



PLANNING COMMISSION REGULAR MEETING AGENDA

Wednesday, March 15, 2017
Mercer Island City Hall

CALL TO ORDER & ROLL CALL

6:00 PM

APPROVAL OF MINUTES

March 1, 2017

SPECIAL BUSINESS - APPEAL

6:15 PM

Agenda Item #1: APL16-004 & APL16-005 – Review and Approve Decision regarding the appeal of two Impervious Surface Deviation Land Use Decisions (DEV16-024 and DEV16-027)

Review and approve the written decision regarding the above appeals, originally heard on March 1, 2017.

APPEARANCES

This is the time set aside for members of the public to speak to the Commission about issues of concern. If you wish to speak, please consider the following points:

- Speak audibly into the podium microphone
- State your name and address for the record
- Limit your comments to three minutes

*The Commission may limit the number of speakers and modify the time allotted.
Total time for appearances: 15 minutes*

REGULAR BUSINESS

7:00 PM

Agenda Item #2: ZTR16-004: Residential Development Standards

Third round of review of proposed amendments to the Residential Development Standards. Initial review of complete draft language.

OTHER BUSINESS

Review of Planning Commission Schedule
Staff Comments
Planned Absences for Future Meetings
Announcements & Communications
Next Special Scheduled Meeting: March 29, 2017 at 6:00PM
Next Regular Scheduled Meeting: April 5, 2017 at 6:00PM

ADJOURN

PLANNING COMMISSIONERS

Bryan Cairns

Tiffin Goodman

Daniel Hubbell

Jennifer Mechem

Lucia Pirzio-Biroli

Suzanne Skone, Chair

Richard Weinman, Vice-Chair

PHONE: 206-275-7729

WEB: www.mercergov.org

AGENDA TIMES ARE APPROXIMATE

CITY COUNCIL CHAMBERS - MERCER ISLAND CITY HALL
9611 SE 36TH STREET; MERCER ISLAND, WA 98040



PLANNING COMMISSION MEETING MINUTES MARCH 1, 2017

CALL TO ORDER:

Vice Chair called the meeting to order at 6:03 PM in the Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

ROLL CALL:

Chair Suzanne Skone, Vice-Chair Richard Weinman, Commissioners Daniel Hubbell, Lucia Pirzio-Biroli, and Tiffin Goodman were present. City staff was represented by Ellie Hooman, Deputy City Clerk, Ali Spietz, City Clerk, Scott Greenberg, Development Services Group Director, and Evan Maxim, Planning Manager.

Kim Adams Pratt, outside Counsel, was present representing the Planning Commission.

Commissioner Jennifer Mechem was absent.

SPECIAL BUSINESS:

Agenda Item #1: APL17-001: Appeal of an Impervious Surface Deviation Land Use Decision – Open Record Public Hearing

Commissioner Skone opened the public hearing at 6:04 p.m.

Kim Adams Pratt explained the appearance of fairness doctrine and asked if any Commissioner had a personal or financial interest in the project. Kim Adams Pratt asked if any Commissioner had any known conflicts of interest in the project by. The Commissioners all indicated that they have no personal or financial interests in the project and were not aware of any conflicts of interest.

Direct Presentation:

Nicole Gaudette provided an introduction and overview of the proposed impervious surface deviation (DEV16-029), which was denied by the City, and is the subject of the appeal. Nicole Gaudette reviewed the criteria for an impervious surface deviation, and summarized why the project did not meet the criteria for approval.

Grant Degginger, Counsel for Appellant, introduced Jeremy Lott and Jessica Abramson, the property owners. Jeremy Lott provided a brief personal history of his family. Jeremy Lott explained why they believe the project meets the criteria. Chris Haddad, Architect for Appellant, provided an overview of the site and the existing improvements and the benefits of the proposed home. Chris Haddad indicated that 9,377 square feet of impervious surface area will be removed from the site as a result of this proposed project.

Grant Degginger described why the Appellant believes the proposed project met the criteria for an impervious surface deviation.

Public Comment:

Dan Grausz – 3215 74th Ave SE - Requested the Planning Commission not issue the decision for APL17-001 until after the close of the hearing on APL16-004 and APL16-005.

Dan Thompson – 7265 N. Mercer Way – Expressed a concern about the validity of Administrative Interpretation 14-02, and about applicants vesting to the current city code.

Rebuttal:

Nicole Gaudette addressed the appellant's testimony. Nicole Gaudette indicated that a reduction in impervious surface is not a criteria for approval. The subject site is currently non-conforming due to the amount of impervious surface on the site and must come into conformance with the new application. The driveway that used to provide shared access will only provide access to the house east of the subject site. She explained that critical area mapping is approximate and that Lake Washington is not a critical area.

Kari Sand, City Attorney, provided closing arguments. Kari Sand recommended issuing a decision prior to hearing the next Appeal (APL17-001). She argued that the Administrative Interpretation 14-02 is outside the scope of the hearing, and that staff is responsible for review compliance with set criteria.

Grant Degginger, Counsel for Appellant, provided closing arguments. He argued that "Primary" does not appear in criteria for common access drive, that the proposed project does provide mitigation for geologically hazardous areas, that the project makes reasonable best efforts to comply with preferred practices, and that the lot has a unique shape and proportions under the code criteria.

The Planning Commission asked clarifying questions of all parties.

Chair Suzanne Skone closed the open public hearing at 7:23 p.m. The Planning Commission began deliberation on the appeal.

Vice Chair Richard Weinman made a motion that the Planning Commission remanding the DEV16-029 back to the City staff and applicant for further consideration consistent with the Planning Commissions deliberations. Commissioner Pirzio-Biroli seconded the motion. The motion passed 6-0.

Agenda Item #2: APL16-004 & APL16-005: Appeal of two Impervious Surface Deviation Land Use Decision – Open Record Public Hearing

Commissioner Skone opened the public hearing at 8:00 p.m.

Mr. Dan Grausz advised that he is present serving as an assistant to the applicant. He is not serving tonight in the capacity of a City Councilmember. He also stated that he would recuse himself from the re-appointment decision of any of the standing Planning Commissioners to avoid the appearance of a conflict.

Mr. Grausz argued that the City and the Applicant should have to share the same amount of time allotted to Appellant as they were representing the same side in the appeal. Kim Adams Pratt explained the appearance of fairness doctrine and asked if any Commissioner had a personal or financial interest in the project, any known conflicts of interest in the project, or felt that the participation of Mr. Grausz would prevent them from being able to consider the matter in a fair and

objective manner. The Commissioners all indicated that they have no interests or conflicts in the project and that Mr. Grausz's participation did not change their ability to consider the matter fairly and objectively.

City's legal representative Samuel Rodabough provided an argument that there is a long standing precedent for having the appellant, applicant, and City having their own separate time allotments as the City is presenting factual history as well as substantive arguments, and the other two parties are allotted the same amount of time to make their case.

Applicant's Attorney Vicki Orrico opposed reallocation of time allotments.

The Commission declined to reallocate the time allotments.

Direct Presentation:

Shanna Restall provided her qualifications for the record and advised she is serving in the capacity of a contract planner for the purposes of this hearing. She advised that the lots in question are rectangular in shape.

She provided a background of the applicable City Codes and the City's interpretation of why the applicant satisfies the criteria for a deviation from the maximum impervious surface.

Mr. Grausz advised that the appellant believes City made four (4) errors in its decision to grant the impervious surface deviation. He argued that MICC 19.15.020(G)(5) should have been applied as criteria for the City's decision. He argued that the project does not satisfy MICC 19.02.020(D)(3) because the shared access drive and shared utility corridor are actually just two separate driveways and utility access points that are running side by side, there is no shared access, so the deviation should not have been applied.

Vicki Orrico provided a background of Jaymarc Properties history of development in the community and argued that Jaymarc's application meet both the MICC 19.15.020(G) (5) and MICC 19.02.020(D) (3) criteria. She called attention to the Administrative Decision in Exhibit 1R, stating that this explains why the criteria were satisfied for the deviation. She stated that the Administrative Decision has existed for several years and if the City Council did not want it to be applied as written, the code should have been amended. She argued that the City must grant the deviation if the application meets the criteria for the deviation.

Public Comment:

Dick Winslow 3761 77th Ave SE, spoke in opposition of the application. He advised that he doesn't believe the project meets the intent of the law.

Ira Appelman, 9039 E. Shorewood Dr, spoke in opposition of the application. He listed a number of decisions and requested that they be admitted to the record. Attorney Rodabough objected to the decisions being admitted into the record. The Commission decided to admit all submitted exhibits and decide for themselves the relevance of the exhibit and weight to be given to the exhibit.

Leigh Sedgwick, 3238 72nd Pl SE, spoke in opposition of the application. He advised that he is a neighbor of the property and there is a history of this developer causing flooding issues to the neighborhood.

Tom Acker, a Mercer Island resident, spoke in opposition of the application. He stated the Planning Commission should be carrying out the will of the people and stay within the spirit of the law.

Carolyn Boatsman, 3210 74th Ave Se, spoke in opposition of the application. She stated that MICC 19.15.020(G) should be meet in its entirety, and this applicant had not done so.

Barbara Shuman, 3434 74th Ave, spoke in opposition of the application. She finds it troubling that these very large homes are being allowed to alter the character of the neighborhood. She stated that there should be some consideration to the impacts these developments will have on the neighborhood.

Sarah Waller, 7301 SE 32nd St, spoke in opposition of the application. She read a poem related to the development in her neighborhood.

Daniel Thompson, 7265 N. Mercer Way, submitted items to the record. He spoke in opposition of the application and commented on the 100% approval rate for deviation applications.

Bob Medved, 7238 SE 32nd St, requested that the letter Tom Acker will be sending in be added to the record. He requested the Commission refer to Exhibit 30 and Exhibit 28 and spoke against the validity of the 2014 Administrative Decision.

Rebuttal:

Mr. Rodabough provided closing arguments on behalf of the City. He explained that the 2014 Administrative Decision had been published pursuant to code, and that appeals were allowed, but none had been received.

Ms. Orrico provided closing arguments on behalf of the applicant. She pointed out that on the application itself, it states that the applicant only has to meet one criteria for City staff to approve a deviation.

Mr. Grausz provided closing arguments on behalf of the appellant. He argued that the applicant did not meet the intent of the code. He argued that the applicant states they saved trees to preserve the character of the neighborhood, but he explained that the City required the applicant to keep the 5 trees they are claiming are the benefit they provided to the community.

The Planning Commission asked clarifying questions regarding the combined driveway, the amount of deviation being requested per lot, the length of the driveway, and permissive wording in the code.

Chair Suzanne Skone closed the open public hearing at 10:09 p.m. After a brief break the Planning Commission reconvened and began deliberation on the appeal.

Commissioner Pirzio-Biroli moved to deny the appeals (APL16-004 & APL16-005), but modify the deviations (DEV16-024 and DEV16-027) to read that the maximum deviation will be 1.3% of lot coverage per lot. Commissioner Hubbell seconded the motion. The vote passed 6-0.

The Commission asked that written Findings, Conclusions, and a Decision be brought to them at the next meeting.

APPEARANCES:

There were no appearances.

APPROVAL OF MINUTES:

The Commission reviewed the minutes from the February 15, 2017 meeting. Commissioner Hubbell made a motion to adopt the minutes. The motion was seconded by Vice-Chair Weinman. The minutes were approved by a vote of 6-0 (Mechem absent).

OTHER BUSINESS:

Evan Maxim, Planning Manager, advised there were no further staff comments.

NEXT MEETING:

The next Planning Commission regular meeting is scheduled for March 15, 2017 at 6:00 p.m. at Mercer Island City Hall.

ADJOURNMENT: Chair Skone adjourned the meeting at 10:50 pm.



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**PLANNING COMMISSION
 FINDINGS OF FACT AND CONCLUSIONS OF LAW
 APL16-004 and APL16-005 – APPEAL OF NOTICES OF DECISION
 (DEV16-024 and DEV16-027)**

MARCH 15, 2017

I. APPEAL SUMMARY

File Nos.:	APL16-004 and APL16-005 DEV16-024 and DEV16-027 Notices of Decision for Impervious Surface Deviations
Location:	3237 74 th Avenue SE, Mercer Island, WA 98040; King County Assessor Tax Parcel No. 1300300790A 3243 74 th Avenue SE, Mercer Island, WA 98040; King County Assessor Tax Parcel No. 1300300790B
Appellant Name:	Mark S. Coen
Applicant/Owner Name(s):	JayMarc Manor, LLC/Gary Upper
Description:	The City has issued two Notices of Decision (DEV16-024 and DEV16-027) approving impervious surface deviations on each lot noted above. The Appellant has appealed both Notices of Decision. The appeal asserts incorrect standards for review and substantial error.
Recommendation:	Affirm the City’s Notices of Decision for DEV16-024 and DEV16-027
Exhibits:	<u>DEV16-024</u> 1.A Application for file number DEV16-024 received by the City of Mercer Island Development Services Group on June 29, 2016 1.B Criteria selection received by the City of Mercer Island Development Services Group on June 29, 2016 1.C Narrative received by the City of Mercer Island Development Services Group on June 29, 2016 1.D Supplemental Narrative received by the City of Mercer Island Development Services Group on November 21, 2016

- 1.E Plans and site calculations received by the City of Mercer Island Development Services Group on November 1, 2016
- 1.F Plans and site calculations received by the City of Mercer Island Development Services Group on November 21, 2016
- 1.G Notice of Decision issued by the Mercer Island Development Services Group on December 5, 2016

DEV16-027

- 1.H Application for file number DEV16-027 received by the City of Mercer Island Development Services Group on June 29, 2016
- 1.I Criteria selection received by the City of Mercer Island Development Services Group on June 29, 2016
- 1.J Narrative received by the City of Mercer Island Development Services Group on June 29, 2016
- 1.K Supplemental Narrative received by the City of Mercer Island Development Services Group on November 21, 2016
- 1.L Plans and site calculations received by the City of Mercer Island Development Services Group on November 1, 2016
- 1.M Plans and site calculations received by the City of Mercer Island Development Services Group on November 21, 2016
- 1.N Notice of Decision issued by the Mercer Island Development Services Group on December 5, 2016

APPEAL

- 1.O Appeal application APL16-004 for the appeal of DEV16-024 received by the City of Mercer Island City Clerk on December 19, 2016
- 1.P Appeal application APL16-005 for the appeal of DEV16-027 received by the City of Mercer Island City Clerk on December 19, 2016
- 1.Q Summary of Basis of Appeal received by the City of Mercer Island Development Services Group on December 20, 2016
- 1.R Administrative Interpretation #14-02 dated October 20, 2014
- 2. Appellant’s Statement of Appeal – Final
 - a. Appellant’s Exhibit 1 – Applicant’s Proposed Driveway (highlighted)
 - b. Appellant’s Exhibit 2 – MICC 19.01.010 (highlighted)
 - c. Appellant’s Exhibit 3 – MICC 19.01.070 (highlighted)
 - d. Appellant’s Exhibit 4 – MICC 19.02.020(D)(3) (highlighted)
 - e. Appellant’s Exhibit 5 – MICC 19.09.100 (highlighted)
 - f. Appellant’s Exhibit 6 – MICC 19.10.020 (highlighted)
 - g. Appellant’s Exhibit 7 – MICC 19.10.040(B) (highlighted)
 - h. Appellant’s Exhibit 8 – MICC 19.15.020(E) (highlighted)
 - i. Appellant’s Exhibit 9 – MICC 19.15.020(G) (highlighted)
 - j. Appellant’s Exhibit 10 – MICC 19.15.050 (highlighted)

- k. Appellant's Exhibit 11 – MICC 19.15.020(J) (highlighted)
- l. Appellant's Exhibit 12 – MICC 10.10.50 (highlighted)
- m. Appellant's Exhibit 13 – MICC 19.09.040 (highlighted)
- n. Appellant's Exhibit 14 – Driveways Under 16 Feet (New Construction)
- o. Appellant's Exhibit 15 – Driveways Under 16 Feet
- p. Appellant's Exhibit 16 – October 20, 2014 Administrative Interpretation 14-02
- q. Appellant's Exhibit 17 – November 21, 2005 AB4029 (highlighted)
- r. Appellant's Exhibit 18 – January 22, 2008 AB 4256 (highlighted)
- s. Appellant's Exhibit 19 – December 5, 2016 – Notice of Decision DEV16-024 (highlighted)
- t. Appellant's Exhibit 20 - December 5, 2016 – Notice of Decision DEV15-027 (highlighted)
- u. Appellant's Exhibit 21 – December 5, 2016 – Notice of Decision DEV16-030 (without exhibits) (highlighted)
- v. Appellant's Exhibit 22 – Cerrillo v. Esparza, 158 Wn.2d 194 (2006) (highlighted)
- w. Appellant's Exhibit 23 – Faben Point Neighbors v. City of Mercer Island, 102 Wn. App 775 (2000) (highlighted)
- x. Appellant's Exhibit 24 – Kustura v. Department of Labor and Industries, 169 Wn.2d 81 (2010) (highlighted)
- y. Appellant's Exhibit 25 – Waste Management v. Utilities and Transportation Commission, 123 Wn.2d 621 (1994) (highlighted)
- z. Appellant's Exhibit 26 – Probst v. State Department of Retirement Systems, 167 Wn. App. 180 (2012) (highlighted)
- aa. Appellant's Exhibit 27 – Nelson v. Appleway Chevrolet, Inc., 160 Wn.2d 173 (2007) (highlighted)
- bb. Appellant's List of Exhibits
- cc. Appellant's List of Witnesses
- dd. Brief of Appellant
- 3. Statement from Applicant
- 4. Statement from Applicant's Attorney
- 5. Notice of Public Hearing dated February 17, 2017
- EXHIBITS RECEIVED DURING PUBLIC TESTIMONY
- Ira Appleman:
- 6. DEV06-002 Notice of Decision
- 7. DEV06-004 Notice of Decision
- 8. DEV06-005 Notice of Decision
- 9. DEV06-016 Notice of Decision

	<p><u>Daniel Thompson:</u></p> <ol style="list-style-type: none"> 10. Seattle Times Article "Restrictions on 'Megahouses' Debated" from 2/7/1991 11. Email and spreadsheet from Mary Swan, Paralegal and Public Records Officer for the City of Mercer Island, dated 3/1/2017 regarding a public records request for deviation information from 2011-2016 12. Daniel Thompson's post on NextDoor.com regarding impervious surface appeals dated 3/1/2017 13. Residential Deviations Mercer Island City Code 14. Residential Deviations Administrative Interpretation 14-02 15. Residential Deviations Decisions and Staff Report 16. Email from Mary Swan, Paralegal and Public Records Officer for the City of Mercer Island, dated 3/1/2017 regarding a public records request for deviation information from 2011-2016 17. Letter to Planning Commission from Mark Coen dated 3/1/2017 <p><u>Bob Medved:</u></p> <ol style="list-style-type: none"> 18. Statement read by Tom Acker and email from Scott McCann to Mayor Bruce Bassett dated 6/8/2015 regarding Mr. McCann's resignation from the Planning Commission 19. Document reading (G) and (G)(5) <p><u>Dan Grausz:</u></p> <ol style="list-style-type: none"> 20. Permit Details for Permit 1607-179 from MyBuildingPermit.com dated 2/26/2017
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II. BACKGROUND & FINDINGS OF FACT

1. On June 29, 2016, JayMarc Manor, LLC applied for the two impervious surface deviations now being appealed (DEV16-024 and DEV16-027). The applicant requested an impervious surface deviation for both lots based on MICC 19.02.020(D)(3)(a).
2. The following Mercer Island City Code ("MICC") provisions are relevant to these appeals:

MICC 19.02.020(D)(3), Lot Coverage/Deviation, provides as follows:

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

- a. *The proposal uses preferred practices, outlined in MICC 19.09.100, which are appropriate for the lot; or*
- b. *The lot has a unique shape or proportions (i.e., a flag lot, with a circuitous driveway corridor); or*
- c. *The proposal minimizes impacts to critical areas and provides the minimum extent possible for the additional impervious surfaces."*

The City shall provide notice for the proposed action as required by MICC [19.15.020\(D\)](#) and (E), Administration.

MICC 19.01.070(B), Variance and deviation procedures/Deviation, provides as follows:

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

...

B. Deviation.

- 1. An applicant may request a deviation only from those numeric standards that have been specifically designated as being subject to a deviation.*
- 2. A deviation may be granted if the applicant demonstrates that the criteria set out in MICC 19.15.020(G)(5), and any additional deviation criteria set out in the code section under which the permit would be issued, are satisfied.*

MICC 19.15.020(G)(5), Permit review procedures/Decision Criteria/Deviations, provides as follows:

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

...

G. Decision Criteria. Decisions shall be based on the criteria specified in the Mercer Island City Code for the specific action. A reference to the code sections that set out the criteria and standards for decisions appears in MICC 19.15.010(E). For those actions that do not otherwise have criteria specified in other sections of the code, the following are the required criteria for decision:

...

5. Deviation.

- a. No use deviation shall be allowed;*
- b. The granting of the deviation will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;*
- c. The granting of the deviation will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property; and*
- d. The deviation is consistent with the policies and provisions of the comprehensive plan and the development code.*

MICC 19.09.100, Preferred practices, provides as follows:

The applicant must use reasonable best efforts to comply with the following preferred development practices:

- A. Use common access drives and utility corridors.*
- B. Development, including roads, walkways and parking areas in critical areas, should be avoided, or if not avoided, adverse impacts to critical areas will be mitigated to the greatest extent reasonably feasible.*

C. *Retaining walls should be used to maintain existing natural slopes in place of graded artificial slopes.*

MICC 19.16.010, Deviation, is defined as follows:

A minor modification of standard development code provisions that does not require the special circumstances necessary for granting a variance and which complies with the city's deviation criteria.

3. The site plans (Exhibits 1.E, 1.F, 1.L and 1.M) show a common driveway and utility corridor being shared by both lots.
4. Staff found that both lots met at least one criteria to be granted an impervious surface deviation and therefore approved both deviations decision dated December 5, 2016 (collectively, the "Decision") (Exhibit 1.G and 1.N). The Decision granted impervious surface deviations of 5% over the maximum allowed lot coverage of 40%.
5. On December 9, 2016, Mark S. Coen filed two appeals with the Mercer Island City Clerk (Exhibits 1.O and 1.P) challenging both deviation approvals in the Decision. Appellant's exhibits are at Exhibits 2.a through 2.dd.
6. Staff responded to the appeals in its Planning Commission Staff Report dated March 1, 2017 (Exhibit 1), and the Applicant responded to the appeals in a statement from Gary Upper and its attorney Vicki Orrico (Exhibits 3 and 4).
7. Appellant first argues that staff failed to consider MICC 19.15.020(G)(5) in its Decision and therefore used an incorrect standard of review. (Exhibit 2). Staff argues that MICC 19.02.020(D)(3), the code provision for deviations from impervious surface, provides specific criteria and therefore the criteria in 19.15.020(G)(5) are not used as additional review criteria.
8. The staff's determination to only use the criteria in MICC 19.02.020(D)(3) is supported by Administrative Decision #14-02 dated October 20, 2014 ("the 2014 Administrative Decision"). (Exhibit 1.R).
9. The 2014 Administrative Decision was not appealed under MICC 19.15.020(L). The City Council has not amended MICC 19.15.020(G), 19.15.020(G)(5), 19.02.020(D)(3), or 19.01.070(B) since the 2014 Administrative Decision was issued.
10. Mr. Appleman introduced Exhibits 6 through 9 during public testimony. Exhibits 6 through 9 are decisions issued in 2006, prior to the 2014 Administrative Decision.
11. Appellant's second argument is that the Decision includes a substantial error and uses an incorrect standard of review because MICC 19.02.020(D)(3)(a) and 19.09.100(A) do not apply to property outside of critical areas.
12. In support, Appellant asserts that that in 2005 the "Preferred practices" in MICC 19.09.100, which had previously applied only to critical areas, were moved by the City Council from chapter 19.07 MICC, Environment, to chapter 19.09 MICC, Property Development. (Exhibit 2.Q) without discussion of application outside of critical areas."
13. Appellant's third argument is that the Decision includes a substantial error by incorrectly applying MICC 19.09.100(A). The phrase "common access drives and utility corridors" is not defined in the MICC. Appellant asserts that the Applicant's creation of side-by-side driveways does not fall within what was intended as "common access drives," and that construction of utilities side-by-side is not sufficient to constitute a "utility corridor." Applicant counters that the driveway does provide access to the homes on each of the two lots and that the utilities proposed to be installed under the joint driveway will be used by both homes and are therefore a utility corridor. Applicant and staff testified that the Fire Marshall required the driveway width shown in Exhibit 1.F and 1.M, and would require the same width for each driveway if the lots were to be served by separate driveways.

