
36 ISA (or equivalent);
- 37 3. American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
- 38 4. Society of American Foresters (SAF) Certified Forester for Forest Management Plans;

39
40 For tree retention reviews associated with a development proposal, a qualified arborist must have, in
41 addition to the above credentials, a minimum of three (3) years' experience working directly with the
42 protection of trees during construction and have experience with the likelihood of tree survival after
43 construction. A qualified arborist must also be able to prescribe appropriate measures for the
44 preservation of trees during land development.

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Softscape: The living or unhardened elements that are incorporated into landscaping. The softscape generally includes plants, flower beds, tree retention areas, uncovered dirt, compost or mulched areas, wetlands, and wetland or watercourse buffers.

...

Street: An improved or unimproved public or private right-of-way or easement which affords or could be capable of affording vehicular access to property.

1. Collector Arterial: A street designed to collect and distribute traffic from major arterials to the local access streets. The collector arterial is similar to a local access street except for stop and yield privileges over a local access street and restrictions for on street parking.
2. Local Access Street: A street designated for direct access to properties, and which is tributary to the arterial system.
3. Major Arterial Street: A street designed to collect and distribute large volumes of traffic from the freeway, Town Center and less important arterial streets. This type of arterial normally is designed to expedite through traffic.
4. Second Arterial Street: A street designed to collect and distribute traffic from the freeway or major arterials and less important streets.
5. Driveways are not streets.

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APPENDIX B BASEMENT FLOOR AREA CALCULATION

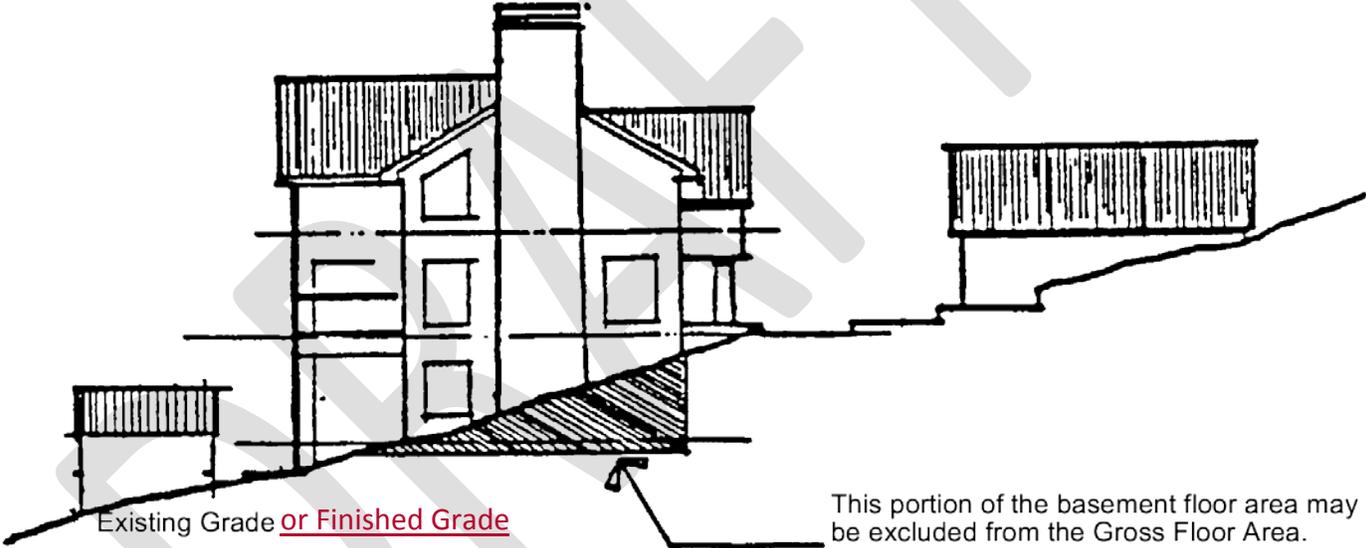
The Mercer Island Development Code excludes that portion of the basement floor area from the Gross Floor Area which is below grade. That portion of the basement which will be excluded is calculated as shown.

Portion of Excluded Basement Floor Area =

$$\frac{\text{Total Basement Area} \times \sum(\text{Wall Segment Coverage} \times \text{Wall Segment Length})}{\text{Total of all Wall Segment lengths}}$$

Where the terms are defined as follows:

- TOTAL BASEMENT AREA is the total amount of all basement floor area.
- WALL SEGMENT COVERAGE is the portion of an exterior wall below existing or finished grade, whichever is lower. It is expressed as a percentage. (Refer to example.)
- WALL SEGMENT LENGTH is the horizontal length of each exterior wall in feet.