14. Appellant's fourth argument is that the Decision includes a substantial error because it incorrectly applies MICC 19.02.020(D)(3)¹. Appellant argues this code section gives the code official discretion. The code provides the code official "may" grant the deviation and does not say the code official "shall" grant the deviation. Appellant argues that, because the Applicant is using a "Preferred practice" in 19.09.100, there must be a public benefit.
15. MICC 19.15.010(E) identifies deviations as administrative actions. MICC 19.15.010(D) explains that administrative actions "are based on objective criteria and subjective standards that require the exercise of limited discretion about nontechnical issues." The definition of Deviation in 19.16.010 explains that it does not require the special circumstances necessary for an applicant to be granted a variance.
16. Neither MICC 19.02.020(D)(3) nor MICC 19.09.100 include a public benefit criteria in their express terms.
17. Appellant objects to the Decision awarding a deviation of 5% on each lot when the Applicant has stated that it is going use less than 5%. The Applicant did not object to a reduction in the deviation to 1.3% for each lot and confirmed that 1.3% is all that is needed for each lot.

III. CONCLUSIONS OF LAW

18. The Planning Commission has authority to review a properly filed appeal of a Notice of Decision. The Planning Commission sits in a quasi-judicial, rather than a legislative capacity when it hears an appeal of a Notice of Decision.
19. This appeal was properly filed in a timely manner by the Appellant.
20. The burden of proof is on the Appellant to demonstrate that that one of the following has occurred in regard to the Decision being appealed: substantial error, the proceedings were materially affected by irregularities in procedure, the decision was unsupported by evidence in the record, or the decision is in conflict with the standards for review of the particular action.
21. The Planning Commission, after deliberation, may decide to affirm the Decision, reverse the Decision, modify the Decision and approve it as modified, or remand the decision back to staff for further consideration.
22. Appellant did not carry his burden of proof to show the Planning Commission that staff's use of the criteria in only MICC 19.02.020(D)(3) was in conflict with the standard for review. Appellant did not overcome the argument that the 2014 Administrative Decision reflects the legislative intent that a deviation from impervious surface maximums be based on specific criteria adopted in MICC 19.02.020(D)(3), rather than the general criteria in 19.15.020(G)(5). The 2014 Administrative Decision is determinative here because it was not appealed under MICC 19.15.020(L), and the City Council has not amended MICC 19.15.020(G), 19.15.020(G)(5), 19.02.020(D)(3), or 19.01.070(B) since the Administrative Decision was issued in 2014.
23. Appellant did not carry his burden of proof to show the Planning Commission that the Decision includes a substantial error and the Decision used an incorrect standard of review because MICC 19.02.020(D)(3)(a) and 19.09.100(A) do not apply to real property outside of critical areas. Neither MICC 19.02.020(D)(3)(a) nor MICC 19.09.100(A) provide by their terms that they only apply to Critical Areas whereas other sections of the code explicitly state that they do only apply to Critical Areas. The arguments made by Appellant regarding legislative history did not overcome the plain language of the code.
24. Appellant did not meet his burden of proof to show the Planning Commission that the Decision includes a substantial error by incorrectly applying MICC 19.09.100(A). The driveway does provide access to the

¹ Appellant's Exhibit 2 at page 9 includes a citation to "19.02.020(D)(2)," which is assumed to be a typographical error given that all discussion in Exhibit 2 and at the hearing were regarding 19.02.020(D)(3).

homes on each of the two lots thereby providing a common access drive, and the utilities proposed to be installed under the joint driveway will be used by both homes and are therefore a utility corridor.

25. Appellant did not meet his burden of proof to show the Planning Commission that the Decision includes a substantial error because it incorrectly applies MICC 19.02.020(D)(3). MICC 19.15.010(E) provides that deviations are an administrative action allowing the code official only limited discretion about nontechnical issues, and neither MICC 19.02.020(D)(3) nor MICC 19.09.100 include a public benefit criteria that Appellant argued should be applied.

IV. PLANNING COMMISSION DECISION

The Decision is revised to reduce the amount of impervious surface deviation granted from 5% to only 1.3% over the maximum allowed lot coverage of 40% (for a total of 41.3%) on each of the two lots subject. The grant of the deviation remains subject to all of the Decision's Conditions of Approval.

Susanne Skone
Planning Commission Chair
City of Mercer Island



DEVELOPMENT SERVICES GROUP
9611 SE 36TH ST., MERCER ISLAND, WA 98040
(206) 275-7605



TO: Planning Commission
FROM: Evan Maxim, Planning Manager
DATE: March 15, 2017
RE: ZTR16-004 - Residential Development Standards – Third Round of Review

Overview

Enclosed in the Planning Commission packet are two versions of the Initial Planning Commission Draft amendments to the Residential Development Standards. One version reflects the “line in / line out” amendments reflecting deleted and added text through the use of ~~striketrough~~ and underline. The other version is a “clean” copy of the amendments representing how the code would read in its final form.

On March 15, 2017, the staff will begin to review this draft with the Planning Commission. Staff anticipates discussing the following items:

1. Subcommittee review of the draft amendment.
2. Discussion of substantive “policy” level changes.
3. Review of technical or “word-smithing” edits from the commissioners.
4. Review of the planning schedule and the remaining review approach between March 15, 2017 and the anticipated April recommendation to City Council.

Review Comments:

Staff anticipates that there will be a lot of comments, questions, and edits from the Planning Commission; more than could be discussed at the public meetings. Staff recommends that technical or “word-smithing” edits be conveyed to staff directly through email or edited hard copy. Substantive comments related to the overall policy direction or code should be raised at the public meeting as the Planning Commission reviews the draft.

The city staff is continuing its own, internal review of the draft amendments, which will result in additional changes. Where this language rises to the level of a substantive change, the staff will highlight these changes for the Planning Commission at a later date.

Binder Material Update:

- Tab 5 – Initial Planning Commission Draft – Zoning Text Amendments
- Tab 6 Update – Public Comment table

INITIAL PLANNING COMMISSION DRAFT
Draft Zoning Text Amendments
Residential Development Standards

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- 8.24.020 Types of nuisances
- 17.14.010 Adoption
- 19.01.010 Purpose.
- 19.01.070 Variance and deviation procedures.
- 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.
- 19.08.010 General provisions.
- 19.08.020 Application procedures and requirements.
- 19.08.030 Design standards.
- 19.08.040 Plat improvements.
- 19.08.050 Final plats.
- 19.09.090 Building pad.
- 19.09.100 Preferred practices.
- 19.10.010 Purpose.
- 19.10.020 Permit requirements.
- 19.10.030 Seasonal development limitations.
- 19.10.040 Criteria.
- 19.10.050 Commission review required in commercial zones.
- 19.10.060 Tree replacement.
- 19.10.070 Bald eagle and other federal and state requirements.
- 19.10.080 Permit applications.
- 19.10.090 Nuisance abatement.
- 19.10.100 Appeals.
- 19.10.110 Fees.
- 19.10.120 Enforcement.
- 19.10.130 Best pruning practices.
- 19.10.140 Landmark trees.
- 19.15.010 General procedures.
- 19.15.020 Permit review procedures.

1 19.16.010 Definitions.

2

3 "Normal Text" is existing code language

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

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

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

7

DRAFT

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:

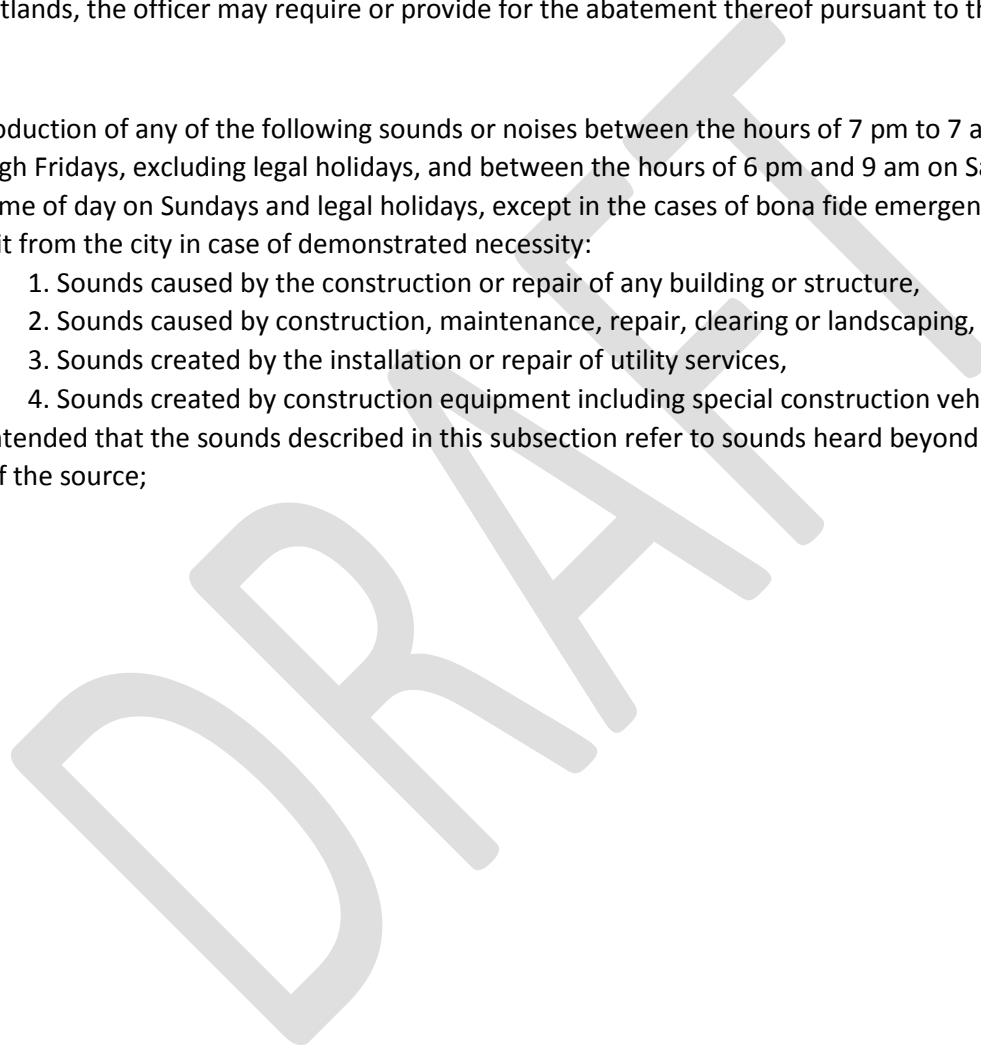
10 ...

11 Q. Production of any of the following sounds or noises between the hours of 7 pm to 7 am on Mondays
12 through Fridays, excluding legal holidays, and between the hours of 6 pm and 9 am on Saturdays, and
13 any time of day on Sundays and legal holidays, except in the cases of bona fide emergency or under
14 permit from the city 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



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. Renewed permits shall
17 expire 3 years from the date of issuance of the original permit. For permits that have been
18 expired for longer than one year, a new permit must be obtained and new fees paid. No permit
19 shall be renewed more than once.

20
21 3. Electrical, mechanical and plumbing permits shall expire at the same time as the associated
22 building permit except that if no associated building permit is issued, the electrical, mechanical
23 and/or plumbing permit shall expire 180 days from issuance.

24
25 4. The building official may authorize a 30-day extension to an expired permit for the purpose of
26 performing a final inspection and closing out the permit as long as not more than 180 days has
27 passed since the permit expired. The 30-day extension would commence on the date of written
28 approval. If work required under a final inspection is not completed within the 30-day extension
29 period, the permit shall expire. However, the building official may authorize an additional 30-
30 day extension if conditions outside of the applicant's control exist and the applicant is making a
31 good faith effort to complete the permitted work.

32
33 ...

34 105.6 Construction management plan and construction schedule.

35 1. Every permit issued for the construction of a new single family home with a gross floor area
36 of more than 7,000 square feet shall provide a construction management plan and a
37 construction schedule for approval by the building official.

38
39 2. Every permit issued for the remodel or addition to a single family home that will result in
40 the modification of more than 7,000 square feet gross floor area, or the addition of more
41 than 4,000 square feet gross floor area, shall provide a construction management plan and a
42 construction schedule for approval by the building official.

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3. The construction management plan shall address appropriate measures to mitigate impacts resulting from construction noise, deliveries and trucking, 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. 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.

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1 Chapter 19.01
2 GENERAL PROVISIONS

3
4 ...

5
6 **19.01.030 Reasonable accommodation.**

7 A. Eligibility. Any person claiming to have a handicap or disability, within the meaning of the Fair Housing
8 Amendments Act (FHAA), 42 U.S.C. 3602(h) or the Washington Law Against Discrimination (WLAD),
9 Chapter 49.60 RCW, or someone acting on his or her behalf, who wishes to be excused from an
10 otherwise applicable requirement of this development code pursuant to the requirement of the FHAA,
11 or the WLAD, that reasonable accommodations be made in rules, policies, practices, or services when
12 such accommodations may be necessary to afford persons with handicaps or disabilities equal
13 opportunity to use and enjoy a dwelling, shall make such request for reasonable accommodation to the
14 code official.

15
16 B. Procedure.

17 1. An applicant for reasonable accommodation must provide verifiable documentation of
18 handicap or disability eligibility to the code official and describe the need for and proposed
19 accommodation.

20
21 2. The code official shall determine what adverse land use impacts, including cumulative
22 impacts, if any, would result from granting the proposed accommodation. This determination
23 shall take into account the size, shape and location of the dwelling unit and lot; the traffic and
24 parking conditions on adjoining and neighboring streets; vehicle usage to be expected from the
25 residents, staff and visitors; and any other circumstances determined to be relevant.

26
27 3. The applicant's need for accommodation shall be considered in light of the anticipated land
28 use impacts, and conditions may be imposed in order to make the accommodation reasonable
29 in light of those impacts.

30
31 4. A grant of reasonable accommodation permits a dwelling to be inhabited only according to
32 the terms and conditions of the applicant's proposal and the code official's decision. If it is
33 determined that the accommodation has become unreasonable because circumstances have
34 changed or adverse land use impacts have occurred that were not anticipated, the code official
35 shall rescind or modify the decision to grant reasonable accommodation.

36
37 5. The code official shall act promptly on the request for accommodation and shall not charge
38 any fee for responding to a request for accommodation.

39
40 6. Nothing herein shall prevent the code official from granting reasonable accommodation to
41 the full extent required by federal or state law.
42

1 7. The code official’s decision shall constitute final action by the city on a request for
2 accommodation, and review of the decision will be available only in superior court. Any appeal
3 must be filed not more than 21 days after the issuance of the code official’s decision.
4

5 ...
6

7 **19.01.050 Nonconforming structures, sites, lots and uses.**
8

9 A. General.

10 1. Purpose. The purpose of this section is to allow for the continuance and maintenance of
11 legally established nonconforming structures, sites, lots and uses, and to provide standards
12 delineating the circumstances in which nonconforming structures, sites, lots and uses must be
13 brought into conformance with the provisions of all applicable code requirements.
14

15 2. Legal Nonconforming Status of Structures, Sites and Uses. All structures, sites and uses that
16 lawfully existed prior to September 26, 1960, shall be considered legally nonconforming.
17 Structures, sites and uses that were constructed or initiated after September 26, 1960, that
18 were in conformance with all applicable code provisions in effect at the time of their creation
19 but are not in compliance with current land use codes as a result of subsequent changes in code
20 requirements are deemed to be legally nonconforming structures, sites and uses.
21

22 3. Illegal Nonconformance of Structures, Sites and Uses. Structures, sites and uses that were not
23 in conformance with all applicable code provisions in effect at the time of their creation are
24 illegal and shall be brought into compliance with all applicable provisions of this code.
25

26 4. Continuation or Loss of Legal Nonconforming Status of Structures, Sites and Uses. A structure,
27 site or use may be maintained in legal nonconforming status as long as no new
28 nonconformances are created, there is no expansion of any existing nonconformity, and legal
29 nonconforming status is not lost under any of the circumstances set forth in this section. If legal
30 nonconforming status is lost, the structure, site or use must be brought into conformance with
31 all applicable code requirements.
32

33 5. Critical Areas. This section shall govern nonconforming structures, sites, lots and uses within
34 any critical area, unless Chapter 19.07 MICC, Critical Lands, establishes more specific standards.
35

36 6. Application of Codes. Nothing in this section in any way supersedes the requirements of the
37 construction codes set forth in MICC Title 17, and any other construction-related codes as
38 adopted and amended from time to time by the city.
39

40 7. Deviations. Existing structures and sites resulting from the approval of a lot coverage, fence,
41 setback, or other deviation shall be considered “conforming” structures or sites provided the
42 structure or site complies with the deviation approval. Structures and sites resulting from a
43 prior deviation approval are not subject to the provisions of Chapter 19.01 MICC.
44

1 B. Repairs and Maintenance.
2

3 1. Ordinary Repairs and Maintenance. Ordinary repairs and maintenance of a legally
4 nonconforming structure are permitted. In no event may any repair or maintenance result in the
5 expansion of any existing nonconformity or the creation of any new nonconformity.
6

7 2. Decks. Repair and maintenance of a legally nonconforming deck, including total replacement,
8 is allowed, as long as there is no increase in the legal nonconformity and no new
9 nonconformances are created; provided, in the R-8.4 zone, any portion of a nonconforming deck
10 that is in a side yard and less than five feet from an interior lot line may be replaced only if the
11 deck is reconstructed to comply with current minimum side yard requirements.
12

13 C. Interior Remodel. Interior remodeling of a legally nonconforming structure is permitted and will not
14 result in loss of legal nonconforming status regardless of the cost or extent of the interior remodel, as
15 long as no exterior alteration or enlargement is involved. If exterior alteration in conjunction with
16 interior remodeling is involved, loss of legal nonconforming status will be determined pursuant to the
17 provisions set forth in subsection D of this section.
18

19 D. Exterior Alteration or Enlargement of Nonconforming Structures.
20

21 1. Detached Single-Family Residential Structures.
22

23 a. Reconstruction Following Catastrophic Loss. Any legally nonconforming detached
24 single-family dwelling and/or accessory building or structure that suffers a catastrophic
25 loss shall not lose its legal nonconforming status. Such dwelling or accessory building or
26 structure may be reconstructed regardless of the extent of damage or reconstruction
27 cost, to re-establish the previous legal nonconformity or otherwise, as long as there is
28 no expansion of any existing nonconformity, the reconstruction creates no new
29 nonconformance, and a complete building permit for reconstruction is submitted to the
30 city within 12 months of the date of the loss.
31

32 b. Intentional Exterior Alteration or Enlargement.
33

34 i. Detached Single-Family Dwelling. A legally nonconforming detached single-
35 family dwelling may be intentionally altered or enlarged without losing its legal
36 nonconforming status as long as no more than 40 percent of the length of the
37 dwelling's exterior walls, excluding attached accessory buildings, are structurally
38 altered. Any portion of the length of existing walls that are structurally altered
39 shall be included in calculating the 40-percent threshold. In no event shall the
40 alteration or enlargement increase any existing nonconforming aspect of the
41 dwelling or create any new nonconformance. Legal nonconforming status shall
42 be lost, and the structure shall be required to come into conformance with
43 current code requirements, if the 40-percent threshold is exceeded. An increase
44 in height of that portion of a structure that is legally nonconforming because it

1 intrudes into a required yard is an increase in the nonconformity and is not
2 allowed unless the additional height meets the current yard requirements of
3 MICC 19.02.020(C)(1) except:

4
5 (A) A change from a flat roof to a pitched roof is allowed under MICC
6 19.02.020(C)(3)(a); and

7
8 (B) A height increase of a single-family dwelling and any accessory
9 building or structure in the R-8.4 zone that is legally nonconforming
10 because it intrudes into a minimum five-foot required side yard is
11 allowed only if the additional height is modulated so that it is a
12 minimum of 10 feet from the side yard property line.

13
14 ii. Accessory Buildings or Structures. A legally nonconforming attached or
15 detached accessory building or structure, including but not limited to a carport,
16 garage, shed, gazebo, deck or fence, may be altered or enlarged without losing
17 its legal nonconforming status as long as no more than 40 percent of its exterior
18 perimeter (or length in the case of a fence) is structurally altered. A wall that is
19 shared with the main dwelling shall not be included in the calculation for the
20 attached accessory building. In no event shall any alteration or enlargement
21 increase any existing nonconforming aspect of the building or structure or
22 create any new nonconformance. Legal nonconforming status shall be lost, and
23 the structure shall be required to come into conformance with current code
24 requirements, if the 40-percent threshold is exceeded.

25
26 2. Town Center.

27
28 a. Reconstruction Following Catastrophic Loss. In the Town Center, a legally
29 nonconforming structure which suffers a catastrophic loss may be reconstructed to its
30 previous legally nonconforming configuration and appearance if the cost of the
31 reconstruction equals or is less than 75 percent of the structure's current King County
32 assessed value as of the time the loss occurs and is reconstructed within the same
33 building footprint, to the same number of stories, and to the same square footage of the
34 legally nonconforming damaged or destroyed structure. If the damaged or destroyed
35 portion of the structure is reconstructed to other than its previous nonconforming
36 configuration and appearance, the entire structure shall lose its nonconforming status
37 and shall be required to come into conformance with current code requirements;
38 however, minor changes in appearance that bring it into closer conformity with current
39 code requirements shall not result in overall loss of nonconforming status. In any event,
40 if the 75-percent threshold is exceeded, legal nonconforming status shall be lost and the
41 structure shall be required to come into conformance with current code requirements.