EXAMPLE OF BASEMENT FLOOR AREA CALCULATION

This example illustrates how a portion of the basement floor area may be excluded from the Gross Floor Area. In order to complete this example, the following information is needed.

- A. A topographic map of the existing grades and the proposed finished grades.
- B. Building plans showing dimensions of all exterior wall segments and floor areas.
- C. Building elevations showing the location of existing grades and proposed finished in relation to basement level.

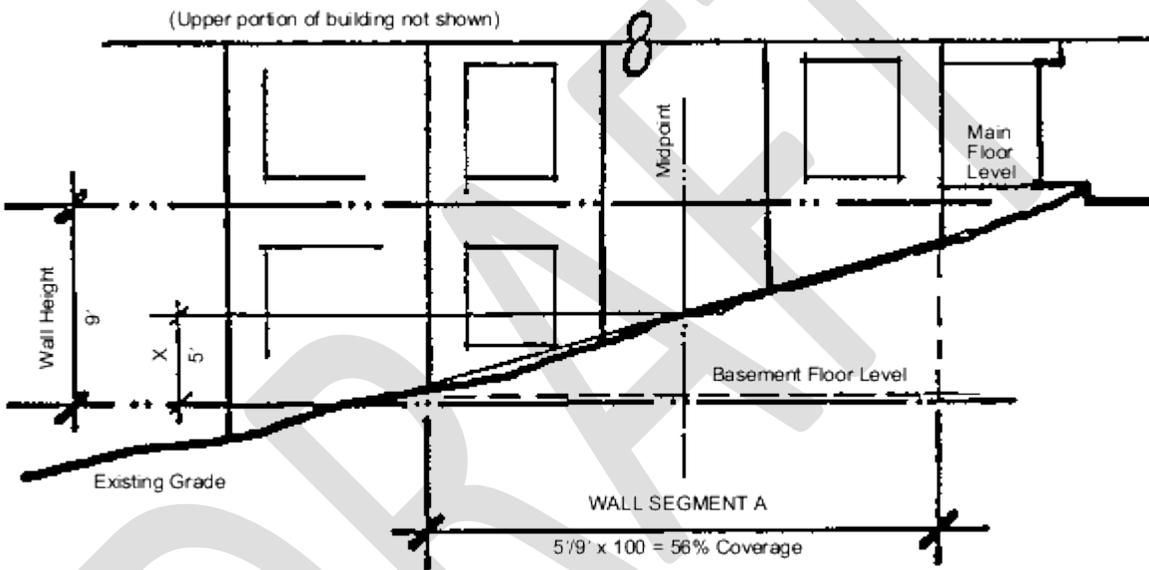
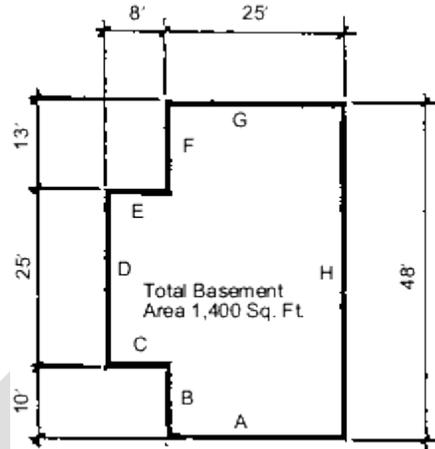
Step One

1 Determine the number and lengths of the Wall Segments.

2 Step Two

3 Determine the Wall Segment Coverage (in %) for each Wall Segment.

4 In most cases this will be readily apparent, for example a downhill
 5 elevation which is entirely above existing grade or will be entirely
 6 above finished grade. In other cases where the existing or finished
 7 grade contours are complex, an averaging system shall be used.
 8 (Refer to illustration.)



9

10 Step Three

11 Multiply each Wall Segment Length by the percentage of each Wall Segment Coverage and add these results
 12 together. Divide that number by the sum of all Wall Segment Lengths. This calculation will result in a
 13 percentage of basement wall which is below grade. (This calculation is most easily completed by compiling a
 14 table of the information as illustrated below.)