42
43 b. Intentional Exterior Alteration or Enlargement. Legal nonconforming status of a
44 structure in the Town Center is lost, and the structure shall be required to come into

1 conformance with current code requirements, if there is any intentional exterior
2 alteration or enlargement of a structure that costs in excess of 50 percent of the
3 structure's current King County assessed value as of the time the initial application for
4 such work is submitted. No structure may be altered or enlarged so as to increase the
5 degree of nonconformity or create any new nonconformance.1
6

7 3. Nonconforming Structures Other Than Single-Family or in Town Center.
8

9 a. Reconstruction Following Catastrophic Loss. Any legally nonconforming structure not
10 covered under subsections (D)(1) or (2) of this section, that suffers a catastrophic loss
11 may be reconstructed to its previous legally nonconforming configuration regardless of
12 the extent of damage or reconstruction cost. No structure may be reconstructed so as
13 to increase the degree of its nonconformity or create any new nonconformance.
14 Regulated improvements reconstructed to their previous legally nonconforming
15 configuration shall be subject to partial design review as provided by MICC
16 19.12.010(D)(2); however, no condition may be imposed by the design commission or
17 code official which would have the effect of reducing the number of units contained in a
18 multiple-family dwelling prior to the catastrophic loss.
19

20 b. Intentional Exterior Alteration or Enlargement. Legal nonconforming status of any
21 legally nonconforming structure not covered under subsection (D)(1) or (2) of this
22 section is lost, and the structure and site shall be required to come into conformance
23 with all current code requirements, including design review, if there is an intentional
24 exterior alteration or enlargement of the structure over any three-year period that
25 incurs construction costs in excess of 50 percent of the structure's current King County
26 assessed value as of the time the initial application for such work is submitted; provided,
27 application of this subsection shall not be construed to require an existing structure to
28 be demolished or relocated, or any portion of an existing structure that is otherwise not
29 being worked on as part of the construction to be altered or modified. If there is no
30 current King County assessed value for a structure, a current appraisal of the structure,
31 which shall be provided by the applicant and acceptable to the code official, shall be
32 used as the value point of reference. No structure may be altered or enlarged so as to
33 increase the degree of nonconformity or create any new nonconformance.
34

35 E. Abandonment of a Legally Nonconforming Structure or Use.
36

37 1. Structure. A legally nonconforming structure shall be deemed to be abandoned, and shall lose
38 its legal nonconforming status and be required to come into conformance with current code
39 requirements, after the structure has been unoccupied continuously for 12 months or more,
40 unless it is listed on the state or federal register of historic buildings or meets the criteria for a
41 historic building pursuant to Chapter 16.01 MICC.
42

1 2. Use. A legally nonconforming use shall be deemed to be abandoned and shall lose its legal
2 nonconforming status, and any subsequent use shall be required to conform with current code
3 requirements, after the use has been discontinued for 12 consecutive months or more.
4

5 3. Exception. A structure that has been unoccupied continuously for 12 months or more, or a
6 use that has been discontinued for 12 consecutive months or more, shall not be deemed
7 abandoned if the owner of the structure can provide compelling evidence, to the satisfaction of
8 the code official, that the structure is being actively marketed for sale or the owner of the
9 structure otherwise has a reasonably timely and viable plan for resuming occupation of the
10 property or resuming the legally nonconforming use.
11

12 F. Nonconforming Sites.
13

14 1. Impervious Surface Coverage Limitation. A structure on a site that is legally nonconforming
15 because the maximum allowable surface coverage has been exceeded can be increased in
16 height (up to the maximum height permitted). No new impervious surfaces are permitted
17 outside the footprint of an existing structure unless the site is either brought into conformance
18 with all applicable impervious surface limitations or two square feet of legally existing
19 impervious surface is removed for every one square foot of new impervious surface.
20

21 2. Parking Requirements. These parking requirements apply to subsections (F)(2)(a) and (c) of
22 this section in the event of an intentional exterior alteration or enlargement, but do not apply in
23 the event of reconstruction following a catastrophic loss. In the event of catastrophic loss,
24 nonconforming parking may be restored to its previous legally nonconforming configuration.
25

26 a. Detached Single-family Dwelling Site. A detached single-family dwelling site that is
27 legally nonconforming because it does not provide the number and type of parking
28 spaces required by current code provisions shall provide parking spaces as provided by
29 MICC 19.02.020(E)(1).
30

31 b. Town Center. A structure in the Town Center that is legally nonconforming because it
32 does not provide the number and type of parking spaces required by current code
33 provisions shall provide parking spaces as required by MICC 19.11.130(B)(1)(a) and
34 subsections (I)(1) and (2) of this section, as applicable.
35

36 c. Sites Other Than for a Detached Single-Family Dwelling or in Town Center.
37

38 i. New Development and Remodels. A site other than those identified in
39 subsections (F)(2)(a) and (b) of this section that is legally nonconforming
40 because it does not provide the number or type of parking spaces required by
41 current code provisions shall provide parking spaces as required by the current
42 code provisions for the zone where the site is situated for all new development
43 and remodels greater than 10 percent of the existing gross floor area.
44

1 ii. Change of Use. A site other than those identified in subsection (F)(2)(a) and
2 (b) of this section that is legally nonconforming because it does not provide the
3 number or type of parking spaces required by current code provisions shall
4 provide parking spaces as required by the current code provisions for the zone
5 where the site is situated whenever there is a change of use.
6

7 3. Landscaping, Open Space and Buffer Requirements. A site's landscaping, open space and
8 buffers shall be brought into conformance with current code requirements whenever a
9 structure or use on the site loses its legal nonconforming status. Landscaping, open spaces and
10 buffers should be brought into conformance with current code requirements as much as is
11 feasible whenever any changes are made to a legal nonconforming structure.
12

13 G. Nonconforming Lots.

14
15 1. Legally Nonconforming Lot. A nonconforming lot shall be deemed to be a legally
16 nonconforming lot if the lot was legally created. In order to establish that a lot was legally
17 created, an applicant seeking permit approval must provide:
18

19 a. A long subdivision, short subdivision or plat approved by the city of Mercer Island or
20 King County, separately describing and creating the lot in question; or
21

22 b. A deed, contract of sale, mortgage, property tax segregation, or recorded survey
23 separately describing and/or conveying the lot in question if the instrument was
24 executed prior to July 18, 1960, and evidence that the creation of the lot was consistent
25 with all codes in effect at the time of such conveyance or recording date.
26

27 2. Illegal Nonconforming Lot. A lot which was not legally created in accordance with the laws of
28 the local governmental entity in which it was located at the date of its creation is an illegal
29 nonconforming lot and will not be recognized for development.
30

31 3. Minimum Requirements for Development of Legally Nonconforming Lot. In order to be used
32 as a building site, an undeveloped legally nonconforming lot must meet the following minimum
33 requirements:
34

35 a. The lot must exceed 3,500 square feet;

36 b. The lot must have a minimum width of 30 feet and a minimum depth of 50 feet;

37 c. The property owner must provide evidence that establishes that the lot was intended
38 to be a building site at the time of its creation; and
39

40 d. The lot must not be subject to consolidation pursuant to subsection (G)(5) of this
41 section.
42
43

1 If the owner provides proof to the satisfaction of the code official, demonstrating that the strict
2 application of subsections (G)(3)(a) through (d) of this section prevents all reasonable use of the
3 lot and that the owner was not involved in the creation of the legal nonconformity, such owner
4 may be permitted to use the lot for one single-family residential dwelling, even if the lot does
5 not meet the size, width, depth and other dimensional requirements of the zone, as long as all
6 other applicable site, use and development standards are met or a variance from such site use
7 or development standards has been obtained.

8
9 4. Development of Legally Nonconforming Lot. Subject to the limitations of subsections (G)(3)
10 and (5) of this section, a legally nonconforming lot may be developed for any use allowed by the
11 zoning district in which it is located, even though such lot does not meet the size, width, depth
12 and other dimensional requirements of the zone, as long as all other applicable site, use and
13 development standards are met or a variance from such site use or development standards has
14 been obtained.

15
16 5. Consolidation. If, since the date on which it became nonconforming due to its failure to meet
17 minimum lot size or width criteria, a legally nonconforming lot has been in the same ownership
18 as a contiguous lot or lots, the nonconforming lot is and shall be deemed to have been
19 combined with such contiguous lot or lots to the extent necessary to create a conforming lot
20 and thereafter may only be used in accordance with the provisions of this code, except as
21 specifically provided in subsection (G)(6) of this section.

22
23 6. Continuation of Developed Legally Nonconforming Lot. A legally nonconforming lot that was
24 developed as a separate and complete building site in accordance with the applicable laws at
25 the time of development shall maintain its legal nonconforming status even if the lot has been in
26 the same ownership as a contiguous lot or lots; provided, if separately developed, contiguously
27 owned legally nonconforming lots are subsequently developed as one building site, the lots shall
28 be deemed to be consolidated and may only be used as a single lot thereafter.

29
30 7. No New Nonconformities Created. No nonconforming structure, site, lot or use shall be
31 created as a result of the division of land or any modification of a lot line through any
32 subdivision or lot line revision pursuant to Chapter 19.08 MICC.

33
34 H. Nonconforming Uses.

35
36 1. Change of Use. Any change from a legal nonconforming use shall be to a conforming use only;
37 provided, the continuation of the same or similar use by the same or different owner will not
38 result in loss of legal nonconforming status.

39
40 2. Additional Uses Prohibited. While a legal nonconforming use exists on any lot, no separate or
41 new use may be established thereon, even though such additional use would be a conforming
42 one.

43

1 3. Expansion of Legal Nonconforming Use. Legal nonconforming uses shall not be expanded or
2 enlarged; however, if the code official determines that expansion or enlargement of the use or
3 an accessory use (including parking) or other site modifications would make the use more
4 conforming to current code standards or is required by city ordinance, state law, or federal law
5 and no new nonconformity is created it may be allowed. Expansion includes increasing the size
6 of the structure in which the use occurs or enlarging the scope, volume, area or intensity of the
7 use in a significant way.

8
9 4. Nonconforming Use Associated With Structure that Suffers Catastrophic Loss. In the event of
10 catastrophic loss to a structure, the legal nonconforming status of any use contained in the
11 structure shall not be lost, provided a complete building application to rebuild the structure and
12 reestablish the nonconforming use is submitted within 12 months of the loss.

13
14 I. Change of Use – Town Center.

15
16 1. Single Tenant. If any applicant proposes a change of use on a lot used or occupied by a single
17 tenant or use, the applicant shall meet those code provisions determined by the code official to
18 be reasonably related and applicable to the change in use. These provisions shall apply to the
19 entire lot. If the development is nonconforming due to the number of parking spaces provided
20 for the existing use, any change in use which requires more parking than the previous use shall
21 provide additional parking consistent with current code parking requirements.

22
23 2. Multi-Tenant. If any applicant proposes a change of use on a portion of a lot occupied by
24 multiple tenants or uses, the applicant shall meet those code provisions determined by the code
25 official to be reasonably related and applicable to the change in use. These provisions shall apply
26 only to that geographic portion of the lot related to the use or tenant space on which the
27 change is proposed. If the multi-tenant lot is nonconforming due to the number of parking
28 spaces provided for the existing uses, any change in use, which requires more parking than the
29 previous use, shall provide additional parking consistent with current code parking
30 requirements.

31
32 J. Enforcement. The provisions of this section requiring compliance with current code requirements for
33 any illegal nonconforming structure, site or use, for any legally nonconforming structure, site or use that
34 loses its nonconforming status and for any structure or use that is deemed abandoned shall be enforced
35 pursuant to the provisions of MICC 19.15.030.

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 for land uses that are appropriate within the residential zoning designations, consistent with
7 the policy direction of the adopted Mercer Island Comprehensive Plan. The city's goal is to balance
8 community values inherent in the neighborhood character with property values. The standards
9 contained within this chapter are also intended to manage the changing neighborhood character of
10 Mercer Island by establishing standards for the size, scale, and proportion of new development and
11 construction, while also allowing for flexibility in project design. These standards are further intended to
12 encourage compatibility between proposed new development and the existing, surrounding community.
13

14 D. Applicability. The provisions of this chapter shall apply to all development proposals in the R-8.4, R-
15 9.6, R-12, and R-15 zoning designations and all persons within the city shall comply with the
16 requirements of this chapter. Unless otherwise indicated in this chapter, the applicant shall be
17 responsible for the initiation, preparation, and submission of all required plans or other documents
18 prepared in support of or necessary to determine compliance with this chapter.
19

20 **19.02.010 Single-family.**

21 A use not permitted by this section is prohibited. Please refer to MICC 19.06.010 for other prohibited
22 uses.
23

24 A. Uses Permitted in Zones R-8.4, R-9.6, R-12, and R-15.
25
26 ...
27
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31

32 **19.02.020 Development Standards.**

33 A. Minimum Lot Area.
34

35 R-8.4: The lot area shall be at least 8,400 square feet. Lot
36 width shall be at least 60 feet and lot depth shall be at
37 least 80 feet.
38

39 R-9.6: The lot area shall be at least 9,600 square feet. Lot
40 width shall be at least 75 feet and lot depth shall be at
41 least 80 feet.
42

1 R-12: The lot area shall be at least 12,000 square feet. Lot
2 width shall be at least 75 feet and lot depth shall be at
3 least 80 feet.
4

5 R-15: The lot area shall be at least 15,000 square feet. Lot
6 width shall be at least 90 feet and lot depth shall be at
7 least 80 feet.
8

9 1. Minimum lot area requirements do not apply to any lot that came into existence before
10 September 28, 1960; however structures may be erected on the lot only if those structures
11 comply with all other restrictions governing the zone in which the lot is located.
12

13 2. In determining whether a lot complies with the lot area requirements, the following shall be
14 excluded: the area between lateral lines of any such lot and any part of such lot which is part of
15 a street.
16

17 B. Street Frontage. No building will be permitted on a lot that does not front onto a street acceptable to
18 the city as substantially complying with the standards established for streets.
19

20 C. Yard Requirements.
21

22 1. Minimum. Except as otherwise provided in this section, each lot shall have front, rear, and
23 side yards not less than the depths or widths following:
24

25 a. Front yard depth: 20 feet or more.
26

27 b. Rear yard depth: 25 feet or more.
28

29 c. Side yard depth:
30

31 i. For lots with a lot width of 90 feet or less, the sum of the side yards shall be at
32 least 15 feet; provided, no side yard abutting an interior lot line shall be less
33 than five feet, and no side yard abutting a street shall be less than 10 feet.
34

35 ii. For lots with a lot width of 91 feet or more, the sum of the side yards shall be
36 a width that is equal to at least 17 percent of the lot width; provided, no side
37 yard abutting an interior lot line shall be less than five feet, and no side yard
38 abutting a street shall be less than 10 feet.
39

40 2. Yard Determination.
41

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

1
2 i. Waterfront Lot. On a waterfront lot, regardless of the location of access to the
3 lot, the front yard may be measured from the property line opposite and
4 generally parallel to the ordinary high water line.
5

6 b. Rear Yard. The rear yard is the yard opposite the front yard. The rear yard shall
7 extend across the full width of the rear of the lot, and shall be measured between the
8 rear line of the lot and the nearest point of the main building including an enclosed or
9 covered porch. If this definition does not establish a rear yard setback for irregular
10 shaped lots, the code official may establish the rear yard based on the following
11 method: The rear yard shall be measured from a line or lines drawn from side lot line(s)
12 to side lot line(s), at least 10 feet in length, parallel to and at a maximum distance from
13 the front lot line.
14

15 c. Corner Lots. On corner lots the front yard shall be measured from the narrowest
16 dimension of the lot abutting a street. The yard adjacent to the widest dimension of the
17 lot abutting a street shall be a side yard. If a setback equivalent to or greater than
18 required for a front yard is provided along the property lines abutting both streets, then
19 only one of the remaining setbacks must be a rear yard. This code section shall apply
20 except as provided for in MICC 19.08.030(F)(1).
21

22 d. Side Yard. Any yards not designated as a front or rear yard shall be defined as a side
23 yard.
24

25 3. Intrusions into Required Yards.

26 a. Minor Building Elements.

27 i. Except as provided in subsection "ii." below, porches, chimney(s) and fireplace
28 extensions, and unroofed, unenclosed outside stairways and decks shall not
29 project more than three feet into any required yard. Eaves shall not protrude
30 more than 18 inches into any required yard.
31

32 ii. No penetration shall be allowed into the minimum five-foot setback abutting
33 an interior lot line except where an existing flat roofed house has been built to
34 the interior side yard setback line and the roof is changed to a pitched roof with
35 a minimum pitch of 4:12, the eaves may penetrate up to 18 inches into the side
36 yard setback.
37

38 b. Platforms, Walks, and Driveways. Platforms, walks, at-grade stairs, and driveways not
39 more than 30 inches above existing grade or finished grade may be located in any
40 required yard.
41

42 c. Fences, Retaining Walls and Rockeries. Fences, retaining walls and rockeries are
43 allowed in required yards as provided in MICC 19.02.050.
44

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

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

10
11 f. Architectural Features. Detached, freestanding architectural features such as columns
12 or pedestals that designate an entrance to a walkway or driveway and do not exceed 42
13 inches in height are allowed in required yards.

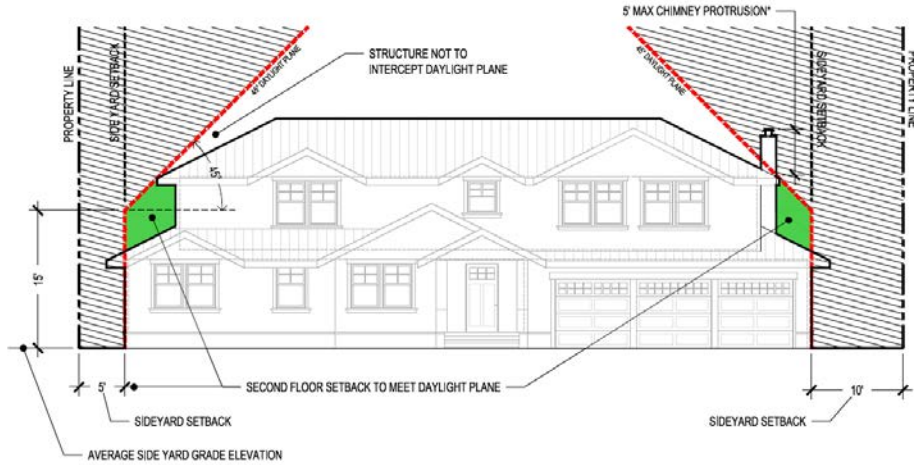
14
15 g. Other Structures. Except as otherwise allowed in this subsection (C)(3), structures
16 over 30 inches in height from existing grade or finished grade, whichever is lower, may
17 not be constructed in or otherwise intrude into a required yard.

18
19 4. Setback Deviation. The Code Official may approve a deviation to front and rear setbacks pursuant to
20 MICC 19.15.020.

21 D. Daylight Plane.

22
23 1. Applicability. On lots with a lot width of 60 feet or more, a daylight plane shall be established
24 and no single family dwelling, accessory structure, or accessory building shall intrude into the
25 established daylight plane, except as provided in subsection "3." below. Lots with a lot width of
26 59 feet or less shall not be subject to this section.

27
28 2. Daylight Plane Dimension. The daylight plane shall begin at an initial height of 15 feet above
29 average grade at the side yard setback line and extend inward and upwards at a 45° (degree)
30 angle to the point of intersection with the maximum building height allowance.
31



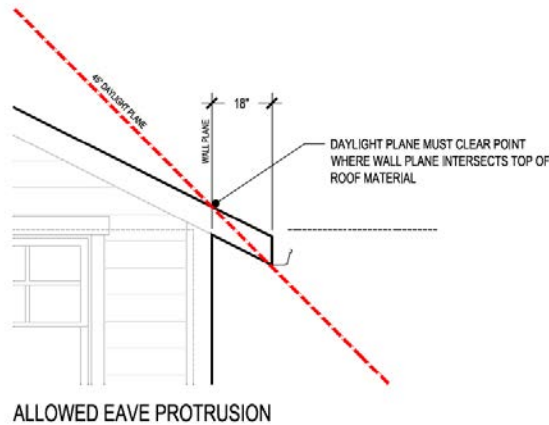
9,000 SF LOT - DAYLIGHT PLANE WITH PROPOSED CODE ELEVATION



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3. Minor Building Elements. The following minor building elements may extend beyond the daylight plane:

- a. Allowed Horizontal Intrusions in Daylight Plane. Chimney(s) and fireplace extensions, and unroofed, unenclosed outside stairways, and decks shall not project more than three feet horizontally into the daylight plane. Eaves shall not protrude more than 18 inches horizontally into the daylight plane; provided, no penetration shall be allowed into the minimum five-foot setback abutting an interior lot line.



12
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- b. Allowed Vertical Intrusions in Daylight Plane. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces and other similar appurtenances may extend to a maximum of five feet vertically above the daylight plane. Provided chimneys and fireplaces may be extended vertically the minimum

amount necessary to ensure compliance with Chapter 10 IRC, Figure R-1001.1, as amended.

E. Lot Coverage.

1. Applicability. Section "E. Lot Coverage" shall apply to regulated improvements in the residential zoning designations of R-8.4, R-9.6, R-12, and R-15. Section "E. Lot Coverage" does not apply to new single family dwellings or residential accessory buildings:
2. 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.

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

a. 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.

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

1
2 c. Pedestrian-Oriented Walkways. Uncovered pedestrian walkways constructed with
3 gravel or pavers not to exceed 60 inches in width shall be exempt from the maximum
4 impervious surface limits.

5
6 d. Public Improvements. Open storm water retention/detention facilities, public rights-
7 of-way and public pedestrian trails shall be exempt from the maximum impervious
8 surface limits.

9
10 e. Rockeries/Retaining Walls. Rockeries and retaining walls shall be exempt from the
11 maximum impervious surface limits.

12
13 f. Residences for religious leaders located on properties use by places of worship.

14
15 i. A structure primarily used as a residence for a religious leader provided by its
16 congregation and located on the same lot or lots as the improvements for a
17 church, synagogue, mosque, or other place of worship, shall be exempt from
18 the maximum impervious surface limits, subject to the limitations under
19 subsection "ii." below. All impervious surface areas directly and commonly
20 associated with the residence such as, but not limited to, the footprint of the
21 residence, an attached or detached garage, a patio and/or deck not otherwise
22 exempted by 19.02.020(D)(2)(a) and (c), and a driveway not otherwise used for
23 general access to the place of worship, shall be exempt.

24
25 ii. A residence and its associated impervious improvements, as described above,
26 may only be exempted if 4,999 square feet or less or up to 20% of lot area,
27 whichever is less. For these purposes, lot area means the lot or lots on which
28 the place of worship is located.

29
30 iii. Lot coverage exceeding 60% shall not be allowed whether by variance
31 pursuant to MICC 19.02.020(D) or by this exemption.

32
33 4. Variance. Public and private schools, religious institutions, private clubs and public facilities in
34 single-family zones may request a variance to increase impervious surface pursuant to MICC
35 19.15.020(G).

36
37 F. Parking.

38
39 1. Each single-family dwelling shall have at least three parking spaces sufficient in size to park a
40 passenger automobile; provided, at least two of the stalls shall be covered stalls. This provision
41 shall apply to all new construction and remodels where more than 40 percent of the length of
42 the structure's external walls have been intentionally structurally altered; however, no
43 construction or remodel shall reduce the number of parking spaces on the lot below the number

1 existing prior to the project unless the reduced parking still satisfies the requirements set out
2 above.

3
4 2. Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient
5 by the code official for the use occurring on the lot; provided, any lot that contains 10 or more
6 parking spaces shall also meet the parking lot requirements set out in Appendix A of this
7 development code.
8

9 G. Easements. Easements shall remain unobstructed.

10
11 1. Vehicular Access Easements. No structures shall be constructed on or over any vehicular
12 access easement. A minimum 10-foot setback from the edge of any easement that affords or
13 could afford vehicular access to a property is required for all structures; provided, that
14 improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed
15 within the 10-foot setback so long as such improvements do not interfere with emergency
16 vehicle access or sight distance for vehicles and pedestrians.
17

18 2. Utility and Other Easements. No structure shall be constructed on or over any easement for
19 water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within
20 the language of the easement or is mutually agreed in writing between the grantee and grantor
21 of the easement.
22

23 H. Building Height Limit.

- 24
25 1. Maximum building height. No building shall exceed 30 feet in height above the average
26 building elevation to the highest point of the roof.
27
28 2. Maximum building height on downhill building façade. The maximum building façade height
29 on the downhill side of a sloping lot shall not exceed 30 feet in height measured from
30 existing grade to the top of the exterior wall façade supporting the roof framing, rafters,
31 trusses, etc.
32
33 3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and
34 fireplaces and other similar appurtenances may extend to a maximum of five feet above the
35 height allowed for the main structure in subsections "1." and "2." above.
36
37 4. The formula for calculating average building elevation is as follows:

38
39 Formula:

40
41 Average Building Elevation = (Mid-point Elevation of Individual Wall Segment) x (Length
42 of Individual Wall Segment) ÷ (Total Length of Wall Segments)

43
44 See Appendix G, Calculating Average Building Elevation.

1
2 I. Gross Floor Area.

3
4 1. The gross floor area of all buildings shall not exceed the lesser of:

5 a. 40 percent of the lot area; and

6
7 b. The following limit shall apply to single family dwellings and accessory buildings
8 based upon the zoning designation of the lot upon which the building is established:

9
10 i. R-8.4: 5,000 square feet.

11 ii. R-9.6: 8,000 square feet.

12 iii. R-12: 10,000 square feet.

13 iv. R-15: 12,000 square feet.

14
15 2. The allowed gross floor area of a single family dwelling may be increased from 40 percent of
16 the lot area to 45 percent of the lot area, provided:

17 a. The combined total gross floor area of the single family dwelling and accessory
18 buildings does not exceed the maximum allowed pursuant to subsection MICC
19 19.02.020(l)(1)(b) above.

20
21 b. The lot contains:

22 i. An accessory dwelling unit associated with the construction of a new
23 single family home; or

24
25 ii. A single family dwelling designed to accommodate a person or persons
26 having a handicap or disability, within the meaning of the Fair Housing
27 Amendments Act (FHAA), 42 U.S.C. 3602(h) or the Washington Law Against
28 Discrimination (WLAD), Chapter 49.60 RCW.

29
30 c. The allowed gross floor area of accessory buildings that are not partially or entirely
31 used for an accessory dwelling unit shall not be increased through the use of this
32 provision.

33
34 3. Lots created in a subdivision through MICC 19.08.030(G), Optional Standards for
35 Development, may apply the square footage from the open space tract to the lot area not to
36 exceed the minimum square footage of the zone in which the lot is located.

37
38 J. Large lots. Prior to approval of a new single family dwellings and associated site improvements,
39 accessory buildings, and accessory structures on large lots, the applicant shall complete one of the
40 following:

41
42 1. Design for future subdivision. The proposed site design that shall accommodate potential
43 future subdivision of the lot as follows:

1 a. The proposed site design shall comply with the design requirements of MICC
2 19.08.030, 19.08.040, 19.09.090, and 19.09.100.

3
4 b. The proposed site design shall not result in a circumstance that would require the
5 removal of trees identified for retention, as part of a future subdivision.

6
7 c. The proposed site design shall not result in a circumstance that would require
8 modifications to wetlands, watercourses, and associated buffers as part of a future
9 subdivision.

10
11 d. Approval of a site design that could accommodate a potential future subdivision does
12 not guarantee such future subdivision approval, nor does it confer any rights to a future
13 subdivision.

14
15 2. Subdivide. The proposed single family dwelling shall be located on a lot resulting from a
16 recorded final plat.

17
18 3. Limit subdivision. Record a notice on title, covenant, easement, or other documentation
19 approved by the city, prohibiting further subdivision of the large lot for a period of five (5) years.

20
21 K. Building Pad. New buildings shall be located within a building pad established pursuant to Chapter
22 19.09 MICC.

23
24 L. Front yard landscaping.

25
26 1. Applicability. This section shall apply to the following development proposals:

27 a. New single family dwellings;

28 b. Additions or remodels to single family dwellings that will result in the creation of 500
29 square feet or more of gross floor area;

30 c. The clearing and grading of more than 50% of the area within the front yard setback.

31
32 2. Required landscaping area. 30% of the area within the front yard setback shall be landscaped
33 with vegetation. The required landscape areas shall not contain structures and shall not be
34 hardened with decks, patios, pervious concrete, or other similar materials.

35
36 3. Landscaping objective. The landscaping shall be designed to enhance the neighborhood
37 character. The landscaping should be designed to screen and soften the appearance of existing
38 and proposed buildings, to enhance the quality of the environment, to screen undesirable views,
39 and create identity sense of place.

40
41 4. Landscaping Design. The landscaped area shall incorporate two or more of the following:

42 a. Incorporation of best management or low impact development landscaping
43 techniques (e.g. soil amendments, bio-swales, etc);

44 b. Drought tolerant landscaping;

- c. Retention of existing large shrubs and prominent trees, provided the city determines that such vegetation will reasonably survive development;
- d. A mix of shrubs, trees, and groundcover to ensure planting areas are attractive, minimize maintenance and the potential for encroachment of invasive plant material; or
- e. Plant species selection, density, design, and location intended to promote the long term retention of landscaping (e.g. trees that will grow to a large size should be located to minimize impacts to the house);
- f. Preservation of existing, natural vegetation in critical areas;
- g. Other techniques approved by the code official that meet the landscaping objective in subsection "3." above.

...

19.02.040 Garages, other accessory buildings, and accessory structures.

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

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

C. Detached Accessory Buildings and Accessory Structures.

1. Gross Floor Area.

a. The combined total gross floor area for one or more accessory building(s) shall not exceed 25 percent of the total gross floor area allowed on a lot. For example, on a lot where the total allowed gross floor area was 5,000 square feet, the combined total gross floor area for accessory buildings is 1,250 square feet.

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

2. Height.

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

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

3. Detached accessory buildings are not allowed in required yard setbacks; provided, one detached accessory building with a gross floor area of 200 square feet or less and a height of 12 feet or less may be erected in the rear yard setback. If such an accessory building is to be located less than five feet from any property line, a joint agreement with the adjoining property

1 owner(s) must be executed and recorded with the King County Department of Records and
2 thereafter filed with the city.

3
4 4. Accessory structures. The maximum height of an accessory structure shall not exceed 15 feet.
5 The height of an accessory structure is measured from the top of the structure, to the existing
6 grade or finished grade, whichever is lower, directly below the section of the structure being
7 measured.

8
9 D. Garages and Carports. Garages and carports may be built to within 10 feet of the front property line if
10 the front yard of the lot, measured at the midpoint of the wall of the garage closest to the front yard
11 property line, is more than four feet above or below the existing grade at the point on the front
12 property line closest to the midpoint of the wall of the garage at its proposed location. The height of
13 such garage shall not exceed 12 feet from existing grade for that portion built within the front yard.

14
15 E. Pedestrian Walkways. Enclosed or covered pedestrian walkways may be used to connect the main
16 building to a garage or carport. Enclosed pedestrian walkways shall not exceed six feet in width and 12
17 feet in height calculated from finished grade or 30 feet above average building elevation, whichever is
18 less. (Ord. 08C-01 § 1; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

19
20
21 **19.02.050 Fences, retaining walls and rockeries.**

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

24
25 B. Location in Street.

26
27 1. Fences. No fence shall be located in any improved street. Fences may be allowed in
28 unimproved public streets subject to approval of the city engineer and the granting of an
29 encroachment agreement as required by MICC 19.06.060.

30
31 2. Retaining Walls and Rockeries. Retaining walls and rockeries may be allowed in any street
32 subject to the approval of the city engineer and the granting of an encroachment agreement
33 covering any public street as required by MICC 19.06.060.

34
35 C. Height Measurement.

36
37 1. Fences / gates. The height of a fence or gate is measured from the top of the fence or gate,
38 including posts, to the existing grade or finished grade, whichever is lower, directly below the
39 section of the fence or gate being measured.

40
41 2. Retaining Walls and Rockeries. The height of a retaining wall or rockery is measured from the
42 top of the retaining wall or rockery to the existing grade or finished grade, whichever is lower,
43 directly below the retaining wall or rockery.

1 D. Retaining Walls and Rockeries – Requirements.
2

3 1. Building Permit. A building permit is required for retaining walls or rockeries not exempted
4 from permit by Section 105.2 of the Construction Administrative Code, Chapter 17.14 MICC.
5

6 2. Engineer. Any rockery requiring a building permit shall be designed and inspected by a
7 licensed geotechnical engineer.
8

9 3. Drainage Control. Drainage control of the area behind the rockery shall be provided for all
10 rockeries.
11

12 4. Maximum Height in Required Yard – Cut Slopes. No retaining walls or rockeries, or any
13 combination of retaining walls or rockeries, to the extent used to protect a cut or cuts into
14 existing grade within any required yard, shall exceed a total of 144 inches in height. All retaining
15 walls and/or rockeries within a required yard shall be included in calculating the maximum
16 height of 144 inches. Such retaining walls or rockeries, or combination of retaining walls or
17 rockeries, may be topped by a fence up to 72 inches in height or, if within that portion of any
18 required yard that lies within 20 feet of any improved street, by a fence up to 42 inches in
19 height.
20

21 5. Maximum Height in Required Yard – Fill Slopes. No retaining walls or rockeries, or any
22 combination of retaining walls or rockeries, to the extent used to raise grade and protect a fill
23 slope shall result in an increase in the finished grade by more than 72 inches at any point. All
24 retaining walls and/or rockeries within a required yard shall be included in calculating the
25 maximum height of 72 inches. A fence or guardrail may be placed on top of such retaining wall
26 or rockery, but in no event shall the combined height of the fence and any retaining wall or
27 rockery exceed 72 inches; provided that the finished grade resulting from rockeries, retaining
28 walls, fences, or any combination thereof, shall be limited to a maximum of 42 inches within
29 that portion of any required yard which lies within 20 feet of any improved street.
30

31 E. Fences and gates.
32

33 1. Maximum Height in Required Yard. Fences or any combination of retaining walls, rockeries
34 and fences are allowed to a maximum height of 72 inches within the required yards, except as
35 provided in subsection (D)(4) of this section. All fences, retaining walls and/or rockeries within a
36 required yard shall be included in calculating the maximum height of 72 inches; provided,
37 fences, gates, rockeries or retaining walls used to protect a fill, or any combination thereof, are
38 limited to a maximum height of 42 inches within that portion of any required yard which lies
39 within 20 feet of any improved street.
40

41 a. Exception. Open latticework or a similar architectural feature up to 18 inches above
42 the maximum 72 inch height allowed may be constructed, provided it is of open work
43 design with at least 50 percent of its total surface area consisting of evenly distributed
44 open spaces. This exception does not apply to any fence, rockery or retaining wall, or

1 any combination thereof, limited to a maximum height of 42 inches; however, where
2 the height of any fence, rockery, retaining wall, or any combination thereof is limited to
3 42 inches, an architectural feature of open work design as described above that is
4 limited to the entrance of a walkway may be allowed if its total height is no greater than
5 90 inches.

6
7 2. Fill/Berms. No person shall place fill upon which to build a fence unless the total height of the
8 fill plus the fence does not exceed the maximum height allowable for the fence without the fill.

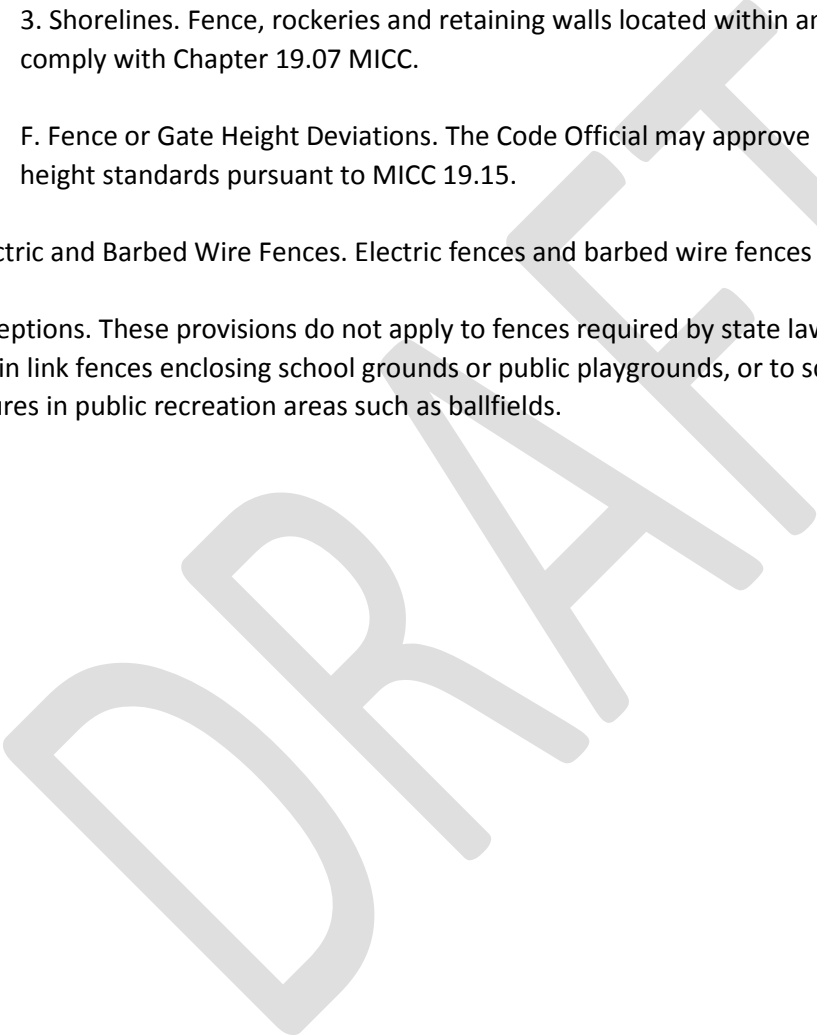
9
10 3. Shorelines. Fence, rockeries and retaining walls located within any shoreland shall also
11 comply with Chapter 19.07 MICC.

12
13 F. Fence or Gate Height Deviations. The Code Official may approve a deviation to fence or gate
14 height standards pursuant to MICC 19.15.

15
16 G. Electric and Barbed Wire Fences. Electric fences and barbed wire fences are not allowed.

17
18 H. Exceptions. These provisions do not apply to fences required by state law to enclose public utilities, or
19 to chain link fences enclosing school grounds or public playgrounds, or to screens used for safety
20 measures in public recreation areas such as ballfields.

21
22 ...



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.

9

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

13 ...

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1 Chapter 19.08
2 SUBDIVISIONS

3
4 ...

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

7 A. Applications for short subdivisions and lot line revisions or alteration or vacation thereof shall be
8 reviewed by the code official. Applications for long subdivisions or alteration or vacation thereof are
9 reviewed by the planning commission and the city council.

10
11 B. The planning commission may grant a variance, with restrictions if deemed necessary, from the four-
12 acre limitation for purpose of permitting short subdivision of property containing more than four acres
13 into 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
23
24 C. Applicants shall prepare a concept sketch of the proposal for the preapplication meeting required
25 under MICC 19.09.010(A).

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

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 2. Long Subdivision, Short Subdivision, or Lot Line Revision Plan. The applicant shall provide
39 copies of fully dimensioned plans of the project prepared by a Washington registered civil
40 engineer or land surveyor, meeting the requirements of Chapter 19.07 MICC, Environment, and
41 containing any other information deemed necessary by the code official. The city engineer may
42 waive the requirement that an engineer or surveyor prepare the plans for a short subdivision or
43 lot line revision. The submitted plans shall identify the proposed building pad location for each
44 proposed lot pursuant to MICC 19.09.090.

1
2 3. Plat Certificate. Applicant shall provide a plat certificate issued by a qualified title insurance
3 company not more than 30 days before filing of the application showing the ownership and title
4 of all parties interested in the plat. If the plat certificate references any recorded documents (i.e.
5 easements, dedications, covenants, etc.) copies of those documents shall also be provided.
6

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

10 a. Proposed restrictive covenants.

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

12 c. Proposed easements.
13
14

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

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

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

31 8. Detailed Grading Plan. If the grade differential on the site of the proposed project will exceed
32 24 inches and/or if the amount of earth to be disturbed exceeds 50 cubic yards, the applicant
33 shall provide copies of a detailed grading plan drawn by a Washington licensed engineer.
34

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

38 a. Width of pavement;

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

41 c. Location of any utility mains.
42
43

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

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

8 E. Preliminary Application Procedure.
9

10 1. Findings of Fact. All preliminary approvals or denials of long subdivisions or short subdivisions
11 shall be accompanied by written findings of fact demonstrating that:
12

13 a. The project does or does not make appropriate provisions for the public health,
14 safety, and general welfare and for such open spaces, drainage ways, streets or roads,
15 alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks
16 and recreation, playgrounds, schools and schoolgrounds and all other relevant facts,
17 including sidewalks and other planning features that assure safe walking conditions for
18 students who only walk to and from school;
19

20 b. The public use and interest will or will not be served by approval of the project; and
21

22 c. The project does or does not conform to applicable zoning and land use regulations.
23

24 2. Short Subdivisions and Lot Line Revisions. The code official shall grant preliminary approval
25 for a short subdivision or lot line revision if the application is in proper form and the project
26 complies with the design standards set out in MICC 19.08.030, the comprehensive plan, and
27 other applicable development standards.
28

29 3. Long Subdivisions.
30

31 a. At an open record hearing the planning commission shall review the proposed long
32 subdivision for its conformance with the requirements of MICC 19.08.030, the
33 comprehensive plan, and other applicable development standards.
34

35 b. The planning commission shall make a written recommendation on the long
36 subdivision, containing findings of fact and conclusions, to the city council not later than
37 14 days following action by the planning commission.
38

39 c. Upon receipt of the planning commission's recommendation, the city council shall at
40 its next public meeting set the date for the public hearing where it may adopt or reject
41 the planning commission's recommendations.
42

43 d. Preliminary approval of long subdivision applications shall be governed by the time
44 limits and conditions set out in MICC 19.15.020(E); except the deadline for preliminary

1 plat approval is 90 days, unless the applicant consents to an extension of the time
2 period.

3
4 4. Conditions for Preliminary Approval. As a condition of preliminary approval of a project, the
5 city council in the case of a long subdivision, or the code official in the case of a short
6 subdivision, may require the installation of plat improvements as provided in MICC 19.08.040
7 which shall be conditions precedent to final approval of the subdivision.

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

16
17 **19.08.030 Design standards.**

18 A. Compliance with Other Laws and Regulations. The proposed subdivision shall comply all other
19 chapters of Title 19 MICC; the Shoreline Management Act; and other applicable city, state, and federal
20 legislation.

21 B. Public Improvements.

22
23 1. The subdivision shall be reconciled as far as possible with current official plans for acquisition
24 and development of arterial or other public streets, trails, public buildings, utilities, parks,
25 playgrounds, and other public improvements.

26
27 2. If the preliminary plat includes a dedication of a public park with an area of less than two
28 acres and the donor has designated that the park be named in honor of a deceased individual of
29 good character, the city shall adopt the designated name.

30
31 C. Control of Hazards.

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

40
41 2. If there are soils or drainage problems, the city engineer may require that a Washington
42 registered civil engineer perform a geotechnical investigation of each lot in the project. The
43 report shall recommend the corrective action likely to prevent damage to the areas where such
44 soils or drainage problems exist. Storm water shall be managed in accordance with the criteria

1 set out in MICC 15.09.030 and shall not increase likely damage to downstream or upstream
2 facilities or properties.

3
4 3. Alternative tightline storm drains to Lake Washington shall not cause added impact to the
5 properties, and the applicant shall submit supportive calculations for storm drainage detention.
6

7 D. Streets, Roads and Rights-of-Way.

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

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

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

15
16 4. Streets of the proposed subdivision shall connect with existing improved public streets, or
17 with existing improved private access roads subject to easements of way in favor of the land to
18 be subdivided.
19

20 E. Residential Lots.

21
22 1. The area, width, and depth of each residential lot shall conform to the requirements for the
23 zone in which the lot is located. Any lot which is located in two or more zones shall conform to
24 the zoning requirements determined by the criteria set out in MICC 19.01.040(G)(2).
25

26 2. Each side line of a lot shall be approximately perpendicular or radial to the center line of the
27 street on which the lot fronts.
28

29 3. The proposed subdivision shall identify the location of building pads for each proposed lot per
30 MICC 19.09.090. No cross-section dimension of a designated building pad shall be less than 20
31 feet in width.
32

33 4. The proposed subdivision shall incorporate preferred development practices pursuant to
34 MICC 19.09.100 where feasible.
35

36 F. Design Standards for Special Conditions.

37
38 1. Subdivisions abutting an arterial street as shown on the comprehensive arterial plan shall be
39 oriented to require the rear or side portion of the lots to abut the arterial and provide for
40 internal access streets.
41

42 2. Where critical areas meeting the criteria set out in Chapter 19.07 MICC are present within the
43 subdivision, the code official or city council may:
44

- a. Require that certain portions of the long subdivision or short subdivision remain undeveloped with such restrictions shown on the official documents;
- b. Increase the usual building set-back requirements; and/or
- c. Require appropriate building techniques to reduce the impact of site development.

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

1. The use of the land in the long subdivision or short subdivision shall be one permitted in the zone in which the long subdivision or short subdivision is located.
2. The number of lots shall not exceed the number that would otherwise be permitted within the area being subdivided, excluding the shorelands part of any such lot and any part of such lot that is part of a street.
3. An area suitable for a private or public open space tract shall be set aside for such use.
4. The lots may be of different areas, but the minimum lot area, minimum lot width, and minimum lot depth shall each be at least 75 percent of that otherwise required in the zone in which the long subdivision or short subdivision is located. In no case shall the lot area be less than 75 percent of that otherwise required in the zone. Lot size averaging must be incorporated if lot width or depth requirements are 75 percent of the minimum that would otherwise be required for the zone without utilizing the optional development standards. Any designated open space or recreational tract shall not be considered a lot.
5. The ownership and use of any designated open space or recreational tract, if private, shall be shared by all property owners within the long subdivision or short subdivision. In addition, a right of entry shall be conveyed to the public to be exercised at the sole option of the city council if such area shall cease to be an open space or recreational tract.
6. The open space or recreational tract must remain in its approved configuration and be maintained in accordance with approved plans. Any deviation from the foregoing conditions must receive expressed approval from the planning commission.

19.08.040 Plat improvements.

A. Streets, Utilities and Storm Drainage. The subdivisions, shall include provisions for streets, water, sanitary sewers, storm drainage, utilities and any easements or facilities necessary to provide these

1 services. All utilities shall be placed underground unless waived by the city engineer. Detailed plans for
2 these provisions shall not be required until after the approval of the preliminary plat and shall be a
3 condition precedent to the official approval of the subdivision.
4

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

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

19 D. Construction Seasons. Either the city engineer or the building official may:
20

- 21 1. Limit the construction project to a specific seasonal time period.
- 22
- 23 2. Prevent land clearing, grading, filling, and foundation work on lots with critical slopes or
24 geologic hazard areas between October 1 and April 1, as set out in MICC 19.07.020; and
25
- 26 3. Require short term soil and drainage control measures such as, but not limited to: hemping,
27 seeding, gravel or light asphalt base roads, temporary siltation and detention ponds. (Ord. 99C-
28 13 § 1).
29
30

31 **19.08.050 Final plats.**
32

33 ...
34

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

38 Final plats submitted to the city shall consist of one mylar and one copy containing the information set
39 out below. The mylar and copy shall be 18 inches by 24 inches in size, allowing one-half inch for borders.
40 If more than one sheet is required for the mylar and copy, each sheet, including the index sheet, shall be
41 the specified size. The index sheet must show the entire subdivision, with street and highway names and
42 block numbers.
43

- 44 1. Identification and Description.

- a. Name of the long subdivision, short subdivision or lot line revision.
- b. A statement that the long subdivision or short subdivision has been made with the free consent and in accordance with the desires of the owner or owners.
- c. Location by section, township and range, or by other legal description.
- d. The name and seal of the registered engineer or the registered land surveyor.
- e. Scale shown graphically, date and north point. The scale of the final plat shall be such that all distances and bearings can be clearly and legibly shown thereon in their proper proportions. Where there is a difference between the legal and actual field distances and bearings, both distances and bearings shall be shown with the field distances and bearings shown in brackets.
- f. A description of property platted which shall be the same as that recorded in preceding transfer of said property or that portion of said transfer covered by plat. Should this description be cumbersome and not technically correct, a true and exact description shall be shown upon the plat, together with original description. The correct description follow the words: "The intent of the above description is to embrace all the following described property."
- g. A vicinity map showing the location of the plat relative to the surrounding area.

2. Delineation.

- a. Boundary plat, based on an accurate traverse, with angular and lineal dimensions.
- b. Exact location, width, and name of all streets within and adjoining the plat, and the exact location and widths of all roadways, driveways, trail easements. The name of a street shall not duplicate that of any existing street in the city, unless the platted street be a new section or continuation of the existing street.
- c. True courses and distances to the nearest established street lines or official monuments which shall accurately describe the location of the plat.
- d. Municipal, township, county or section lines accurately tied to the lines of the subdivision by courses and distances.
- e. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
- f. All easements for rights-of-way provided for public services or utilities. Utility easements shall be designated as public or private.

1
2 g. All lot and block numbers and lines, with accurate dimensions in feet and hundredths.
3 Blocks in numbered additions to subdivisions bearing the same name may be numbered
4 or lettered consecutively through the several additions. The square footage for each lot
5 less vehicular easements shall be shown.
6

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

13 i. All plat meander lines or reference lines along bodies of water shall be established
14 above the ordinary high water line of such water.
15

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

20 k. Critical areas as identified under Chapter 19.07 MICC.
21

22 l. Corner pins made of rebar with caps.
23

24 m. Designated building pads pursuant to MICC 19.09.090.
25

26 3. Other Marginal Data on Final Plat.
27

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

34 b. A copy of the protective covenants, if any.
35

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

40 d. Proper forms for the approvals of the city engineer and the mayor, on behalf of the
41 city council, in the case of a long subdivision; or the city engineer and the code official in
42 the case of short subdivisions or lot line revisions, with space for signatures.
43

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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.

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1 Chapter 19.09
2 PROPERTY DEVELOPMENT

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4 ...

5
6 **19.09.090 Building pad.**

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

- 8
9 1. The building pad shall be located to minimize impacts to the following:
- 10 a. Trees and vegetation required for retention pursuant to Chapter 19.10 MICC;
 - 11 b. The existing, natural topography as a result of anticipated development within the
 - 12 building pad;
 - 13 c. Impacts to critical areas and critical area buffers; and,
 - 14 d. The orientation of existing/proposed homes adjacent to the subdivision.

15
16 Access to the building pad shall be consistent with the standards for private access roads
17 contained in MICC 19.09.040.