15 Table of Wall Lengths and Coverage

Wall Segment	Length	Coverage	Result
A	25x	56%	14x%
B	10x	0%	0x%
C	8x	0%	0x%
D	25x	0%	0x%

E	8x	0%	0x%
F	13x	0%	0x%
G	25x	60%	15x%
H	48x	100%	48x%
Totals	162x	NA	77x%

1 Step Four

2 Multiply the Total Basement Floor Area by the above percentage to determine the Excluded Basement Floor
3 Area.

Portion of Excluded Basement Floor Area =

=1,400 Sq. Ft. x

(25x x 56% + 10x x 0% . . . 25x x 60% + 48x x 100%)

162x

=1,400 Sq. Ft. x 47.53%

=665.42 Sq. Ft. Excluded from the Gross Floor Area

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5



DEVELOPMENT SERVICES GROUP

9611 SE 36TH ST., MERCER ISLAND, WA 98040
(206) 275-7605



TO: City Council

FROM: Planning Commission

DATE: June 5, 2017

RE: ZTR16-004 - Residential Development Standards – Accompanying Recommendations

Summary

This memo is intended to summarize the Planning Commission's accompanying recommendation to the City Council. The Planning Commission identified a number of items during the review of the Residential Development Standards that appear to require additional Council review and action.

The Planning Commission recommends that the City Council direct the Planning Commission to:

1. Consider legislation related to providing increased opportunities for duplexes, townhomes, and / or cottage housing in single-family zones
2. Evaluate the zoning designations established within the City for consistency with on-the-ground conditions and the Comprehensive Plan to: A) determine if the transition between zoning designations is appropriate; and B) determine if current zoning designations adequately match on-the-ground development patterns.
3. Consider creating a "site plan" or "land use" review process for all residential projects in Chapter 19.15 MICC and to require pre-application review for complex projects.
4. Evaluate the Residential Development Standards code amendment in 3 to 5 years to determine its effectiveness.
5. Evaluate the provisions related to non-conforming structures, sites, lots and uses to determine if further amendments are necessary following the adoption of the proposed residential development standards.
6. Evaluate the subdivision design standards to determine if the required infrastructure design (e.g. water, sewer, street and vehicle access, and storm water) requirements are consistent with the Comprehensive Plan.
7. Evaluate the provisions that require a long plat to divide property that has an area of more than 4 acres in area.
8. Re-evaluate the effect of the proposed amendments to the residential development standards after a specified period of time (3 to 5 years following adoption) and report back to the City Council.

Other recommendations:

9. Request the City Council to fund a full time city arborist for plan review in the Development Services Group.
10. Request staff to create comprehensive "Client Assistance" memorandums to clarify permitting processes
11. Designate the former Boys and Girls club property for landmark protection before it is developed.
12. Create a mechanism for easy cross-references within the Mercer Island City Code.



DEVELOPMENT SERVICES GROUP

9611 SE 36TH ST., MERCER ISLAND, WA 98040
(206) 275-7605



TO: City Council

FROM: Evan Maxim, Planning Manager

DATE: June 14, 2017
June 26, 2017 (*Updated with Council Direction from June 19*)

RE: ZTR16-004 - Residential Development Standards – Proposed Amendments to Planning Commission Recommendations

Background

On May 17, 2017, the Planning Commission recommended that the City Council adopt proposed amendments to the Residential Development Standards. The proposed amendments to the Residential Development Standards are intended to address a scope of work generated by the City Council in August of 2016.

Based upon an evaluation of the draft regulations, the staff has prepared a table of proposed substantive amendments that are intended to capture the Planning Commission's recommended amendment, the proposed alternative amendment, the source of the proposed amendment, and a staff recommendation and the basis for the staff recommendation.

In recommending amendments, the staff has focused primarily on recommendations that would: 1) clarify the regulations or eliminate unintended consequences; 2) result in increased compliance with the Council's scope of work; or 3) improve the administration of the proposed regulations.

The attached table incorporates the original staff recommended amendments (included in the June 5 City Council packet as Exhibit 7) as the first two items in the attached table.

The Council provided direction on several of the proposed amendments, which is captured in **bold** text at the end of the "staff recommendation / rationale" section.

Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale
Amendments identified June 5, 2017				
1	<p>Page 19, Section F(3) – Lot Coverage</p> <p>(Hardscape & sports court allowance)</p>	<p>The proposed code allows up to 20% of the landscaping area provided on the site may be used for hardscape (e.g., decks, patios, walkways, etc). In addition to the hardscape allowance, up to 1,200 square feet of the landscaping may be used for a pervious recreational improvement (e.g. a pervious sports court or similar recreational improvement).</p>	<p>Amend the code to allow up to 10% of the landscaping to be used as hardscape.</p> <p>Eliminate the sports court exception to hardscape limitations.</p>	<p>Staff review</p> <p><u>Adopted proposed amendment.</u> The scope of work provided by the City Council required review of the lot coverage standard to address concerns about the relative size of new homes compared to existing house stock.</p> <p>Generally, the current lot coverage regulations limit impervious surface in a manner similar to the Planning Commission’s recommended regulations. Special exceptions and allowances have been eliminated, resulting in a more predictable permitting outcome.</p> <p>However, the proposed allowance for 20% hardscape and sports court areas will result in an increase in overall hardscape on the site (generally in excess of the current allowances). Consequently, this amendment appears inconsistent with the Council’s scope of work.</p> <p>Council Direction:</p> <ul style="list-style-type: none"> • Eliminate sports court exemption • Limit hardscape to 15% of the landscaping

	Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale
2	Pages 45, 47-48, and 87 – Tree Permit (Tree permit and retention thresholds)	The proposed code requires a permit to remove trees with a diameter of 24 inches or greater. Retention of trees during development is focused on retaining trees with a diameter of 10 inches or greater.	Amend the code such that the size threshold requiring a tree removal permit is the same diameter as the trees subject to retention. For example, trees over 10 inches in diameter require a permit and are subject to retention if associated with development.	Staff review	<u>Adopted proposed amendment.</u> The tree removal permit is the main administrative tool used by the City to ensure compliance with tree retention requirements of the tree code. If the threshold for tree permits is not the same as the threshold for retention, the City cannot ensure compliance with the tree code during development.
Gross Floor Area					
3	Pages 17-18, Allowances to increase GFA by 5%	Accessory Dwelling Units may increase the allowed GFA by 5%, provided the total GFA does not exceed 45%, 5,000 square feet or the zone based caps. Accessible homes may also increase the increase the allowed GFA by 5%, provided the total GFA does not exceed 45% or	Limit the accessible homes seeking the 5% increase in GFA to a maximum of 5,000 square feet (similar to ADUs). Reduce the 5,000 square foot threshold for both ADUs and accessible homes to 4,000 square feet.	Dan Grausz	<u>No staff recommendation.</u> This is a policy question best addressed by the Council. This item was discussed by the Planning Commission. Council Direction: <ul style="list-style-type: none"> • Allow the lesser of an additional 5% or 900 square feet of GFA for ADUs • Limit total GFA to 4,500 square feet

Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale	
	the zone based caps. The 5,000 square foot limit does not apply to accessible homes.			<ul style="list-style-type: none"> Eliminate an increase to GFA for accessible homes; create an allowance for increased lot coverage for single story homes Increase ceiling height modifier for a 150% deduction from 10 feet to 12 feet 	
Building Height					
4	Page 18, 23 - Building Height	Maximum building height is 30 feet measured from average building elevation. Average building elevation is measured from existing grade.	Amend the average building elevation calculation to measure maximum height from existing or finished grade, whichever is lower.	Dan Grausz.	<p>No staff recommendation. This is a policy question best addressed by the Council.</p> <p>This item was discussed by the Planning Commission.</p> <p>Council Direction:</p> <ul style="list-style-type: none"> Measure from existing or finished grade, whichever is lower.
Lot Coverage (also item #1 above)					
5	Pages 18-19 – Lot coverage	Limit lot coverage based upon the net lot area. Net lot area is the total lot area, less areas constrained by easements.	Limit lot coverage based upon the total lot area (not the net lot area). Alternatively, limit lot coverage based upon a revised definition of net lot area, to	Dan Grausz Staff review	Staff recommends excluding vehicle access easements from the lot area when calculating allowed lot coverage. Vehicle access easements, if included in the lot coverage limits, would be deducted from the allowed lot coverage of 40%, reducing the total amount of area available for house design.

Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale	
		exclude vehicle access easements.		Vehicle access easements are also not available for landscaping (as they are assumed to be fully paved for access). Council Direction: <ul style="list-style-type: none"> • Exclude vehicle access easements from net lot area 	
Tree (also item #2 above)					
7	Page 44, Exemptions from Tree permit	Several types of tree removal are exempt from the tree code: <ul style="list-style-type: none"> • Emergency removal • Small trees (defined) • Undesirable trees (listed) • Trees in view easements • Pruning 	Limit exemptions to: <ul style="list-style-type: none"> • Small trees • Noxious weeds • Pruning Emergency removals could obtain permit within 14 days of removal	Dan Grausz	<u>No staff recommendation.</u> This is a policy question best addressed by the Council. This item was discussed by the Planning Commission.
8	Pages 45-48, Tree removal and approval section (19.10.040), and Tree	These sections were initially organized with the intent to clarify that the requirements for permit review and retention were based	Consolidate and clarify these sections.	Dan Grausz Staff review	<u>Adopt proposed amendment.</u> Staff recommends revising these sections for clarification and to consolidate duplicated language.

	Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale
	retention for development (19.10.060)	upon whether removal was associated with development, and the scale of the development.			
9	Page 46, Tree removal not associated with a development proposal	A tree permit is required for tree removal that is not otherwise part of a development proposal. No retention or replanting is required.	Prohibit removal of an exceptional tree and require replacement of all removed trees.	Dan Grausz	<u>No staff recommendation.</u> This is a policy question best addressed by the Council. This item was discussed by the Planning Commission.
10	Page 46, Tree removal with a development proposal	The Planning Commission focused primarily on single family development. Explicit requirements for tree retention in multifamily zones appear to have been inadvertently eliminated.	Clarify that tree retention is required for multifamily development.	Dan Grausz	<u>Adopt proposed amendment.</u> Staff recommends revising this section to clarify that tree retention is required for multifamily zoning designations.
11	Pages 46-47, 84, Tree retention requirements and Reasonable Best Efforts	Require a minimum retention of 30% of trees “plus” reasonable best efforts to retain trees on site. Reasonable best efforts is defined (page 84)	Eliminate the definition of “reasonable best efforts” and define in tree chapter. The threshold test for reasonable best efforts would be:	Dan Grausz	<u>No staff recommendation.</u> This is a policy question best addressed by the Council. This item was discussed by the Planning Commission.

Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale
		<ul style="list-style-type: none"> • Single family – being unable to construct 80% of the allowed GFA; • Subdivision – being unable to create an otherwise allowed lot; • Multifamily – being unable to construct an apartment unit. 		
12	Page 48, Tree Replacement	<p>Replace removed trees based upon a replacement ratio of 1:1, 2:1, and 4:1, depending on the diameter of the tree removed.</p>	<p>Increase the replacement ratios to 2:1, 3:1, and 4:1 respectively.</p> <p>Modify replacement trees threshold such that any tree over 10” would require 3:1 replacement</p>	<p>Dan Grausz</p> <p><u>No staff recommendation.</u> This is a policy question best addressed by the Council.</p> <p>This item was discussed by the Planning Commission.</p>

	Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale
13	Page 49, Tree replacement	Allow the City Arborist discretion in authorizing smaller replacement trees or reducing the number of replacement trees based upon anticipated site conditions and success of replacement plantings.	Clarify that smaller trees may not be shrubs. Limit the reduction of replacement tree numbers to 20% of the required plantings (e.g., 8 of 10)	Dan Grausz	<u>No staff recommendation.</u> This is a policy question best addressed by the Council. This item was discussed by the Planning Commission.
14	Page 49-50, Tree Protection Standards	Specify minimum protection standards for retained trees. Allow for additional protection measures based on ISA Best Management Practices.	Eliminate specific protection measures and required compliance with ISA Best Management Practices.	Dan Grausz	<u>Adopt proposed amendment.</u> Staff recommends revising this section to only reference the ISA Best Management Practices. This item was discussed with Planning Commission.
15	Page 52, Trees on Public Property	Require an annual permit for removal of trees in City parks, subject to specific requirements.	Require that trees removed from City parks be replaced at the same ratio as private development.	Dan Grausz	<u>Staff does not recommend adopting this amendment.</u> The Parks Department regularly plants hundreds to thousands of trees in the parks as part of its regular programming. This requirement appears unnecessary and may reduce flexibility for the Parks Department in managing city parks. The Parks Department reports the number of trees in your biennial report to the City Council.
16	Page 52, Tree removal on	Allow for a private property owner to	Limit removal for:	Dan Grausz	<u>No staff recommendation.</u> This is a policy question best addressed by the Council.

Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale	
public property	<p>remove trees in the public street right-of-way, provided the arborist determines removal is required for:</p> <ul style="list-style-type: none"> • Access to private property • Installation of required public improvements • Removal of a hazardous tree <p>Pruning is allowed if 60% of neighbors within 300 feet agree.</p>	<ul style="list-style-type: none"> • Access to private property • Installation of required public improvements <p>Pruning would be allowed for:</p> <ul style="list-style-type: none"> • To address hazardous trees • 60% of neighbors within 300 feet agree 		<p>This item was discussed by the Planning Commission.</p>	
Variance Criteria					
17	Page 71 – Variances	<p>Allow for an application for a variance to any numeric standard, except for the standards in Chapter 19.07.</p>	<p>Prohibit the application for a variance to minimum lot area requirements, gross floor area, building height, or lot coverage.</p>	Dan Grausz	<p><u>Staff does not recommend adopting this amendment.</u> There are some circumstances where allowing for a variance to these standards is appropriate to avoid a regulatory takings. The variance criteria have been revised to limit variances to only those circumstances where a variance is warranted.</p>

Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale	
		Alternatively, limit variance approvals to those situations where a property owner cannot both comply with existing standards and build a home on a legally created residential lot.		Staff recommends further revising the criteria for approval. In particular, staff recommends limiting variances to situations where a property owner cannot comply with all of the development standards and build a new single family home. This item was discussed by the Planning Commission.	
Code Interpretations					
18	Page 78 – Code Interpretations	Code interpretations may be appealed to the Hearing Examiner.	Allow for appeals of code interpretations whenever they are related to decision on a land use application	Dan Grausz	<u>No staff recommendation.</u> This is a policy question best addressed by the Council. This item was not discussed by the Planning Commission as part of this code amendment.

RESIDENTIAL CODE ISSUES

BUILDING HEIGHT (19.02.020(E))

1. Starting Point for Height Calculation: should the starting point change from “existing grade” to “existing or finished grade, whichever is lower.”

COUNCIL DIRECTION: EXISTING OR FINISHED GRADE, WHICHEVER IS LOWER

2. Measure Methodology: should we retain “average building height” methodology or use Town Center calculation method (no façade can exceed maximum height with step down on sloped lots).

COUNCIL DIRECTION: RETAIN AVERAGE BUILDING HEIGHT METHODOLOGY

3. Maximum Height: should we retain 30 feet or reduce to 25 feet. If reduced to 25 feet, should downhill façade remain at 30 feet.

COUNCIL DIRECTION: 30 FEET

GROSS FLOOR AREA REDUCTION

1. Should maximum GFA be reduced to 40%.

COUNCIL DIRECTION: YES

GROSS FLOOR AREA - ACCESSORY DWELLING UNITS (19.02.020(D)(3))

1. GFA Premium: should there be an additional 5% GFA allowance for homes with ADUs?

COUNCIL DIRECTION: YES

If yes:

(a) Should the maximum GFA increase be 900 sq. feet (allowed ADU size).

COUNCIL DIRECTION: YES

(b) Should the total GFA (house and ADU) remain capped at 5,000 sq. feet or be reduced.

COUNCIL DIRECTION: 4,500

(c) Should this also be allowed for remodels.

COUNCIL DIRECTION: YES

GROSS FLOOR AREA – ACCESSIBLE HOUSES (19.02.020(D)(3))

1. GFA Premium: should there be an additional 5% GFA allowance for accessible homes or should there instead be an additional 5% lot coverage allowance for single story homes.

COUNCIL DIRECTION: MOVE TO LOT COVERAGE OPTION WITH RESTRICTION ON TITLE – STAFF TO RESEARCH APPROPRIATE PERCENTAGE BUT NOT TO CONSIDER ACCESSIBILITY REQUIREMENTS.

RESIDENTIAL CODE ISSUES

If yes as to the GFA allowance:

- (a) Should the total GFA be capped at 5,000 sq. feet or less.

COUNCIL DIRECTION: NOT APPLICABLE

- (b) Should property owner be required to record a restriction on title.

COUNCIL DIRECTION: NOT APPLICABLE

GROSS FLOOR AREA – ZONE MAXIMUMS; MINIMUM GFA (19.02.020(D)(1)(b))

1. Caps: Should the Code include maximum GFA numbers by zone (e.g., 5,000 sq. feet in the R-8.4 zone).

COUNCIL DIRECTION: NO ONE WANTED TO DISCUSS

2. Minimum GFA: Should there be a guaranteed minimum GFA for small lots even if that exceeds 40%.

COUNCIL DIRECTION: NEED TO GET MORE DATA

GROSS FLOOR AREA – CEILING HEIGHT PREMIUM (19.02.020(D)(2))

1. Height for 150% Calculation: should the height range for the 150% GFA premium be increased from 10 feet to 12 feet (or some other number).

COUNCIL DIRECTION: CHANGE TO 12 FEET

LOT COVERAGE (19.02.020(F))

1. Sports Court Exception: does the Council agree with the staff recommendation to eliminate the sports court exception.

COUNCIL DIRECTION: NO SPORTS COURT EXCEPTION

2. Hardscape: does the Council agree with the staff recommendation to reduce the hardscape percentage from 20% to 10%. Staff has separately said that it will change Code to allow hardscape on unused structure/driveway area.

COUNCIL DIRECTION: 15% HARDSCAPE ALLOWANCE

PARKING SPACES (19.02.020(G))

1. Required Spaces: Should the Code requirement be reduced from 3 parking spaces (2 in covered stalls) to 2 parking spaces (1 in covered stall) as proposed by PC. One option would be

RESIDENTIAL CODE ISSUES

to make this change only applicable to residences below a certain GFA and/or lots below a certain size.