18
19 2. Building pads shall not be located within:

- 20 a. Required setbacks;
- 21 b. Streets or rights of way; and;
- 22 c. Critical areas or buffers; provided building pads may be located within geohazard
23 hazard areas when all of the following are met:
 - 24 i. A qualified professional determines that the criteria of MICC 19.07.060(D), Site
25 Development, is satisfied;
 - 26 ii. Building pads are sited to minimize impacts to the extent feasible; and
 - 27 ii. Building pads are not located in steep slopes or within 10 feet from the top of
28 a steep slope, unless such slopes, as determined by a qualified professional,
29 consist of soil types determined not to be landslide prone.

30
31 3. No cross-section dimension of a building pad shall be less than 20 feet in width.

32
33 B. No Designated Building Pad.

- 34
35 1. New development proposals on a lot without a previously designated building pad area, shall
36 establish a building pad consistent with the provisions of MICC 19.09.090(A) above.
- 37
38 2. A building pad on a large lot shall comply with the provisions of 19.09.100.

39
40 C. New buildings shall be located within the building pad established by subsection "B." or "C." above.

41
42
43 **19.09.100 Preferred practices.**

44 Proposed development shall incorporate all of the following preferred development practices where
45 feasible:

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3
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10

A. Use common access drives and utility corridors.

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

C. Retaining walls should be 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 and intent.**

5 The purpose of this chapter is to prioritize the retention of large, healthy trees on Mercer Island. The
6 intent of this chapter is to promote the public health, safety, and general welfare of the citizens of
7 Mercer Island, and to protect large, healthy trees as a community resource, and to protect
8 neighborhood character.

9
10 The city recognizes that trees:

- 11 A. Minimize erosion, siltation and water pollution in Lake Washington, surface water and ground water
12 runoff;
- 13 B. Reduce the risks of landslides, and the need for additional storm drainage facilities;
- 14 C. Reduce noise and air pollution;
- 15 D. Provide wind protection, slope stabilization, animal habitat;
- 16 E. Provide an aesthetic value to the community; and,
- 17 F. Contribute to neighborhood and community character, in particular through the preservation of
18 historical trees.

19
20 The city further acknowledges that the value of trees should be balanced with the other community
21 goals of:

- 22 G. Providing delivery of reliable utility service;
- 23 H. Reasonable development of property; and,
- 24 I. Reasonable preservation or enhancement of property views.

25
26 **19.10.020 Exemptions.** The following are exempt from the provisions of this chapter:

27 A. Emergency tree removal. Any hazardous tree that poses an imminent threat to life or property may
28 be removed. The city must be notified within fourteen (14) days of the emergency tree removal with
29 evidence of the threat for removing the tree to be considered exempt from this chapter. If the city
30 arborist determines that the emergency tree removal was not warranted or if the removed tree was
31 required by a permit or as a condition of land use approval, the code official may require that the
32 property owner obtain a permit and/or require that replacement trees and vegetation be replanted as
33 mitigation.

34
35 B. Small trees. Trees that meet the definition of small trees. Provided that small trees may be
36 incorporated into a proposed replanting and retention plan, subject to review and approval by the city
37 arborist.

38
39 C. Undesired trees. Alder, Bitter Cherry, or Black Cottonwood, and any plant on the noxious or invasive
40 weed lists established by Washington State or King County, as amended.

41
42 D. Tree pruning. Tree pruning, as defined in MICC 19.16.010, on private property.

43
44 **19.10.030 Permit approval required.**

1 A. Permit approval required. A tree removal permit is required to cut, or remove directly or indirectly
2 through site grading, any large tree unless the activity is exempted pursuant to MICC 19.10.020. Permit
3 approval may take the form of a tree removal permit or it may be included in conjunction with another
4 permit such as a site development permit or building permit.

5
6 B. Peer review and conflict of interest.

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

9
10 2. Where the code official believes a conflict of interest exists (e.g. if an otherwise qualified
11 arborist is employed by a tree removal company and prepares the arborist report for a
12 development proposal), the code official may require the applicant retain a replacement
13 qualified arborist or may require a peer review.

14
15 C. Tree removal permit application form. The city shall establish and maintain a tree removal permit
16 application form to allow property owners to request city review of tree removal for compliance with
17 applicable city regulations. The application shall include at a minimum, the following:

18
19 1. General Information.

20 a. The applicant shall give the name, address and telephone number of the applicant
21 and owner of the property and the street address.

22
23 b. The applicant must provide information on the proposed location, species, diameter
24 and number of trees proposed to be cut or public tree proposed to be pruned.

25
26 c. The applicant must agree to pay all costs of cutting, pruning, removing debris,
27 cleaning, purchasing and planting replacement trees and any traffic control needed.

28
29 d. A site plan reflecting the location of large trees and the relative location of structures,
30 driveways, and buildings.

31
32 2. Critical Tree Area. An application covering a tree located in a critical tree area shall include a
33 proposed time schedule for the cutting, land restoration, implementation of erosion control and
34 other measures that will be taken in order to prevent damage to the critical tree area.

35
36 3. Development plan set. An application for a development proposal that requires tree
37 retention, and that will result in the removal of one or more trees and as a result of construction
38 work, shall include the following:

39
40 a. Detailed site plan. The site plan shall include the following information at a minimum
41 unless waived by the city arborist:

42 i. Location of all proposed improvements, including building footprint, access,
43 utilities, applicable setbacks, buffers, and required landscaped areas clearly
44 identified. If a short plat or subdivision is being proposed and the location of all

1 proposed improvements cannot be established, a phased tree retention plan
2 review is required as described below;

3
4 ii. Accurate location of large trees on the subject property (surveyed locations
5 may be required). The site plan must also include the trunk location and critical
6 root zone of large trees that are on adjacent property with driplines extending
7 over the subject property line;

8
9 iii. Trees labeled corresponding to the tree inventory numbering system;

10
11 iv. Location of tree protection measures;

12
13 v. Indicate limits of disturbance (LOD) drawn to scale around all trees potentially
14 impacted by site disturbances resulting from grading, demolition, or
15 construction activities (including approximate LOD of off-site trees with
16 overhanging driplines);

17
18 vi. Proposed tree status (trees to be removed or retained) noted by an 'X' or by
19 ghosting out;

20
21 vii. Proposed locations of any require replacement trees.

22
23 b. A Tree Retention Plan and Arborist Report. The tree retention plan shall contain the
24 following information, unless waived by the city arborist:

25
26 i. A tree inventory containing the following:

27 (A) A numbering system of all existing large trees on the subject
28 property (with corresponding tags on trees); the inventory shall also
29 include large trees on adjacent property with driplines extending into
30 the development proposal site;

31 (B) Size (diameter);

32 (C) Proposed tree status (retained or removed);

33 (D) Tree type or species;

34 (E) Brief general health or condition rating of these trees (i.e. poor, fair,
35 good, etc.)

36
37 ii. An arborist report, prepared by a qualified arborist, containing the following:

38 (A) A complete description of each tree's diameter, species, critical root
39 zone, limits of allowable disturbance, health, condition, and viability;

40 (B) A description of the method(s) used to determine the limits of
41 allowable disturbance (i.e., critical root zone, root plate diameter, or a
42 case-by-case basis description for individual trees);

43 (C) Any special instructions specifically outlining any work proposed
44 within the limits of the disturbance protection area (i.e., hand-digging,

1 air spade, tunneling, root pruning, any grade changes, clearing,
2 monitoring, and aftercare);
3 (D) For trees not viable for retention, a description of the reason(s) for
4 removal based on poor health, high risk of failure due to structure,
5 defects, unavoidable isolation (windfirmness), or unsuitability of
6 species, etc., and for which no reasonable alternative action is possible
7 must be given (pruning, cabling, etc.);
8 (E) Describe the impact of necessary tree removal to the remaining
9 trees, including those in a grove or on adjacent properties;
10 (F) For development applications, a discussion of timing and installation
11 of tree protection measures that must include fencing and be in
12 accordance with the tree protection standards as outlined in MICC
13 19.10; and
14 7) The suggested location and species of supplemental trees to be
15 used when required. The report shall include planting and maintenance
16 specifications to ensure long term survival.

17
18 c. Phased Review.

19
20 i. If during the short plat or subdivision review process the location of all
21 proposed improvements, including the building footprint, utilities, and access,
22 was not able to be established, the applicant may submit a Tree Retention Plan
23 that addresses trees only affected by the known improvements at the time of
24 application. Tree removal shall be limited to those affected areas.

25
26 ii. A new Tree Retention Plan shall be required at each subsequent phase of
27 the project as more information about the location of the proposed
28 improvements is known.

29
30 iii. Nothing in this section shall be construed to allow for a reduction in tree
31 retention unless specifically authorized by the city arborist.

32
33 4. Additional Information. The city arborist or code official may require additional
34 documentation, plans, or information as needed to ensure compliance with applicable city
35 regulations.

36
37
38
39 **19.10.040 Trees on public property.**

40 **– ADDITIONAL LANGUAGE WILL BE PROVIDED AT A LATER DATE**

41 **19.10.050 Residential Tree Retention.**

42 A. Applicability. In the R-8.4, R-9.6, R-12, and R-15 zoning designations, tree retention is required for
43 the following development proposals:
44

- 1 1. A new single family dwelling;
- 2
- 3 2. An addition or remodel to an existing single family dwelling that will result in the addition of
- 4 more than 500 square feet of gross floor area; or
- 5
- 6 3. A subdivision or short subdivision.
- 7

8 B. Retention requirement.

9

10 1. 30% of large trees on a lot subject to retention shall be retained over a rolling five year

11 period, provided the city may authorize a reduction in the number of trees retained:

12

13 a. Based upon the retention of priority trees as provided in MICC 19.10.XXX; or,

14

15 b. Removal is necessary to satisfy the terms and conditions of any covenant, condition,

16 view easement or other easement or other restriction encumbering the lot that was

17 recorded on or before July 31, 2011.

18

19 2. Development proposals on lots that have removed more than 70% of large trees within the

20 rolling five year period, such that the 30% tree retention requirement cannot be met, shall not

21 receive approval until sufficient time has elapsed to allow compliance. For example, a lot that

22 has removed all of the trees in year "one", may not receive a preliminary subdivision approval in

23 year "four". However, the preliminary subdivision approval may be granted in year "six", such

24 that the rolling five year period does not include the tree removal in year "one".

25

26 3. For the purposes of this chapter, the rolling five year period begins five years prior to the date

27 of application for a development approval that is subject to tree retention.

28

29 4. When the retention calculation results in a fraction, the fraction shall be rounded to the

30 nearest whole number as follows:

31 a. Fractions of 0.50 or above shall be rounded up; and

32 b. Fractions below 0.50 shall be rounded down.

33

34 C. Tree Retention Enforcement. Trees identified for retention through the approval of a development

35 proposal and that are removed, or are damaged to the extent that removal is required, without prior

36 written approval by the City arborist, whether intentionally or unintentionally, shall result in a civil

37 penalty pursuant to MICC 19.10.140(B), in addition to required replanting and remediation. The code

38 official may waive the civil penalty if the code official determines that appropriate tree protection

39 standards were in place and maintained, and natural disaster, or events entirely outside the control of

40 the property owner, resulted in the tree loss.

41

42 **19.10.060 Multifamily and Commercial Tree Retention.** When a tree permit is required to cut a tree on

43 private property and is not subject to the retention requirements of 19.10.050, the tree permit will be

44 granted if it meets any of the following criteria:

1
2 A. It is necessary for public safety, removal of hazardous trees, or removal of diseased or dead trees;
3

4 B. It is necessary to enable construction work on the property to proceed and the owner has used
5 reasonable best efforts to design and locate any improvements and perform the construction work in a
6 manner consistent with the purposes set forth in MICC 19.10.010;
7

8 C. It is necessary to enable any person to satisfy the terms and conditions of any covenant, condition,
9 view easement or other easement, or other restriction encumbering the lot that was recorded on or
10 before July 31, 2001; and subject to MICC 19.10.080(A)(2);
11

12 D. It is part of the city's forest management program or regular tree maintenance program and the city
13 is the applicant;
14

15
16 E. It is desirable for the enhancement of the ecosystem or slope stability based upon professional
17 reports in form and content acceptable to the city arborist.
18

19 **19.10.070. Trees Cut/Pruned by Private Utility Companies.** A tree permit will be issued to private utility
20 companies to cut trees located on public or private property if necessary for public safety, removal of
21 hazardous trees, removal of diseased or dead trees, as part of any private utility tree maintenance
22 program approved by the city, or for construction work. Regardless of whether or not a permit is
23 required, all cutting or pruning of trees by private utility companies shall be performed under the
24 supervision of a certified arborist and at the sole cost and expense of the utility company.
25

26 **19.10.080 Tree retention prioritization.**

27 A. Trees that meet the following criteria are prioritized for retention:
28

- 29 1. Trees that are in overall good health and have a greater likelihood of longevity; and
30
31 2. Large coniferous trees with a diameter of 24 inches or greater; or
32
33 3. Large deciduous trees with a diameter of 30 inches or greater.
34

35 B. Every tree retained that meets the criteria in section "A." above for prioritization shall account for 1.5
36 trees of retention. For example, a development that is required to retain 10 trees, may reduce the
37 actual number of trees retained to 8 trees by retaining 4 trees meeting the prioritization in section "A."
38 above, and 4 trees that do not meet the above prioritization.
39

40 C. When the prioritization calculation results in a fraction, the fraction shall be rounded to the nearest
41 whole number as follows:
42

- 43 1. Fractions of 0.50 or above shall be rounded up; and
44

1 2. Fractions below 0.50 shall be rounded down.
2

3 **19.10.090 Tree protection standards.**

4 A. To ensure long-term viability of trees identified for protection, permit plans and construction
5 activities shall comply with the following minimum required tree protection:
6

7 1. All minimum required tree protection measures shall be shown on the development plan set
8 and tree re-planting / restoration / protection plan.
9

10 2. Tree protection barriers shall be installed five feet beyond the drip line of large trees to be
11 protected prior to any land disturbance. No construction related activity or work shall occur
12 within the tree protection barriers.
13

14 3. Tree protection barriers shall be a minimum of four feet high, constructed of chain link, or
15 polyethylene laminar safety fencing or other material, subject to approval by the city arborist.
16 On large or multiple-project sites, the city arborist may also require that signs requesting
17 subcontractor cooperation and compliance with tree protection standards be posted at site
18 entrances.
19

20 4. Where tree protection areas are remote from areas of land disturbance, and where approved
21 by the city arborist, alternative forms of tree protection may be used in lieu of tree protection
22 barriers, provided that protected trees are completely surrounded with continuous rope or
23 flagging and are accompanied by "Tree Save Area – Keep Out" signs or similar signage
24 authorized by the city arborist.
25

26 B. Preventative Measures. In addition to the above minimum protection measures, the applicant shall
27 support the protection measures by employing, as appropriate, the following preventative measures,
28 consistent with best management practices for maintaining the health of the tree:
29

- 30 1. Retained trees shall not be topped;
31
32 2. Excessive pruning shall not be allowed unless necessary to protect life and property;
33
34 3. Visible deadwood on trees to be protected or relocated shall be pruned;
35
36 4. Fertilizer shall be applied to enhance the vigor of stressed trees;
37
38 5. Use soil amendments and soil aeration in planting areas;
39
40 6. Apply mulch over tree drip line areas; and
41
42 7. Ensure proper water availability before, during, and after construction.
43

44 C. Alternative Methods.

1 1. The city arborist may approve the use of alternative tree protection and/or preventative
2 measures if a protected tree will be protected to an equal or greater degree than through the
3 techniques listed above.

4
5 2. The city arborist may approve construction related activity or work within the tree protection
6 barriers if the city arborist concludes that such activity or work will not threaten the long term
7 health of the retained tree(s).

8
9 **19.10.100 Seasonal development limitations.**

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

18
19 **19.10.100 Commission review required in commercial zones.**

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

23
24 **19.10.110 Tree replacement.**

25 Any trees that are cut pursuant to a tree permit shall be replaced on the subject property as specified in
26 this section.

27
28 A. Private Utility Company. If the permit is granted to a private utility company and the property owner
29 is unwilling to place any replacement trees on the owner's property, the private utility company shall
30 pay to the city the amount necessary to purchase and plant replacement trees on public property
31 necessary to mitigate the impact of the removed trees based upon arborist industry standards. Monies
32 paid to the city for replacement trees shall be used for that purpose.

33
34 B. Species. In making a determination regarding the species of replacement trees, the city arborist shall
35 defer to the species selected by the property owner unless the city arborist determines that the species
36 selected is unlikely to survive for a period of at least 10 years, represents a danger or nuisance, would
37 threaten overhead or underground utilities or would fail to provide adequate protection to any critical
38 tree area.

39
40 C. Size. All replacement coniferous trees shall be at least six feet tall and all replacement deciduous trees
41 shall be at least 1.5 inches in caliper. . The city arborist may authorize the planting of smaller-sized
42 replacement trees if the applicant can demonstrate that smaller trees are more suited to the species,
43 the site conditions, and the purposes of this section, and that such replacement trees will be planted in
44 sufficient quantities to meet the intent of this section.

1
2 D. Replacement Trees..

3 1. Number. Any large tree removed shall be subject to the following replacement requirements:

4 a. One replacement tree for each coniferous tree with a diameter of 12 inches or more
5 removed and one replacement tree for each deciduous tree with a diameter of 18
6 inches or more.

7 b. Two replacement trees for each coniferous tree with a diameter of 24 inches or more
8 removed and one replacement tree for each deciduous tree with a diameter of 30
9 inches or more.

10 c. Four replacement trees for each coniferous or deciduous tree with a diameter of
11 more than 36 inches.

12 d. The city arborist may reduce the number of replacement trees where other measures
13 design to mitigate the loss of trees by restoring the tree canopy coverage and its
14 associated benefits may be considered. The city arborist may consider, but is not
15 limited to, the following measures:

- 16 i. Replacement of hazardous, undesired, or short-lived trees with healthy new
17 trees that have a greater chance of long-term survival;
18 ii. Restoration of critical tree areas with native vegetation; and,
19 iii. Protection of small trees to provide for successional stages of tree canopy.

20 2. Location. Replacement trees shall be located in the following order of priority from most
21 important to least important:

- 22 a. On-site replacement adjacent to or within critical tree areas;
23 b. On-site replacement outside of critical tree areas; and
24 c. Off-site in adjacent public right-of-way where explicitly authorized by the city.

25 3. In-lieu Options. If the city arborist determines there is insufficient area to replant on the site
26 or within the adjacent public right-of-way, the city arborist may authorize the following:

- 27 a. Donation. Donation of replacement trees for planting within city parks, public right-
28 of-way, or other locations that will provide for community benefit; or
29 b. Fee-in-lieu. The city's acceptance of this payment is discretionary, and may be
30 permitted if the proposed on-site tree replacement does not meet the requirements of
31 this chapter, or tree replacement or management provided within public right-of-way or
32 a city park in the vicinity will be of greater benefit to the community. Fees provided in
33 lieu of on-site tree replacement shall be determined based upon the expected tree
34 replacement cost including labor and materials.

35
36
37 . Maintenance of Replacement Trees. The applicant shall maintain all replacement trees in a healthy
38 condition for a period of two years after planting. The applicant shall be obligated to replant any
39 replacement tree that dies, becomes diseased or is removed during this two-year time period.

40
41
42
43
44 **19.10.120 Nuisance abatement.**

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

3
4 B. In addition to the provisions of Chapter 8.24 MICC, Nuisance Control Code, the following
5 requirements shall apply to trees and vegetation:

6
7 1. Branches over roads shall be trimmed to a minimum of 12 feet above the road surface. (see
8 Figure 1).

9
10 2. Branches over sidewalks shall be trimmed to a minimum of eight feet above the sidewalk and
11 one foot behind the sidewalk (see Figure 1).

12
13 3. Street trees and other vegetation will be spaced according to the following spacing
14 requirements to facilitate the safe flow of traffic (see Figure 2):

15 a. No tree plantings are allowed within a 30-foot sight triangle at any street intersection.

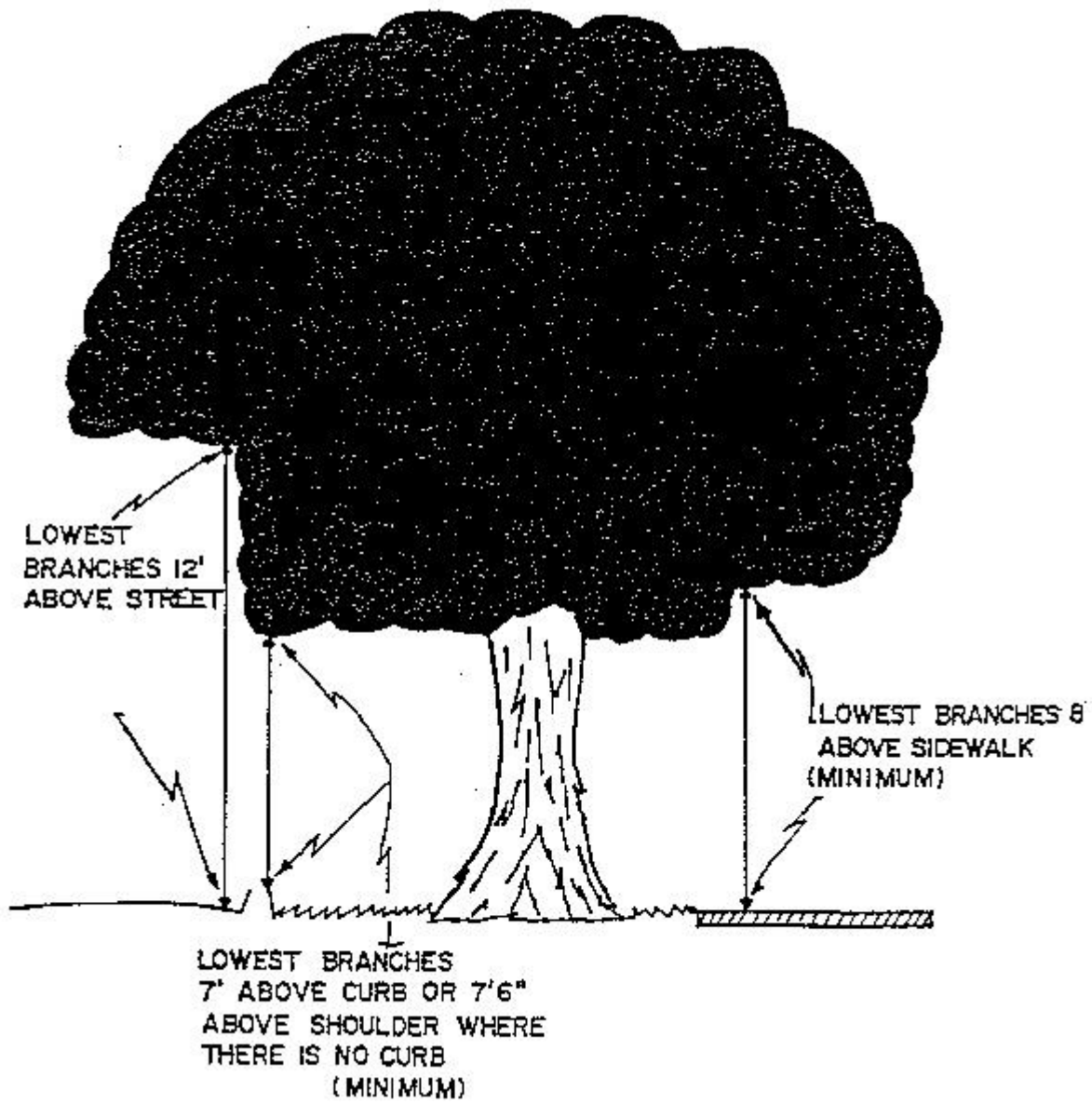
16 b. Shrubs shall not exceed 36 inches in height above the street level within this triangle.

17 c. Ten-foot minimum spacing shall be observed for small trees.

18 d. Hedges are not allowed between the sidewalk and the curb, and must be planted at
19 least five feet behind the sidewalk.

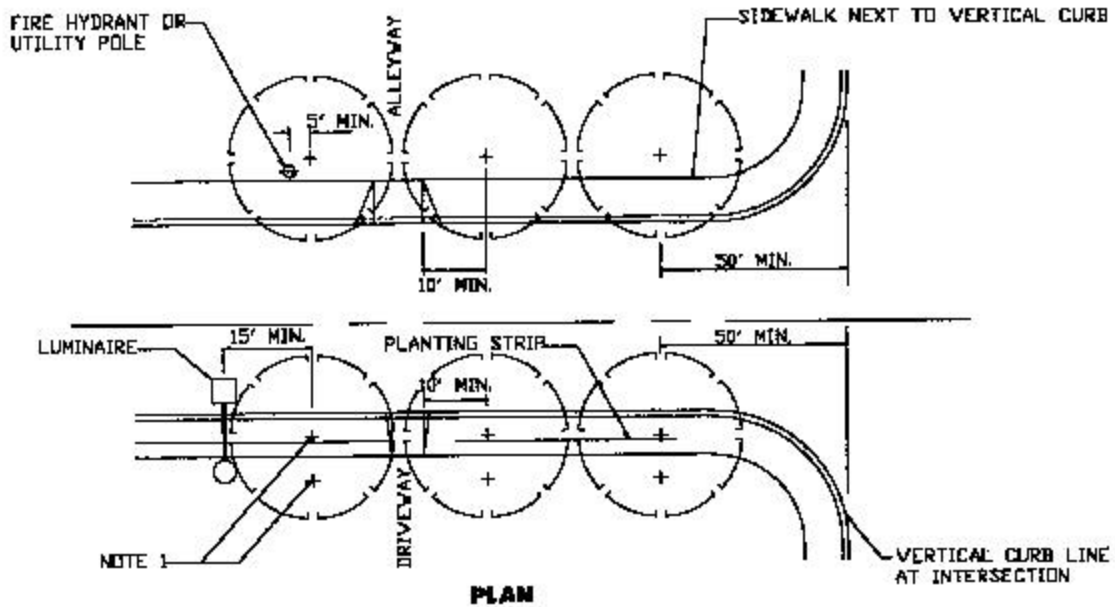
20 e. Hedges must be trimmed at least three feet behind the sidewalk.

21 f. Plantings of trees, shrubs or hedges are not allowed between the street/road edge
22 and a ditch.
23
24
25
26
27
28
29




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 19.10.130 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
6 **19.10.140 Enforcement.**

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

9
10 B. Civil Penalty and Remediation.

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

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

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

23
24
25 **19.10.150 Landmark trees.**

26 A. Designation of Landmark Trees and Landmark Groves.

27
28 1. The city shall maintain a register of landmark trees and landmark groves.

29
30 2. A property owner may propose to the city that a tree or grove of trees located on his or her
31 private property be designated as a landmark tree or landmark grove. Any city resident may
32 propose to the city that a tree or grove of trees located on public property be designated as a
33 landmark tree or landmark grove. No tree or grove of trees may be designated without the
34 approval of the property owner(s) on which the tree or grove, or any portion of the tree's
35 branches or canopy, is located. Once such approval is given, however, it may not subsequently
36 be withdrawn by the property owner or by a subsequent property owner.

37
38 3. Upon receipt of a proposed designation and the approval of the property owner, the city
39 arborist shall determine whether the tree or grove satisfies the definition of landmark tree or
40 landmark grove.

41
42 4. If the city arborist approves the proposed designation, it shall be memorialized in a covenant
43 signed by the city and the property owner(s) and in form acceptable to the city attorney. The
44 covenant shall require that the tree(s) or grove be maintained in a manner that is consistent

1 with the provisions of this section. The covenant shall be recorded by the county auditor. The
2 city shall pay recording fees. The covenant and designation shall be effective from the date of
3 recording until such time as a tree permit has been issued for the cutting of the tree or grove of
4 trees.

5
6 5. Upon request of a property owner, the city arborist shall provide reasonable advice and
7 consultation on maintenance of any landmark tree or landmark grove without charge to the
8 property owner.

9
10 B. Tree Permit Requirements.

11
12 1. A tree permit to cut a landmark tree or a tree that is in a landmark grove as a result of
13 construction work will only be granted if the applicant has used reasonable best efforts to
14 design and locate the project so as to avoid having to cut the landmark tree or any trees in the
15 landmark grove.

16
17 2. A tree permit to cut a landmark tree or a tree in a landmark grove other than as a result of
18 construction work will only be granted if the applicant demonstrates that the tree removal is
19 necessary for safety, removal of hazardous trees, removal of diseased or dead branches or trees,
20 or if retention of the tree or grove will have a material, adverse and unavoidable impact on the
21 use of the property the use of the property.
22

1 Chapter 19.15
2 ADMINISTRATION
3
4

5 **19.15.010 General procedures.**

6 A. Purpose. Administration of the development code is intended to be expedient and effective. The
7 purpose of this chapter is to identify the processes, authorities and timing for administration of
8 development permits. Public noticing and hearing procedures, decision criteria, appeal procedures,
9 dispute resolution and code interpretation issues are also described.

10
11 B. Objectives. Guide customers confidently through the permit process; process permits equitably and
12 expediently; balance the needs of permit applicants with neighbors; allow for an appropriate level of
13 public notice and involvement; make decisions quickly and at the earliest possible time; allow for
14 administrative decision-making, except for those decisions requiring the exercise of discretion which are
15 reserved for appointed decision makers; ensure that decisions are made consistently and predictably;
16 and resolve conflicts at the earliest possible time.

17
18 C. Roles and Responsibilities. The roles and responsibilities for carrying out the provisions of the
19 development code are shared by appointed boards and commissions, elected officials and city staff. The
20 authorities of each of these bodies are set forth below.

21
22 1. City Council. The city council is responsible for establishing policy and legislation affecting land
23 use within the city. The city council acts on recommendations of the planning commission in
24 legislative and quasi-judicial matters, and serves as the appeal authority on discretionary
25 actions.

26
27 2. Planning Commission. The role of the planning commission in administering the development
28 code is governed by Chapter 3.46 MICC. In general, the planning commission is the designated
29 planning agency for the city (see Chapter 35A.63 RCW). The planning commission is responsible
30 for final action on a variety of discretionary permits and makes recommendations to the city
31 council on land use legislation, comprehensive plan amendments and quasi-judicial matters. The
32 planning commission also serves as the appeal authority for some ministerial and administrative
33 actions.

34
35 3. Design Commission. The role of the design commission in administering the development
36 code is governed by Chapter 3.34 MICC and MICC 19.15.040. In general, the design commission
37 is responsible for maintaining the city's design standards and action on sign, commercial and
38 multiple-family design applications.

39
40 4. Building Board of Appeals. The role of the building board of appeals in administering the
41 construction codes is governed by Chapter 3.28 MICC. In general, the building board of appeals
42 is responsible for hearing appeals of interpretations or application of the construction codes set
43 forth in MICC Title 17.
44

1 5. Development Services Group. The responsible officials in the development services group act
2 upon ministerial and administrative permits.

3
4 a. The code official is responsible for administration, interpretation and enforcement of
5 the development code.

6
7 b. The building official is responsible for administration and interpretation of the
8 building code, except for the International Fire Code.

9
10 c. The city engineer is responsible for the administration and interpretation of
11 engineering standards.

12
13 d. The environmental official is responsible for the administration of the State
14 Environmental Policy Act and shoreline master program.

15
16 e. The fire code official is responsible for administration and interpretation of the
17 International Fire Code.

18
19 6. Hearing Examiner. The role of the hearing examiner in administering the development code is
20 governed by Chapter 3.40 MICC.

21
22 D. Actions. There are four categories of actions or permits that are reviewed under the provisions of the
23 development code.

24
25 1. Ministerial Actions. Ministerial actions are based on clear, objective and nondiscretionary
26 standards or standards that require the application of professional expertise on technical issues.

27
28 2. Administrative Actions. Administrative actions are based on objective and subjective
29 standards that require the exercise of limited discretion about nontechnical issues.

30
31 3. Discretionary Actions. Discretionary actions are based on standards that require substantial
32 discretion and may be actions of broad public interest. Discretionary actions are only taken after
33 an open record hearing.

34
35 4. Legislative Actions. Legislative actions involve the creation, amendment or implementation of
36 policy or law by ordinance. In contrast to the other types of actions, legislative actions apply to
37 large geographic areas and are of interest to many property owners and citizens. Legislative
38 actions are only taken after an open record hearing.

39
40 E. Summary of Actions and Authorities. The following is a nonexclusive list of the actions that the city
41 may take under the development code, the criteria upon which those decisions are to be based, and
42 which boards, commissions, elected officials, or city staff have authority to make the decisions and to
43 hear appeals of those decisions.

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Ministerial Actions			
Tree Removal Permit	Code official	Chapter 19.10	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
Lot Line Adjustment Permit	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	Planning commission
Seasonal Development Limitation Waiver	Building official or city arborist	MICC 19.10.030 , 19.07.060 (D)(4)	Building board of appeals
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
Administrative Actions			
Accessory Dwelling Unit Permit	Code official	MICC 19.02.030	Hearing examiner

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Preliminary Short Plat	Code official	Chapter 19.08 MICC	Planning commission
Deviation	Code official	MICC 19.15.020 (G)	Planning commission
Critical Areas Determination	Code official	Chapter 19.07 MICC	Planning commission
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	Planning commission
Short Plat Alteration and Vacations	Code official	MICC 19.08.010 (G)	Hearing examiner
Long Plat Alteration and Vacations	City council via planning commission	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 19.06.040 (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 19.03.020 (B)(4), 19.04.040 (B)(9), 19.05.020 (B)(9) and 19.15.020 (G)	Hearing examiner
Discretionary Actions			
Conditional Use Permit	Planning commission	MICC 19.11.150 (B), 19.15.020 (G)	Hearing examiner
Reclassification (Rezone)	City council via planning commission ²	MICC 19.15.020 (G)	Superior court

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
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 planning commission 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)	Superior court
Variance from Short Plat Acreage Limitation	Planning commission	MICC 19.08.020	City council
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 19.02.020 (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

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
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) .			

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19.15.020 Permit review procedures.

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

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

B. Application.

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

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

C. Determination of Completeness.

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

1 2. Within 28 days after receiving a development permit application, the city shall mail or provide
2 in person a written determination to the applicant, stating either that the application is
3 complete or that the application is incomplete and what is necessary to make the application
4 complete. An application shall be deemed complete if the city does not provide a written
5 determination to the applicant stating that the application is incomplete.
6

7 3. Within 14 days after an applicant has submitted all additional information identified as being
8 necessary for a complete application, the city shall notify the applicant whether the application
9 is complete or what additional information is necessary.
10

11 4. If the applicant fails to provide the required information within 90 days of the determination
12 of incompleteness, the application shall lapse. The applicant may request a refund of the
13 application fee minus the city's cost of determining the completeness of the application.
14

15 D. Notice of Application.
16

17 1. Within 14 days of the determination of completeness, the city shall issue a notice of
18 application for all administrative, discretionary, and legislative actions listed in MICC
19 19.15.010(E).
20

21 2. The notice of application shall include the following information:
22

23 a. The dates of the application, the determination of completeness, and the notice of
24 application;
25

26 b. The name of the applicant;
27

28 c. The location and description of the project;
29

30 d. The requested actions and/or required studies;
31

32 e. The date, time, and place of the open record hearing, if one has been scheduled;
33

34 f. Identification of environmental documents, if any;
35

36 g. A statement of the public comment period, which shall be not less than 14 days nor
37 more than 30 days following the date of notice of application; and a statement of the
38 rights of individuals to comment on the application, receive notice and participate in any
39 hearings, request a copy of the decision once made and any appeal rights;
40

41 h. The city staff contact and phone number;
42

43 i. The identification of other permits not included in the application to the extent known
44 by the city;

1
2 j. A description of those development regulations used in determining consistency of
3 the project with the city's comprehensive plan; and
4

5 k. Any other information that the city determines appropriate.
6

7 3. Open Record Hearing. If an open record hearing is required on the permit, the city shall:
8

9 a. Provide the notice of application at least 15 days prior to the hearing; and
10

11 b. Issue any threshold determination required under MICC 19.07.110 at least 15 days
12 prior to the hearing.
13

14 4. Notice shall be provided in the bi-weekly DSG bulletin, posted at City Hall and made available
15 to the general public upon request.
16

17 5. All comments received on the notice of application must be received by the development
18 services group by 5 pm on the last day of the comment period.
19

20 6. Except for a determination of significance, the city shall not issue a threshold determination
21 under MICC 19.07.110 or issue a decision on an application until the expiration of the public
22 comment period on the notice of application.
23

24 7. A notice of application is not required for the following actions; provided, the action is either
25 categorically exempt from SEPA or an environmental review of the action in accordance with
26 SEPA has been completed:
27

28 a. Building permit;
29

30 b. Lot line revision;
31

32 c. Right-of-way permit;
33

34 d. Storm drainage permit;
35

36 e. Home occupation permit;
37

38 f. Design review – minor new construction;
39

40 g. Final plat approval;
41

42 h. Shoreline exemption permit;
43

44 i. Critical lands determination; and

1
2 j. Seasonal development limitation waiver.
3

4 E. Public Notice.
5

6 1. In addition to the notice of application, a public notice is required for all administrative,
7 discretionary, and legislative actions listed in MICC 19.15.010(E).
8

9 2. Public notice shall be provided at least 10 days prior to any required open record hearing. If
10 no such hearing is required, public notice shall be provided 10 days prior to the decision on the
11 application.
12

13 3. The public notice shall include the following:
14

15 a. A general description of the proposed project and the action to be taken by the city;
16

17 b. A nonlegal description of the property, vicinity map or sketch;
18

19 c. The time, date and location of any required open record hearing;
20

21 d. A contact name and number where additional information may be obtained;
22

23 e. A statement that only those persons who submit written comments or testify at the
24 open record hearing will be parties of record; and only parties of record will receive a
25 notice of the decision and have the right to appeal; and
26

27 f. A description of the deadline for submitting public comments.
28

29 4. Public notice shall be provided in the following manner:
30

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

34 i. Long Subdivisions. Additional notice for long subdivisions shall be provided as
35 follows:

36 (A) Public notice shall also be published at least 10 days prior to the
37 open record hearing on the application in a newspaper of general
38 circulation within the city.
39

40 (B) If the owner of a proposed long subdivision owns land adjacent to
41 the proposed long subdivision, that adjacent land shall be treated as
42 part of the long subdivision for notice purposes, and notice of the
43 application shall be given to all owners of lots located within 300 feet of
44 the proposed long subdivision or the applicant's adjacent land.

1
2 (C) The city shall provide written notice to the Department of
3 Transportation of an application for a long subdivision or short
4 subdivision that is located adjacent to the right-of-way of a state
5 highway. The notice shall include a legal description of the long
6 subdivision or short subdivision and a location map.
7

8 b. Legislative Action. Notice shall be published in a newspaper of general circulation
9 within the city.
10

11 F. Open Record Hearing.
12

13 1. Only one open record hearing shall be required prior to action on all discretionary and
14 legislative actions except design review and street vacations.
15

16 2. Open record hearings shall be conducted in accordance with the hearing body's rules of
17 procedures. In conducting an open record hearing, the hearing body's chair shall, in general,
18 observe the following sequence:
19

20 a. Staff presentation, including the submittal of any additional information or
21 correspondence. Members of the hearing body may ask questions of staff.
22

23 b. Applicant and/or applicant representative's presentation. Members of the hearing
24 body may ask questions of the applicant.
25

26 c. Testimony by the public. Questions directed to the staff, the applicant or members of
27 the hearing body shall be posed by the chairperson at his/her discretion.
28

29 d. Rebuttal, response or clarifying statements by the applicant and/or the staff.
30

31 e. The public comment portion of the hearing is closed and the hearing body shall
32 deliberate on the action before it.
33

34 3. Following the hearing procedure described above, the hearing body shall:
35

36 a. Approve;
37

38 b. Conditionally approve;
39

40 c. Continue the hearing; or
41

42 d. Deny the application.
43

1 G. Decision Criteria. Decisions shall be based on the criteria specified in the Mercer Island City Code for
2 the specific action. An applicant for a development proposal shall have the burden of demonstrating
3 that the proposed development complies with the applicable regulations and decision criteria. A
4 reference to the code sections that set out the criteria and standards for decisions appears in MICC
5 19.15.010(E). For those actions that do not otherwise have criteria specified in other sections of the
6 code, the following are the required criteria for decision:
7

8 1. Comprehensive Plan Amendment.
9

10 a. The amendment is consistent with the Growth Management Act, the county-wide
11 planning policies, and the other provisions of the comprehensive plan and city policies;
12 and:

13 i. There exists obvious technical error in the information contained in the
14 comprehensive plan; or

15 ii. The amendment addresses changing circumstances of the city as a whole.
16

17 b. If the amendment is directed at a specific property, the following additional
18 findings shall be determined:
19

20 i. The amendment is compatible with the adjacent land use and development
21 pattern;

22 ii. The property is suitable for development in conformance with the standards
23 under the potential zoning; and
24

25 iii. The amendment will benefit the community as a whole and will not adversely
26 affect community facilities or the public health, safety, and general welfare.
27

28 2. Reclassification of Property (Rezoning).
29
30

31 a. The proposed reclassification is consistent with the policies and provisions of the
32 Mercer Island comprehensive plan;

33 b. The proposed reclassification is consistent with the purpose of the Mercer Island
34 development code as set forth in MICC 19.01.010;
35

36 c. The proposed reclassification is an extension of an existing zone, or a logical transition
37 between zones;
38

39 d. The proposed reclassification does not constitute a "spot" zone;
40
41
42
43

1 e. The proposed reclassification is compatible with surrounding zones and land uses;
2 and

3
4 f. The proposed reclassification does not adversely affect public health, safety and
5 welfare.

6
7 3. Conditional Use Permit.

8
9 a. The permit is consistent with the regulations applicable to the zone in which the lot is
10 located;

11
12 b. The proposed use is determined to be acceptable in terms of size and location of site,
13 nature of the proposed uses, character of surrounding development, traffic capacities of
14 adjacent streets, environmental factors, size of proposed buildings, and density;

15
16 c. The use is consistent with policies and provisions of the comprehensive plan; and

17
18 d. Conditions shall be attached to the permit assuring that the use is compatible with
19 other existing and potential uses within the same general area and that the use shall not
20 constitute a nuisance.

21
22 4. Variances. An applicant or property owner may request a variance from any numeric
23 standard, except for the standards contained within Chapter 19.07 MICC. A variance shall be
24 granted by the city only if the applicant can meet criteria "a." through "g.". A variance for
25 increased impervious surface pursuant to subsection "h." shall be granted by the city only if the
26 applicant can meet criteria "a." through "h.":

27
28 a. The strict enforcement of the provisions of Title 19 MICC will create an unnecessary
29 hardship to the property owner;

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

31
32 c. No use variance shall be allowed;

33
34 d. There are special circumstances applicable to the particular lot such as the size,
35 shape, topography, or location of the lot; the trees, groundcover, or other physical
36 conditions of the lot and its surroundings; or factors necessary for the successful
37 installation of a solar energy system such as a particular orientation of a building for the
38 purposes of providing solar access;

39
40 e. The granting of the variance will not be materially detrimental to the public welfare or
41 injurious to the property or improvements in the vicinity and zone in which the property
42 is situated;

43

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

3
4 g. The variance is consistent with the policies and provisions of the comprehensive plan
5 and the development code.

6
7 h. Public and private schools, religious institutions, private clubs and public facilities in
8 single-family zones with slopes of less than 15 percent may request a variance to
9 increase the impervious surface to a maximum 60 percent impervious surface and such
10 variance application will be granted if the hearing examiner determines that the
11 applicant has demonstrated that the following criteria are satisfied:

12
13 i. There will be no net loss of pervious surface from the existing pervious
14 surface. No net loss will be determined by the code official and may be achieved
15 by off-site mitigation and/or by reconstructing existing parking areas to allow
16 stormwater penetration. This replacement will be an exception to subsection
17 (D)(2)(b) of this section prohibiting parking areas from being considered as
18 pervious surfaces;

19
20 ii. All stormwater discharged shall be mitigated consistent with the most recent
21 Washington State Department of Ecology Stormwater Management Manual for
22 Western Washington, including attenuation of flow and duration. Mitigation will
23 be required for any and all new and replaced impervious surfaces. In designing
24 such mitigation, the use of a continuous simulation hydrologic model such as
25 KCRS or WWHM shall be required; event based models will not be allowed. In
26 addition, mitigation designs shall utilize flow control best management practices
27 (BMPs) and low impact development (LID) techniques to infiltrate, disperse and
28 retain stormwater on site to mitigate the increased volume, flow and pollutant
29 loading to the maximum extent feasible;

30
31 iii. The director must approve a storm drainage report submitted by the
32 applicant and prepared by a licensed civil engineer assuring the city that city
33 infrastructure, in concert with the project design, is adequate to accommodate
34 storm drainage from the project site, or identifying appropriate improvements
35 to public and/or private infrastructure to assure this condition is met, at the
36 applicant's expense; and,

37
38 iv. The variance may not be used with other provisions to exceed this maximum
39 60 percent impervious surface coverage.

40
41
42 5. Deviation. An applicant may request a deviation only from those numeric standards that have
43 been specifically designated below in subsections "b." and "c." and MICC 19.07.060(4) as being

1 subject to a deviation. A deviation shall be granted by the city only if the applicant demonstrates
2 all of the following:

3
4 a. General deviation criteria. All deviations shall be subject to the following criteria:

5
6 i. No use deviation shall be allowed;

7
8 ii. The granting of the deviation will not be materially detrimental to the public
9 welfare or injurious to the property or improvements in the vicinity and zone in
10 which the property is situated;

11
12 iii. The granting of the deviation will not alter the character of the
13 neighborhood, nor impair the appropriate use or development of adjacent
14 property; and

15
16 iv. The deviation is consistent with the policies and provisions of the
17 comprehensive plan and the development code.

18
19 v. Existing structures or sites that were established without prior land use and
20 permit approval (i.e. an illegally established non-conformance) shall not be
21 brought into compliance through the use of a deviation.

22
23 vi. The basis for requesting the deviation is not the direct result of a past action
24 by the current or prior property owner.

25
26 b. Setback Deviation. Deviations from the yard requirements of MICC 19.02.020, shall be
27 approved by the code official, provided the application meets the general criteria in
28 subsection "a." above and the following additional criteria:

29
30 i. The setback deviation is associated with the approval of development of a
31 single lot or subdivision.

32
33 ii. The building pad resulting from the proposed deviation will result in less
34 impact to critical areas or critical areas buffers.

35
36 iii. Yard setbacks shall not be reduced below the following minimums:

37
38 (A) . Front and rear setbacks may not be reduced to less than 10 feet
39 each;

40
41 (B) . Side setbacks may not be reduced to less than five feet.

42 c. Fence or Gate Height Deviations. Deviations from the 42-inch height limitation set out
43 in 19.02.050 subsections (E)(1) and (D)(5) shall be approved by the code official

1 provided the application meets the general criteria in subsection "a." above and the
2 following additional criteria:

3
4 i. For nonregulated improvements, a request for a deviation of up to 72 inches
5 within a yard along a street shall meet the following criteria:

6
7 (A) The proposed fence or gate will not unduly impact traffic,
8 pedestrian, or public safety.

9
10 (B) The proposed fence or gate is located along a property line directly
11 adjacent to a principal, secondary, or collector arterial.

12
13 (C) The proposed fence or gate meets one of the following:

14 (1) The proposed fence or gate will be located a minimum of 5
15 feet from the street property line and will be screened by

16 landscaping designed to soften the presence of the fence; or,

17 (2) The proposed fence or gate is a decorative wrought iron
18 fence of open work design with at least 50 percent of its total
19 surface area consisting of evenly distributed open spaces.

20
21 ii. For regulated improvements, deviations to fence height shall be reviewed by
22 the design commission under the procedures and criteria set forth in MICC
23 19.15.040.

24
25 ...

26
27 **K. Expiration of Approvals.**

28 1. General. Except for long and short subdivisions, building permits or as otherwise conditioned
29 in the approval process, permits shall expire one year from the date of notice of decision if the
30 activity approved by the permit is not exercised.

31 2. Long and short subdivision.

32
33 a. Once the preliminary plat for a long subdivision has been approved by the city, the
34 applicant has five years to submit a final plat meeting all requirements of this chapter to
35 the city council for approval.

36
37 b. Once the preliminary plat for a short subdivision has been approved by the city, the
38 applicant has one year to submit a final plat meeting all requirements of this chapter. A
39 plat that has not been recorded within one year after its preliminary approval shall
40 expire, becoming null and void. The city may grant a single one-year extension, if the
41 applicant submits the request in writing before the expiration of the preliminary
42 approval.