NET LOT AREA (19.16)

1. Access Easements Only: Confirm agreement with staff recommendation to only deduct access easements (and not utility and other easements) from net lot area calculation.

COUNCIL DIRECTION: YES

If so, staff needs to advise how common driveways will be treated.

2. Applicability: Should net lot area concept also be applicable to GFA calculations.

COUNCIL DIRECTION: NO

VARIANCES (19.15.020(G)(4))

1. Availability: Should variances not be allowed as to certain metrics:

- Minimum lot size in a zone
- Building height
- Gross Floor Area
- Fence Heights

If they should be allowed, should the standards for granting variances as to these items be made tighter.

CODE INTERPRETATIONS (19.15.020(L))

1. Appeal Opportunities: Should a party to a subsequent Code proceeding be allowed to challenge a prior Code Interpretation.

TREES

1. Tree Size for Tree Permit Requirement: Does the Council concur with the staff recommendation to change definition of large tree from 24" diameter to 10" diameter.

2. Replanting – Non Development: Should there be a replanting (fee in lieu) requirement for non-development tree removals including for removals as required by view easements and of "nuisance" trees (Bitter Cherry, Norway Maple etc.).

RESIDENTIAL CODE ISSUES

3. Replanting – Numerical Requirements: Should the replanting requirements be increased.
4. Exceptional Trees: Should there be a prohibition on removing exceptional trees, that are not hazardous trees, in non-development situations.
5. Public Right-of-Way Trees: Should private property owner be prohibited from removing public right-of-way trees in non-development situations.
6. Removal of Replacement Trees: Should tree permit be required to remove a prior replacement tree even if below 10” diameter.
7. Multi-Family Areas: Should Tree Code requirements (with appropriate modifications) also apply in multi-family areas.
8. Reasonable Best Efforts: Should “reasonable best efforts” requirement in development situations be modified to be more tree specific.
9. Damage to Tree on Adjacent Lot: Should damage to a tree on an adjacent lot that is likely to kill the tree (removing tree roots) require a tree permit.
10. Other Replanting Issues:
 - Require replanting within 6 months
 - Priority to be given to Pacific NW native species
 - Arborist does not have discretion to allow shrubs or bushes in place of replacement trees.
 - Arborist cannot reduce replanting requirements by more than 20%
 - Obligation to maintain replacement trees for 5 years instead of 2



DEVELOPMENT SERVICES GROUP
9611 SE 36TH ST., MERCER ISLAND, WA 98040
(206) 275-7605



TO: City Council
FROM: Evan Maxim, Planning Manager
DATE: June 28, 2017
RE: ZTR16-004 - Residential Development Standards – Case Analysis

Background

On June 19, 2017 the Council directed staff to prepare material analyzing the effect of the proposed residential development standards on single family homes. To prepare this memorandum, staff has reviewed 5 recently approved building permits using the proposed code amendments related to:

- Lot coverage
- Gross floor area
- Building height
- Variable setbacks

The five building permits were selected to reflect a variety of different lots and permit design proposals for new single family homes. The lots received permit approvals in the second half of 2015 through the first half of 2016.

The staff will provide some representative graphics for council review on July 5, however the following tables summarize the effect of the proposed amendments.

Summary

Every lot reviewed was affected by the proposed regulations. Staff observed the following:

- 4 out of 5 building permits were affected either by the reduced gross floor area (GFA) allowance or the revised GFA calculation. The unaffected permit is for a home that was designed with 32% GFA.
- 4 out of 5 building permits would need to be revised to comply with the revised height limit on the downhill building façade. The unaffected building permit was on a flat lot.
- 2 out of 5 building permits were on lots that had received an impervious surface deviation; in both cases a revised design would be required.
- 2 out of 5 buildings would need to be modified to comply with the variable setback requirement. In one case a new house design would be required; the other house would need to be shifted on the lot.
- In all cases, the amount of hardscape authorized under the proposed code exceeds what was actually built under the current code.