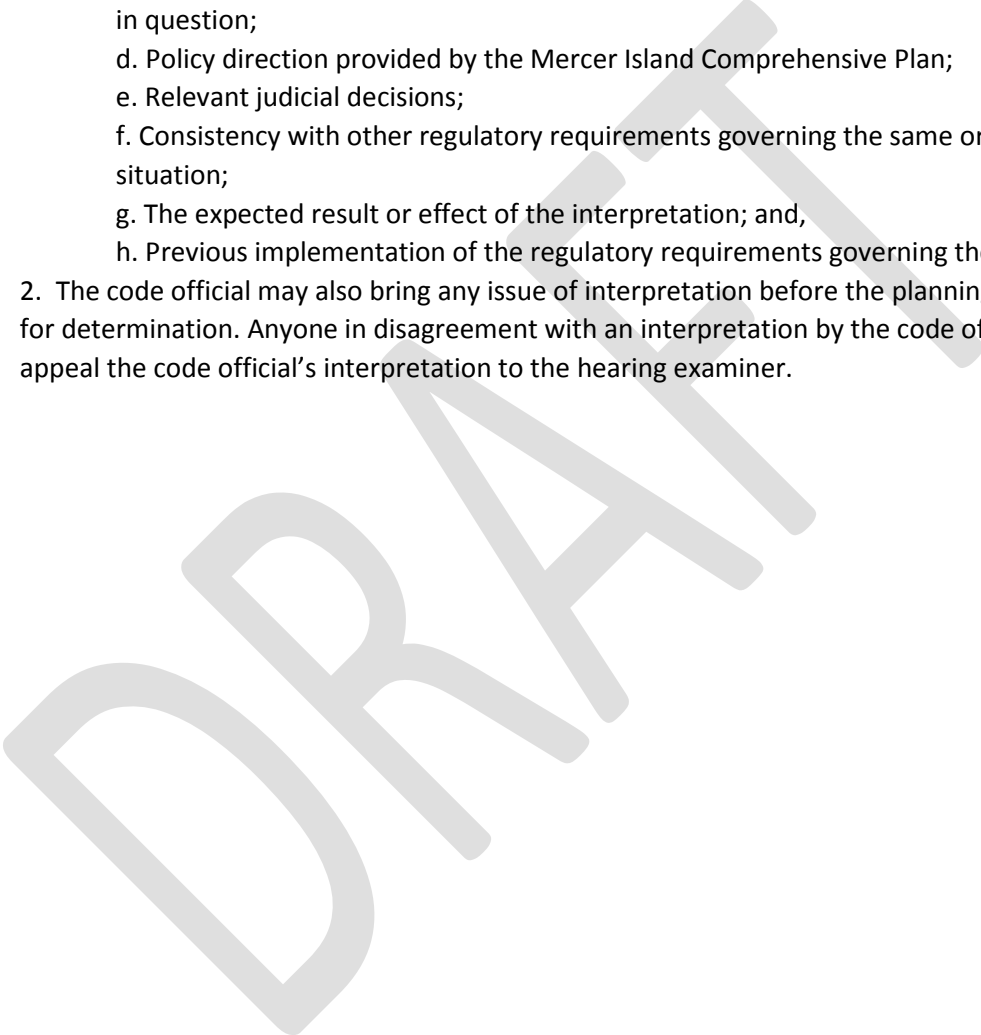
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44 c. In order to renew an expired preliminary plat, a new application must be submitted.

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3. Responsibility for knowledge of the expiration date shall be with the applicant.

L. Code Interpretations.

1. Upon formal application or as determined necessary, the code official shall interpret the meaning or application of provisions of the development code. In issuing the interpretation, the code official shall consider the following:
 - a. The plain language of the code section in question;
 - b. Purpose and intent statement of the chapters in question;
 - c. Legislative intent of the City Council provided with the adoption of the code sections in question;
 - d. Policy direction provided by the Mercer Island Comprehensive Plan;
 - e. Relevant judicial decisions;
 - f. Consistency with other regulatory requirements governing the same or similar situation;
 - g. The expected result or effect of the interpretation; and,
 - h. Previous implementation of the regulatory requirements governing the situation.
2. The code official may also bring any issue of interpretation before the planning commission for determination. Anyone in disagreement with an interpretation by the code official may also appeal the code official's interpretation to the 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 Detached accessory buildings include, but are not limited to, garages, cabanas, guest rooms, and
13 other similar buildings.

14 ...

15
16 Accessory Structure: A separate structure that is accessory and subordinate or incidental to the main
17 building on the same lot including, but not limited to, the following: decks, porches, fences, trellises, and
18 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 Average Building Elevation: The reference point on the surface topography of a lot from which building
29 height is measured. Elevation established by averaging the elevation at existing grade. The elevation
30 points to be averaged shall be located at the center of all exterior walls of the completed building;
31 provided:

32 1. Roof overhangs and eaves, chimneys and fireplaces, unenclosed projecting wall elements
33 (columns and fin walls), unenclosed and unroofed stairs, and porches, decks and terraces may
34 project outside exterior walls and are not to be considered as walls.

35

36 2. If the building is circular in shape, four points, 90 degrees apart, at the exterior walls, shall be
37 used to calculate the average building elevation.

38

39 3. For Properties within the Town Center: If a new sidewalk is to be installed as the result of a
40 new development, the midpoint elevation for those walls adjacent to the new sidewalk shall be
41 measured from the new sidewalk elevation, rather than existing grade prior to development
42 activity. The city engineer shall determine the final elevation of the sidewalk.

43

44 Formula:

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

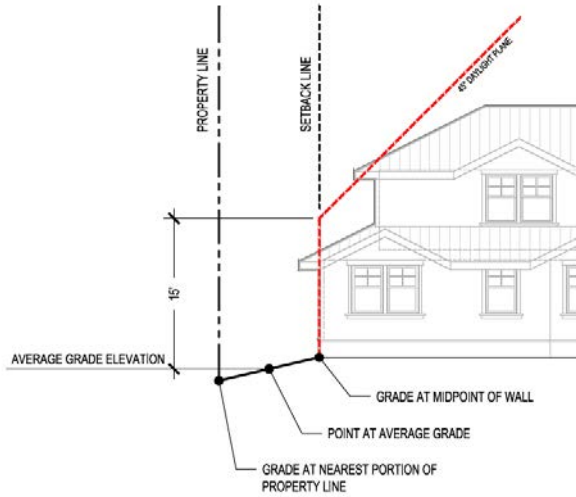
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5 Building: A structure having a roof, but excluding trailers, mobile homes, and all other forms of vehicles
6 even though immobilized. Where this code requires, or where special authority granted pursuant to this
7 code requires that a use shall be entirely enclosed within a building, this definition shall be qualified by
8 adding “and enclosed on all sides.”

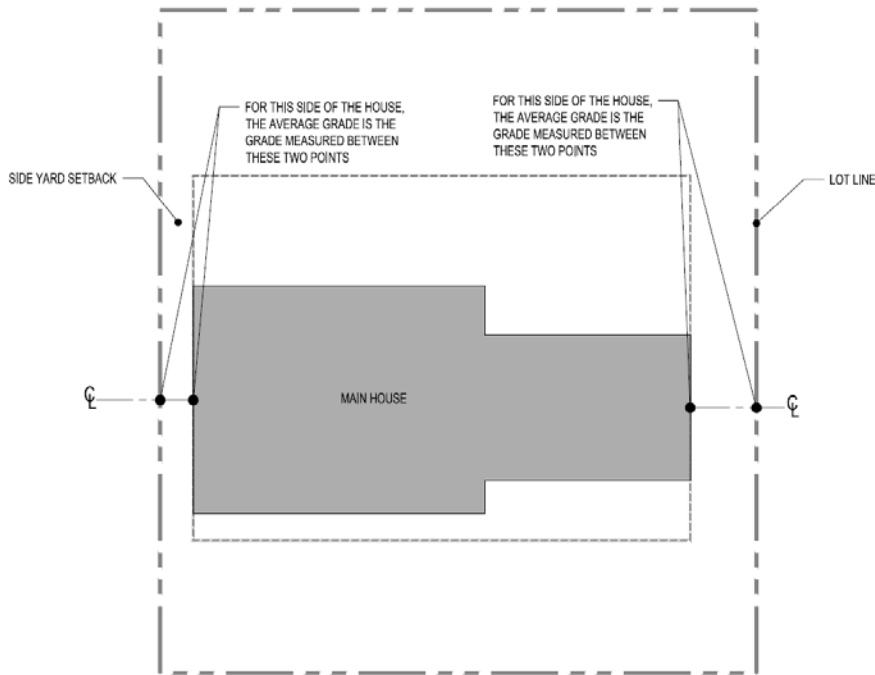
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10 ...

11
12 Daylight Plane: “Daylight plane” means a bulk limitation that, when combined with the maximum height
13 limit, defines the building envelope within which all new structures or additions must be contained. The
14 daylight plane is further described as follows:

- 15
16 1. Within the Town Center, the daylight plane begins refers to an inclined plane beginning at a
17 specified height at the street-facing property line or edge of through-block connection
18 above the grade of the sidewalk or through-block connection and extending into the site at
19 a specified upward angle up to the maximum height limit consistent with MICC
20 [19.11.030\(A\)\(7\)\(b\)](#) and Figure 5.
21
22 2. Within the zoning designations of R-8.4, R-9.6, R-12, and R-15, the daylight plane begins at a
23 specified height above average grade at the side yard setback, as depicted in the
24 development standards for each zone district, and extending into the site at a specified
25 upward angle to the horizontal up to the maximum height limit. The average grade, for the
26 purpose of determining the daylight plane, is the average of the finished grade at the
27 midpoint of the building and the finished grade at the closest point on the abutting lot line.



1 DETERMINING AVERAGE GRADE



2 DETERMINING AVERAGE GRADE

3

4 ...

5
6 Development:

7 1. A piece of land that contains buildings, structures, and other modifications to the natural
8 environment; or

9
10 2. The alteration of the natural environment through:

- a. The construction or exterior alteration of any building or structure, whether above or below ground or water, and any grading, filling, dredging, draining, channelizing, cutting, topping, or excavation associated with such construction or modification.
- b. The placing of permanent or temporary obstructions that interfere with the normal public use of the waters and lands subject to this code.
- c. The division of land into two or more parcels, and the adjustment of property lines between parcels.

Development proposal: The application for a permit or other approval from the City of Mercer Island relative to the use or development of land.

Development proposal site: The boundaries of the lot or lots for which an applicant has or should have applied for approval from the City of Mercer Island to carry out a development proposal.

Existing Grade: The surface level at any point on the lot prior to alteration of the ground surface.

Feasible: An action that is required for project design approval, such as a design requirement, development project, mitigation, or preservation requirement and that meets all of the following conditions:

- 1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- 2. The action provides a reasonable likelihood of achieving its intended purpose; and
- 3. The action does not physically preclude achieving the project’s primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action’s infeasibility, the reviewing agency may weigh the action’s relative public costs and public benefits, considered in the short- and long-term time frames.

Floor: The continuous, supporting surface extending horizontally through a building or structure that serves as the level base of a room upon which a person stands or travels.

1 ...

2

3 Formal design review: Design review conducted by the Design Commission.

4

5 ...

6

7 Gross Floor Area: The total square footage of floor area bounded by the exterior faces of the building.

8

1. The gross floor area of a single-family dwelling shall include:

9

a. The main building, including but not limited to attached accessory buildings.

10

b. All garages and covered parking areas, and detached accessory buildings with a gross

11

floor area over 120 square feet.

12

c. That portion of a basement which projects above existing grade as defined and

13

calculated in Appendix B of this development code.

14

d. Stairs and stairwells.

15

e. Decks that are attached to the single family dwelling and are covered by a roof.

16

f. Space under stairways or stairwells that is used, for example, as a closet or storage

17

space if that space meets the definition of "Floor".

18

2. The gross floor area of a single family dwelling does not include:

19

a. The air space above an interior space (for example, a clerestory).

20

b. Second- or third-story uncovered decks, or uncovered rooftop decks.

21

3. In the Town Center, gross floor area is the area included within the surrounding exterior finish

22

wall surface of a building, excluding courtyards and parking surfaces.

23

24 ...

25

26 Tree: Any living woody plant species other than a shrub, characterized by one main trunk or few

27

dominant trunks and many branches, known to achieve a typical mature height of at least 15 feet.

28

29

30 Tree, Large (Regulated): Any conifer tree with a diameter of 12 inches or more or any deciduous tree

31

with a diameter of 18 inches or more.

32

33 ...

34

35 Tree, Small: Any conifer tree with a diameter or less than 12 inches or any deciduous tree with a

36

diameter of less than 18 inches.

37

38 ...

39

40 Tree, Hazardous: Any tree that receives an 11 or 12 rating under the International Society of

41

Arboricultural rating method set forth in Hazard Tree Analysis for Urban Areas (copies of this manual are

42

available from the city arborist) and may also mean any tree that receives a 9 or 10 rating, at the

43

discretion of the city arborist.

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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:

- 1. R-8.4: 16,800 square feet.
- 2. R-9.6: 19,200 square feet.
- 3. R-12: 24,000 square feet.
- 4. R-15: 30,000 square feet.

...

Lot area: The area contained within the established boundaries of a lot. The lot area includes, but is not limited to, areas encumbered by critical areas, shorelines, and public or private easements.

...

Reasonable Best Efforts: An applicant has used reasonable best efforts to perform an action when an applicant demonstrates that one of the following prevents compliance with the applicable standard:

- 1. The action cannot be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches unlikely to achieve the intended results;
- 2. The action does not provide a reasonable likelihood of achieving its intended purpose; or
- 3. The action physically precludes achieving the project’s primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action’s infeasibility, the reviewing agency may weigh the action’s relative public costs and public benefits, considered in the short- and long-term time frames.

...

Regulated Improvements: Any development of any property within the city, except:

- 1. Property owned or controlled by the city; or
- 2. Single-family dwellings and the buildings, structures and uses accessory thereto; or
- 3. Wireless communications structures, including associated support structures and equipment cabinets.

...

Qualified Arborist: means an individual with relevant education and training in arboriculture or urban forestry, having two (2) or more of the following credentials:

- 1. International Society of Arboriculture (ISA) Certified Arborist;
- 2. Tree Risk Assessor Certification (TRACE) as established by the Pacific Northwest Chapter of ISA (or equivalent);

3. American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
4. Society of American Foresters (SAF) Certified Forester for Forest Management Plans;

For tree retention reviews associated with a development proposal, a qualified arborist must have, in addition to the above credentials, a minimum of three (3) years' experience working directly with the protection of trees during construction and have experience with the likelihood of tree survival after construction. A qualified arborist must also be able to prescribe appropriate measures for the preservation of trees during land development.

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.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

INITIAL PLANNING COMMISSION DRAFT
Draft Zoning Text Amendments
Residential Development Standards

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- 8.24.020 Types of nuisances
- 17.14.010 Adoption
- 19.01.010 Purpose.
- 19.01.070 Variance and deviation procedures.
- 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.
- 19.08.010 General provisions.
- 19.08.020 Application procedures and requirements.
- 19.08.030 Design standards.
- 19.08.040 Plat improvements.
- 19.08.050 Final plats.
- 19.09.090 Building pad.
- 19.09.100 Preferred practices.
- 19.10.010 Purpose.
- 19.10.020 Permit requirements.
- 19.10.030 Seasonal development limitations.
- 19.10.040 Criteria.
- 19.10.050 Commission review required in commercial zones.
- 19.10.060 Tree replacement.
- 19.10.070 Bald eagle and other federal and state requirements.
- 19.10.080 Permit applications.
- 19.10.090 Nuisance abatement.
- 19.10.100 Appeals.
- 19.10.110 Fees.
- 19.10.120 Enforcement.
- 19.10.130 Best pruning practices.
- 19.10.140 Landmark trees.
- 19.15.010 General procedures.
- 19.15.020 Permit review procedures.

1 19.16.010 Definitions.

2

3 "Normal Text" is existing code language

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

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

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

7

DRAFT

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 ~~7~~¹⁰ pm to 7 am on
12 Mondays through Fridays, excluding legal holidays, and between the hours of ~~10~~⁶ pm and 9 am on
13 Saturdays, and any time of day on Sundays and legal holidays, except in the cases of bona fide
14 emergency or under permit from the city 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

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. Renewed permits shall
19 expire 3 years from the date of issuance of the original permit. For permits that have been
20 expired for longer than one year, a new permit must be obtained and new fees paid. No permit
21 shall be renewed more than once.

22
23 3. Electrical, mechanical and plumbing permits shall expire at the same time as the associated
24 building permit except that if no associated building permit is issued, the electrical, mechanical
25 and/or plumbing permit shall expire 180 days from issuance.

26
27 4. The building official may authorize a 30-day extension to an expired permit for the purpose of
28 performing a final inspection and closing out the permit as long as not more than 180 days has
29 passed since the permit expired. The 30-day extension would commence on the date of written
30 approval. If work required under a final inspection is not completed within the 30-day extension
31 period, the permit shall expire. However, the building official may authorize an additional 30-
32 day extension if conditions outside of the applicant's control exist and the applicant is making a
33 good faith effort to complete the permitted work.

34
35 ...

36 105.6 Construction management plan and construction schedule.

37
38 1. Every permit issued for the construction of a new single family home with a gross floor area
39 of more than 7,000 square feet shall provide a construction management plan and a
40 construction schedule for approval by the building official.

41
42 2. Every permit issued for the remodel or addition to a single family home that will result in
43 the modification of more than 7,000 square feet gross floor area, or the addition of more

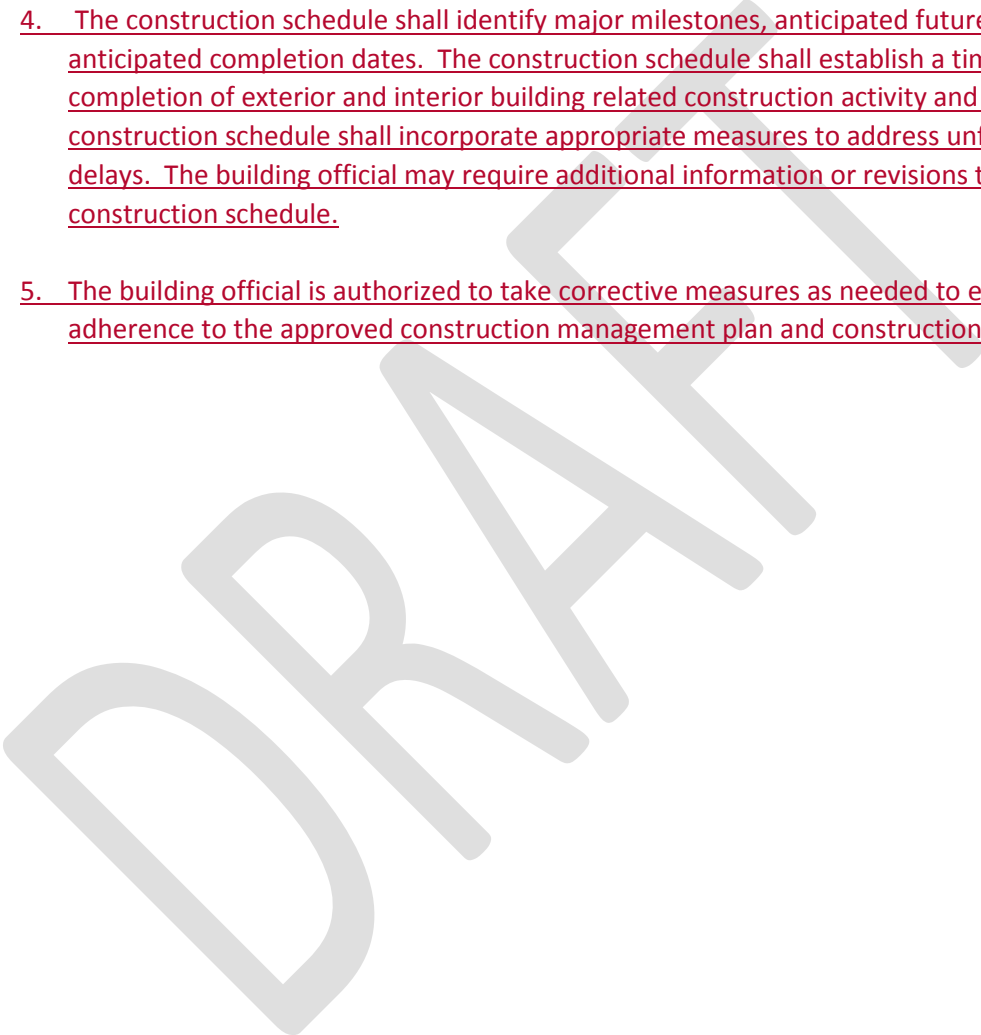
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than 4,000 square feet gross floor area, shall provide a construction management plan and a construction schedule for approval by the building official.

- 3. The construction management plan shall address appropriate measures to mitigate impacts resulting from construction noise, deliveries and trucking, 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. 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

3
4 ...

5
6 **19.01.030 Reasonable accommodation.**

7 A. Eligibility. Any person claiming to have a handicap or disability, within the meaning of the Fair Housing
8 Amendments Act (FHAA), 42 U.S.C. 3602(h) or the Washington Law Against Discrimination (WLAD),
9 Chapter 49.60 RCW, or someone acting on his or her behalf, who wishes to be excused from an
10 otherwise applicable requirement of this development code pursuant to the requirement of the FHAA,
11 or the WLAD, that reasonable accommodations be made in rules, policies, practices, or services when
12 such accommodations may be necessary to afford persons with handicaps or disabilities equal
13 opportunity to use and enjoy a dwelling, shall make such request for reasonable accommodation to the
14 code official.

15
16 B. Procedure.

17 1. An applicant for reasonable accommodation must provide verifiable documentation of
18 handicap or disability eligibility to the code official and describe the need for and proposed
19 accommodation.

20
21 2. The code official shall determine what adverse land use impacts, including cumulative
22 impacts, if any, would result from granting the proposed accommodation. This determination
23 shall take into account the size, shape and location of the dwelling unit and lot; the traffic and
24 parking conditions on adjoining and neighboring streets; vehicle usage to be expected from the
25 residents, staff and visitors; and any other circumstances determined to be relevant.

26
27 3. The applicant's need for accommodation shall be considered in light of the anticipated land
28 use impacts, and conditions may be imposed in order to make the accommodation reasonable
29 in light of those impacts.

30
31 4. A grant of reasonable accommodation permits a dwelling to be inhabited only according to
32 the terms and conditions of the applicant's proposal and the code official's decision. If it is
33 determined that the accommodation has become unreasonable because circumstances have
34 changed or adverse land use impacts have occurred that were not anticipated, the code official
35 shall rescind or modify the decision to grant reasonable accommodation.

36
37 5. The code official shall act promptly on the request for accommodation and shall not charge
38 any fee for responding to a request for accommodation.

39
40 6. Nothing herein shall prevent the code official from granting reasonable accommodation to
41 the full extent required by federal or state law.
42

1 7. The code official’s decision shall constitute final action by the city on a request for
2 accommodation, and review of the decision will be available only in superior court. Any appeal
3 must be filed not more than 21 days after the issuance of the code official’s decision.
4

5 ...