Building 1 – R-8.4 zoning, rectangular corner lot				
	Actual	Current Code	Proposed Code	Effect on Actual
Lot area	7197	7197	7197	None
Net lot area	n/a	n/a	7197	None
GFA (percent lot)	39.9% (3237)	45% (3239)	40% (2,879)	358 square foot reduction in gross floor area
GFA (ceiling modifier)	856	n/a	1284	856 square feet of floor area is accounted as 1,284 square feet of floor area under the proposed code
Lot coverage	39.9% (2,874)	40% (2879)	40% (2879)	102 square feet of hardscape originally part of lot coverage, accounted as 51 square feet.
Hardscape	102	n/a	102 15% of 60% = 648	Current code treated 102 square feet of permeable pavers as 51 square feet of impervious surface.
Side setback	6'-1" / 10'	5' / 10'	10' / 10'	House façade exceeds 25 foot height, requiring a 10 foot setback from south property line.
Building height	29'9" / 29'9"	30' / 35'	30' / 30'	None

Building 2 – R-9.6 zoning, rectangular lot				
	Actual	Current Code	Proposed Code	Effect on Actual
Lot area	16159	16159	16159	None
Net lot area	n/a	n/a	16159	None
GFA (percent lot)	32.9% (5315)	45% (7272)	40% (6464)	None
GFA (ceiling modifier)	0	n/a	0	None. All rooms 11' tall or less.
Lot coverage	29.9% (4829)	30% (4,847)	30% (4,847)	49 square feet of hardscape originally part of lot coverage
Hardscape	49	n/a	49 15% of 60% = 1454	Current code treated 49 square feet of impervious walkway as part of the 30% lot coverage limit
Side setback	11' 3" / 28'6"	5' / 10'	5'3" / 10'9"	None
Building height	29'8.5" / 35'	30' / 35'	30' / 30'	Building would need to be redesigned to comply with downhill façade limit and revised ABE calculation.

Building 3 – R-8.4 zoning, shared access easement, sloping lot				
	Actual	Current Code	Proposed Code	Effect on Actual
Lot area	17935	17935	17935	None
Net lot area	n/a	n/a	16217	1718 square feet of the lot is in a vehicle access easement
GFA (percent lot)	37.6% (6104)	45% (8071)	40% (7174) CAP = 5,000	Proposed house included a 670 square foot ADU (detached), which would need to be eliminated or redesigned significantly. Reduction in house area of 434 square feet is also required.
GFA (ceiling modifier)	n/a	n/a	0	None. All rooms 11' tall or less.
Lot coverage	39.6% (7045)	35% (6277)	35% (5676)	Site previously received a deviation, which has been eliminated. House and driveway outside of easement are 3,932 square feet; additional impervious surface used for ADU and hardscape improvements.
Hardscape	617	n/a	617 15% of 60% = 1460	None
Side setback	7'10"/13'6"	5' / 10'	7'6" / 10'	None
Building height	28'4" / 33'6"	30' / 35'	30' / 30'	Building would need to be redesigned to comply with downhill façade limit and revised ABE calculation

Building 4 – R-8.4 zoning, flag lot				
	Actual	Current Code	Proposed Code	Effect on Actual
Lot area	12500	12500	12500	None
Net lot area	n/a	n/a	12500	None
GFA (percent lot)	42% (5273)	45% (5625)	40% (5000)	Reduction in floor area of 273 square feet
GFA (ceiling modifier)	251	n/a	502	251 square feet of floor area is accounted as 502 square feet of floor area under the proposed code. This would result in either redesign, or a reduction in floor area elsewhere in building
Lot coverage	33.5% (4190)	40% (5000)	40% (5000)	None
Hardscape	109	n/a	109 15% of 60% = 1125	None
Side setback	6'6" / 32'	5' / 10'	7'6" / 9'6"	House façade exceeds 15 feet, so house would need to shift approximately 1 foot.
Building height	29'3" / 35'	30' / 35'	30' / 30'	Building would need to be redesigned to comply with downhill façade limit and revised ABE calculation

Building 5 – R-15 zoning, irregular shaped, sloping lot				
	Actual	Current Code	Proposed Code	Effect on Actual
Lot area	15075	15075	15075	None
Net lot area	n/a	n/a	14111	964 square feet of the lot is in a vehicle access easement
GFA (percent lot)	38% (5347)	45% (6328)	40% (5644)	None
GFA (ceiling modifier)	979	n/a	1678	979 square feet of floor area is accounted as 1678 square feet of floor area under the proposed code. This would result in either redesign, or a reduction in floor area elsewhere in building
Lot coverage	39.5% (5960)	40% (6030)	35% (4233)	Site previously received a deviation, which has been eliminated. New standards would require a reduction in lot coverage of 1727
Hardscape	300	n/a	300 15% of 60% = 1270	None
Side setback	8' / 25'	5' / 10'	7.5' / 8.36'	None
Building height	29'7" / 31'6"	30' / 35'	30' / 30'	Building would need to be redesigned to comply with downhill façade limit and revised ABE calculation