6
7 **19.01.050 Nonconforming structures, sites, lots and uses.**
8

9 A. General.

10 1. Purpose. The purpose of this section is to allow for the continuance and maintenance of
11 legally established nonconforming structures, sites, lots and uses, and to provide standards
12 delineating the circumstances in which nonconforming structures, sites, lots and uses must be
13 brought into conformance with the provisions of all applicable code requirements.
14

15 2. Legal Nonconforming Status of Structures, Sites and Uses. All structures, sites and uses that
16 lawfully existed prior to September 26, 1960, shall be considered legally nonconforming.
17 Structures, sites and uses that were constructed or initiated after September 26, 1960, that
18 were in conformance with all applicable code provisions in effect at the time of their creation
19 but are not in compliance with current land use codes as a result of subsequent changes in code
20 requirements are deemed to be legally nonconforming structures, sites and uses.
21

22 3. Illegal Nonconformance of Structures, Sites and Uses. Structures, sites and uses that were not
23 in conformance with all applicable code provisions in effect at the time of their creation are
24 illegal and shall be brought into compliance with all applicable provisions of this code.
25

26 4. Continuation or Loss of Legal Nonconforming Status of Structures, Sites and Uses. A structure,
27 site or use may be maintained in legal nonconforming status as long as no new
28 nonconformances are created, there is no expansion of any existing nonconformity, and legal
29 nonconforming status is not lost under any of the circumstances set forth in this section. If legal
30 nonconforming status is lost, the structure, site or use must be brought into conformance with
31 all applicable code requirements.
32

33 5. Critical Areas. This section shall govern nonconforming structures, sites, lots and uses within
34 any critical area, unless Chapter 19.07 MICC, Critical Lands, establishes more specific standards.
35

36 6. Application of Codes. Nothing in this section in any way supersedes the requirements of the
37 construction codes set forth in MICC Title 17, and any other construction-related codes as
38 adopted and amended from time to time by the city.
39

40 7. Deviations. Existing structures and sites resulting from the approval of a lot coverage, fence,
41 setback, or other deviation shall be considered “conforming” structures or sites provided the
42 structure or site complies with the deviation approval. Structures and sites resulting from a
43 prior deviation approval are not subject to the provisions of Chapter 19.01 MICC.
44

1
2 B. Repairs and Maintenance.
3

4 1. Ordinary Repairs and Maintenance. Ordinary repairs and maintenance of a legally
5 nonconforming structure are permitted. In no event may any repair or maintenance result in the
6 expansion of any existing nonconformity or the creation of any new nonconformity.
7

8 2. Decks. Repair and maintenance of a legally nonconforming deck, including total replacement,
9 is allowed, as long as there is no increase in the legal nonconformity and no new
10 nonconformances are created; provided, in the R-8.4 zone, any portion of a nonconforming deck
11 that is in a side yard and less than five feet from an interior lot line may be replaced only if the
12 deck is reconstructed to comply with current minimum side yard requirements.
13

14 C. Interior Remodel. Interior remodeling of a legally nonconforming structure is permitted and will not
15 result in loss of legal nonconforming status regardless of the cost or extent of the interior remodel, as
16 long as no exterior alteration or enlargement is involved. If exterior alteration in conjunction with
17 interior remodeling is involved, loss of legal nonconforming status will be determined pursuant to the
18 provisions set forth in subsection D of this section.
19

20 D. Exterior Alteration or Enlargement of Nonconforming Structures.
21

22 1. Detached Single-Family Residential Structures.
23

24 a. Reconstruction Following Catastrophic Loss. Any legally nonconforming detached
25 single-family dwelling and/or accessory building or structure that suffers a catastrophic
26 loss shall not lose its legal nonconforming status. Such dwelling or accessory building or
27 structure may be reconstructed regardless of the extent of damage or reconstruction
28 cost, to re-establish the previous legal nonconformity or otherwise, as long as there is
29 no expansion of any existing nonconformity, the reconstruction creates no new
30 nonconformance, and a complete building permit for reconstruction is submitted to the
31 city within 12 months of the date of the loss.
32

33 b. Intentional Exterior Alteration or Enlargement.
34

35 i. Detached Single-Family Dwelling. A legally nonconforming detached single-
36 family dwelling may be intentionally altered or enlarged without losing its legal
37 nonconforming status as long as no more than 40 percent of the length of the
38 dwelling's exterior walls, excluding attached accessory buildings, are structurally
39 altered. Any portion of the length of existing walls that are structurally altered
40 shall be included in calculating the 40-percent threshold. In no event shall the
41 alteration or enlargement increase any existing nonconforming aspect of the
42 dwelling or create any new nonconformance. Legal nonconforming status shall
43 be lost, and the structure shall be required to come into conformance with
44 current code requirements, if the 40-percent threshold is exceeded. An increase

1 in height of that portion of a structure that is legally nonconforming because it
2 intrudes into a required yard is an increase in the nonconformity and is not
3 allowed unless the additional height meets the current yard requirements of
4 MICC 19.02.020(C)(1) except:

5
6 (A) A change from a flat roof to a pitched roof is allowed under MICC
7 19.02.020(C)(3)(a); and

8
9 (B) A height increase of a single-family dwelling and any accessory
10 building or structure in the R-8.4 zone that is legally nonconforming
11 because it intrudes into a minimum five-foot required side yard is
12 allowed only if the additional height is modulated so that it is a
13 minimum of 10 feet from the side yard property line.

14
15 ii. Accessory Buildings or Structures. A legally nonconforming attached or
16 detached accessory building or structure, including but not limited to a carport,
17 garage, shed, gazebo, deck or fence, may be altered or enlarged without losing
18 its legal nonconforming status as long as no more than 40 percent of its exterior
19 perimeter (or length in the case of a fence) is structurally altered. A wall that is
20 shared with the main dwelling shall not be included in the calculation for the
21 attached accessory building. In no event shall any alteration or enlargement
22 increase any existing nonconforming aspect of the building or structure or
23 create any new nonconformance. Legal nonconforming status shall be lost, and
24 the structure shall be required to come into conformance with current code
25 requirements, if the 40-percent threshold is exceeded.

27 2. Town Center.

28
29 a. Reconstruction Following Catastrophic Loss. In the Town Center, a legally
30 nonconforming structure which suffers a catastrophic loss may be reconstructed to its
31 previous legally nonconforming configuration and appearance if the cost of the
32 reconstruction equals or is less than 75 percent of the structure's current King County
33 assessed value as of the time the loss occurs and is reconstructed within the same
34 building footprint, to the same number of stories, and to the same square footage of the
35 legally nonconforming damaged or destroyed structure. If the damaged or destroyed
36 portion of the structure is reconstructed to other than its previous nonconforming
37 configuration and appearance, the entire structure shall lose its nonconforming status
38 and shall be required to come into conformance with current code requirements;
39 however, minor changes in appearance that bring it into closer conformity with current
40 code requirements shall not result in overall loss of nonconforming status. In any event,
41 if the 75-percent threshold is exceeded, legal nonconforming status shall be lost and the
42 structure shall be required to come into conformance with current code requirements.

43

1 b. Intentional Exterior Alteration or Enlargement. Legal nonconforming status of a
2 structure in the Town Center is lost, and the structure shall be required to come into
3 conformance with current code requirements, if there is any intentional exterior
4 alteration or enlargement of a structure that costs in excess of 50 percent of the
5 structure's current King County assessed value as of the time the initial application for
6 such work is submitted. No structure may be altered or enlarged so as to increase the
7 degree of nonconformity or create any new nonconformance.1
8

9 3. Nonconforming Structures Other Than Single-Family or in Town Center.

10
11 a. Reconstruction Following Catastrophic Loss. Any legally nonconforming structure not
12 covered under subsections (D)(1) or (2) of this section, that suffers a catastrophic loss
13 may be reconstructed to its previous legally nonconforming configuration regardless of
14 the extent of damage or reconstruction cost. No structure may be reconstructed so as
15 to increase the degree of its nonconformity or create any new nonconformance.
16 Regulated improvements reconstructed to their previous legally nonconforming
17 configuration shall be subject to partial design review as provided by MICC
18 19.12.010(D)(2); however, no condition may be imposed by the design commission or
19 code official which would have the effect of reducing the number of units contained in a
20 multiple-family dwelling prior to the catastrophic loss.
21

22 b. Intentional Exterior Alteration or Enlargement. Legal nonconforming status of any
23 legally nonconforming structure not covered under subsection (D)(1) or (2) of this
24 section is lost, and the structure and site shall be required to come into conformance
25 with all current code requirements, including design review, if there is an intentional
26 exterior alteration or enlargement of the structure over any three-year period that
27 incurs construction costs in excess of 50 percent of the structure's current King County
28 assessed value as of the time the initial application for such work is submitted; provided,
29 application of this subsection shall not be construed to require an existing structure to
30 be demolished or relocated, or any portion of an existing structure that is otherwise not
31 being worked on as part of the construction to be altered or modified. If there is no
32 current King County assessed value for a structure, a current appraisal of the structure,
33 which shall be provided by the applicant and acceptable to the code official, shall be
34 used as the value point of reference. No structure may be altered or enlarged so as to
35 increase the degree of nonconformity or create any new nonconformance.
36

37 E. Abandonment of a Legally Nonconforming Structure or Use.

38
39 1. Structure. A legally nonconforming structure shall be deemed to be abandoned, and shall lose
40 its legal nonconforming status and be required to come into conformance with current code
41 requirements, after the structure has been unoccupied continuously for 12 months or more,
42 unless it is listed on the state or federal register of historic buildings or meets the criteria for a
43 historic building pursuant to Chapter 16.01 MICC.
44

1 2. Use. A legally nonconforming use shall be deemed to be abandoned and shall lose its legal
2 nonconforming status, and any subsequent use shall be required to conform with current code
3 requirements, after the use has been discontinued for 12 consecutive months or more.
4

5 3. Exception. A structure that has been unoccupied continuously for 12 months or more, or a
6 use that has been discontinued for 12 consecutive months or more, shall not be deemed
7 abandoned if the owner of the structure can provide compelling evidence, to the satisfaction of
8 the code official, that the structure is being actively marketed for sale or the owner of the
9 structure otherwise has a reasonably timely and viable plan for resuming occupation of the
10 property or resuming the legally nonconforming use.
11

12 F. Nonconforming Sites.
13

14 1. Impervious Surface Coverage Limitation. A structure on a site that is legally nonconforming
15 because the maximum allowable surface coverage has been exceeded can be increased in
16 height (up to the maximum height permitted). No new impervious surfaces are permitted
17 outside the footprint of an existing structure unless the site is either brought into conformance
18 with all applicable impervious surface limitations or two square feet of legally existing
19 impervious surface is removed for every one square foot of new impervious surface.
20

21 2. Parking Requirements. These parking requirements apply to subsections (F)(2)(a) and (c) of
22 this section in the event of an intentional exterior alteration or enlargement, but do not apply in
23 the event of reconstruction following a catastrophic loss. In the event of catastrophic loss,
24 nonconforming parking may be restored to its previous legally nonconforming configuration.
25

26 a. Detached Single-family Dwelling Site. A detached single-family dwelling site that is
27 legally nonconforming because it does not provide the number and type of parking
28 spaces required by current code provisions shall provide parking spaces as provided by
29 MICC 19.02.020(E)(1).
30

31 b. Town Center. A structure in the Town Center that is legally nonconforming because it
32 does not provide the number and type of parking spaces required by current code
33 provisions shall provide parking spaces as required by MICC 19.11.130(B)(1)(a) and
34 subsections (I)(1) and (2) of this section, as applicable.
35

36 c. Sites Other Than for a Detached Single-Family Dwelling or in Town Center.
37

38 i. New Development and Remodels. A site other than those identified in
39 subsections (F)(2)(a) and (b) of this section that is legally nonconforming
40 because it does not provide the number or type of parking spaces required by
41 current code provisions shall provide parking spaces as required by the current
42 code provisions for the zone where the site is situated for all new development
43 and remodels greater than 10 percent of the existing gross floor area.
44

1 ii. Change of Use. A site other than those identified in subsection (F)(2)(a) and
2 (b) of this section that is legally nonconforming because it does not provide the
3 number or type of parking spaces required by current code provisions shall
4 provide parking spaces as required by the current code provisions for the zone
5 where the site is situated whenever there is a change of use.
6

7 3. Landscaping, Open Space and Buffer Requirements. A site's landscaping, open space and
8 buffers shall be brought into conformance with current code requirements whenever a
9 structure or use on the site loses its legal nonconforming status. Landscaping, open spaces and
10 buffers should be brought into conformance with current code requirements as much as is
11 feasible whenever any changes are made to a legal nonconforming structure.
12

13 G. Nonconforming Lots.

14
15 1. Legally Nonconforming Lot. A nonconforming lot shall be deemed to be a legally
16 nonconforming lot if the lot was legally created. In order to establish that a lot was legally
17 created, an applicant seeking permit approval must provide:
18

19 a. A long subdivision, short subdivision or plat approved by the city of Mercer Island or
20 King County, separately describing and creating the lot in question; or
21

22 b. A deed, contract of sale, mortgage, property tax segregation, or recorded survey
23 separately describing and/or conveying the lot in question if the instrument was
24 executed prior to July 18, 1960, and evidence that the creation of the lot was consistent
25 with all codes in effect at the time of such conveyance or recording date.
26

27 2. Illegal Nonconforming Lot. A lot which was not legally created in accordance with the laws of
28 the local governmental entity in which it was located at the date of its creation is an illegal
29 nonconforming lot and will not be recognized for development.
30

31 3. Minimum Requirements for Development of Legally Nonconforming Lot. In order to be used
32 as a building site, an undeveloped legally nonconforming lot must meet the following minimum
33 requirements:
34

35 a. The lot must exceed 3,500 square feet;

36 b. The lot must have a minimum width of 30 feet and a minimum depth of 50 feet;

37 c. The property owner must provide evidence that establishes that the lot was intended
38 to be a building site at the time of its creation; and
39

40 d. The lot must not be subject to consolidation pursuant to subsection (G)(5) of this
41 section.
42
43

1 If the owner provides proof to the satisfaction of the code official, demonstrating that the strict
2 application of subsections (G)(3)(a) through (d) of this section prevents all reasonable use of the
3 lot and that the owner was not involved in the creation of the legal nonconformity, such owner
4 may be permitted to use the lot for one single-family residential dwelling, even if the lot does
5 not meet the size, width, depth and other dimensional requirements of the zone, as long as all
6 other applicable site, use and development standards are met or a variance from such site use
7 or development standards has been obtained.

8
9 4. Development of Legally Nonconforming Lot. Subject to the limitations of subsections (G)(3)
10 and (5) of this section, a legally nonconforming lot may be developed for any use allowed by the
11 zoning district in which it is located, even though such lot does not meet the size, width, depth
12 and other dimensional requirements of the zone, as long as all other applicable site, use and
13 development standards are met or a variance from such site use or development standards has
14 been obtained.

15
16 5. Consolidation. If, since the date on which it became nonconforming due to its failure to meet
17 minimum lot size or width criteria, a legally nonconforming lot has been in the same ownership
18 as a contiguous lot or lots, the nonconforming lot is and shall be deemed to have been
19 combined with such contiguous lot or lots to the extent necessary to create a conforming lot
20 and thereafter may only be used in accordance with the provisions of this code, except as
21 specifically provided in subsection (G)(6) of this section.

22
23 6. Continuation of Developed Legally Nonconforming Lot. A legally nonconforming lot that was
24 developed as a separate and complete building site in accordance with the applicable laws at
25 the time of development shall maintain its legal nonconforming status even if the lot has been in
26 the same ownership as a contiguous lot or lots; provided, if separately developed, contiguously
27 owned legally nonconforming lots are subsequently developed as one building site, the lots shall
28 be deemed to be consolidated and may only be used as a single lot thereafter.

29
30 7. No New Nonconformities Created. No nonconforming structure, site, lot or use shall be
31 created as a result of the division of land or any modification of a lot line through any
32 subdivision or lot line revision pursuant to Chapter 19.08 MICC.

33
34 H. Nonconforming Uses.

35
36 1. Change of Use. Any change from a legal nonconforming use shall be to a conforming use only;
37 provided, the continuation of the same or similar use by the same or different owner will not
38 result in loss of legal nonconforming status.

39
40 2. Additional Uses Prohibited. While a legal nonconforming use exists on any lot, no separate or
41 new use may be established thereon, even though such additional use would be a conforming
42 one.

1 3. Expansion of Legal Nonconforming Use. Legal nonconforming uses shall not be expanded or
2 enlarged; however, if the code official determines that expansion or enlargement of the use or
3 an accessory use (including parking) or other site modifications would make the use more
4 conforming to current code standards or is required by city ordinance, state law, or federal law
5 and no new nonconformity is created it may be allowed. Expansion includes increasing the size
6 of the structure in which the use occurs or enlarging the scope, volume, area or intensity of the
7 use in a significant way.

8
9 4. Nonconforming Use Associated With Structure that Suffers Catastrophic Loss. In the event of
10 catastrophic loss to a structure, the legal nonconforming status of any use contained in the
11 structure shall not be lost, provided a complete building application to rebuild the structure and
12 reestablish the nonconforming use is submitted within 12 months of the loss.

13
14 I. Change of Use – Town Center.

15
16 1. Single Tenant. If any applicant proposes a change of use on a lot used or occupied by a single
17 tenant or use, the applicant shall meet those code provisions determined by the code official to
18 be reasonably related and applicable to the change in use. These provisions shall apply to the
19 entire lot. If the development is nonconforming due to the number of parking spaces provided
20 for the existing use, any change in use which requires more parking than the previous use shall
21 provide additional parking consistent with current code parking requirements.

22
23 2. Multi-Tenant. If any applicant proposes a change of use on a portion of a lot occupied by
24 multiple tenants or uses, the applicant shall meet those code provisions determined by the code
25 official to be reasonably related and applicable to the change in use. These provisions shall apply
26 only to that geographic portion of the lot related to the use or tenant space on which the
27 change is proposed. If the multi-tenant lot is nonconforming due to the number of parking
28 spaces provided for the existing uses, any change in use, which requires more parking than the
29 previous use, shall provide additional parking consistent with current code parking
30 requirements.

31
32 J. Enforcement. The provisions of this section requiring compliance with current code requirements for
33 any illegal nonconforming structure, site or use, for any legally nonconforming structure, site or use that
34 loses its nonconforming status and for any structure or use that is deemed abandoned shall be enforced
35 pursuant to the provisions of MICC 19.15.030.

36
37
38 **~~19.01.070 Variance and deviation procedures.~~**

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

42
43 ~~A. Variance.~~
44

1
2
3
4
5
6
7
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10
11

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

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

~~B. Deviation.~~

DRAFT

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 for land uses that are appropriate within the residential zoning designations, consistent with
7 the policy direction of the adopted Mercer Island Comprehensive Plan. The city's goal is to balance
8 community values inherent in the neighborhood character with property values. The standards
9 contained within this chapter are also intended to manage the changing neighborhood character of
10 Mercer Island by establishing standards for the size, scale, and proportion of new development and
11 construction, while also allowing for flexibility in project design. These standards are further intended to
12 encourage compatibility between proposed new development and the existing, surrounding community.

13
14 D. Applicability. The provisions of this chapter shall apply to all development proposals in the R-8.4, R-
15 9.6, R-12, and R-15 zoning designations and all persons within the city shall comply with the
16 requirements of this chapter. Unless otherwise indicated in this chapter, the applicant shall be
17 responsible for the initiation, preparation, and submission of all required plans or other documents
18 prepared in support of or necessary to determine compliance with this chapter.

19
20 **19.02.010 Single-family.**

21 A use not permitted by this section is prohibited. Please refer to MICC 19.06.010 for other prohibited
22 uses.

23
24 A. Uses Permitted in Zones R-8.4, R-9.6, R-12, and R-15.

25
26 ...

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

35
36 The formula for calculating average building elevation is as follows:

37
38 Formula:

39
40 ~~Average Building Elevation = (Mid-point Elevation of Individual Wall Segment) x (Length of Individual~~
41 ~~Wall Segment) ÷ (Total Length of Wall Segments)~~

42
43 ~~See Appendix G, Calculating Average Building Elevation.~~
44

1 ~~E. Gross Floor Area.~~

2
3 ~~1. The gross floor area of a single family structure shall not exceed 45 percent of the lot~~
4 ~~area.~~

5
6
7 ~~2. Lots created in a subdivision through MICC 19.08.030(G), Optional Standards for~~
8 ~~Development, may apply the square footage from the open space tract to the lot area not to~~
9 ~~exceed the minimum square footage of the zone in which the lot is located.~~

10
11
12 **19.02.020 Lot requirements**Development Standards.

13 A. Minimum Lot Area.

14
15 R-8.4: The lot area shall be at least 8,400 square feet. Lot
16 width shall be at least 60 feet and lot depth shall be at
17 least 80 feet.

18
19 R-9.6: The lot area shall be at least 9,600 square feet. Lot
20 width shall be at least 75 feet and lot depth shall be at
21 least 80 feet.

22
23 R-12: The lot area shall be at least 12,000 square feet. Lot
24 width shall be at least 75 feet and lot depth shall be at
25 least 80 feet.

26
27 R-15: The lot area shall be at least 15,000 square feet. Lot
28 width shall be at least 90 feet and lot depth shall be at
29 least 80 feet.

30
31 1. Minimum lot area requirements do not apply to any lot that came into existence before
32 September 28, 1960; however structures may be erected on the lot only if those structures
33 comply with all other restrictions governing the zone in which the lot is located.

34
35 2. In determining whether a lot complies with the lot area requirements, the following shall be
36 excluded: the area between lateral lines of any such lot and any part of such lot which is part of
37 a street.

38
39 B. Street Frontage. No building will be permitted on a lot that does not front onto a street acceptable to
40 the city as substantially complying with the standards established for streets.

41
42 C. Yard Requirements.

43

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

3
4 a. Front yard depth: 20 feet or more.

5
6 b. Rear yard depth: 25 feet or more.

7
8 c. Side yard depth:

9 i. For lots with a lot width of 90 feet or less, the sum of the side yards shall be
10 at least 15 feet; provided, no side yard abutting an interior lot line shall be less
11 than five feet, and no side yard abutting a street shall be less than 10 feet.

12 ii. For lots with a lot width of 91 feet or more, the sum of the side yards shall be
13 a width that is equal to at least 17 percent of the lot width; provided, no side
14 yard abutting an interior lot line shall be less than five feet, and no side yard
15 abutting a street shall be less than 10 feet.

16
17 2. Yard Determination.

18
19 a. Front Yard. The front yard is the yard abutting an improved street from which the lot
20 gains primary access or the yard abutting the entrance to a building and extending the
21 full width of the lot. If this definition does not establish a front yard setback, the code
22 official shall establish the front yard based upon orientation of the lot to surrounding
23 lots and the means of access to the lot.

24
25 i. Waterfront Lot. On a waterfront lot, regardless of the location of access to the
26 lot, the front yard may be measured from the property line opposite and
27 generally parallel to the ordinary high water line.

28
29 b. Rear Yard. The rear yard is the yard opposite the front yard. The rear yard shall
30 extend across the full width of the rear of the lot, and shall be measured between the
31 rear line of the lot and the nearest point of the main building including an enclosed or
32 covered porch. If this definition does not establish a rear yard setback for irregular
33 shaped lots, the code official may establish the rear yard based on the following
34 method: The rear yard shall be measured from a line or lines drawn from side lot line(s)
35 to side lot line(s), at least 10 feet in length, parallel to and at a maximum distance from
36 the front lot line.

37
38 c. Corner Lots. On corner lots the front yard shall be measured from the narrowest
39 dimension of the lot abutting a street. The yard adjacent to the widest dimension of the
40 lot abutting a street shall be a side yard. If a setback equivalent to or greater than
41 required for a front yard is provided along the property lines abutting both streets, then
42 only one of the remaining setbacks must be a rear yard. This code section shall apply
43 except as provided for in MICC 19.08.030(F)(1).
44

1 d. Side Yard. Any yards not designated as a front or rear yard shall be defined as a side
2 yard.
3

4 3. Intrusions into Required Yards.
5

6 a. Minor Building Elements.

7 i. Except as provided in subsection "ii." below, Porches, chimney(s) and
8 fireplace extensions, and unroofed, unenclosed outside stairways and decks
9 shall not project more than three feet into any required yard. Eaves shall not
10 protrude more than 18 inches into any required yard.; provided,

11 ii. ~~No~~ penetration shall be allowed into the minimum five-foot setback
12 abutting an interior lot line except where an existing flat roofed house has been
13 built to the interior side yard setback line and the roof is changed to a pitched
14 roof with a minimum pitch of 4:12, the eaves may penetrate up to 18 inches
15 into the side yard setback.
16

17 b. Platforms, Walks, and Driveways. Platforms, walks, at-grade stairs, and driveways not
18 more than 30 inches above existing grade or finished grade may be located in any
19 required yard.
20

21 c. Fences, Retaining Walls and Rockeries. Fences, retaining walls and rockeries are
22 allowed in required yards as provided in MICC 19.02.050.
23

24 d. Garages and Other Accessory Buildings. Garages and other accessory buildings are not
25 allowed in required yards, except as provided in MICC 19.02.040.
26

27 e. Heat Pumps, Air Compressors, Air Conditioning Units, and Other Similar Mechanical
28 Equipment. Heat pumps, air compressors, air conditioning units, and other similar
29 mechanical equipment may be located within any required yard provided they will not
30 exceed the maximum permissible noise levels set forth in WAC 173-60-040, which is
31 hereby incorporated as though fully set forth herein. Any such equipment shall not be
32 located within three feet of any lot line.
33

34 f. Architectural Features. Detached, Freestanding architectural features such as
35 columns or pedestals that designate an entrance to a walkway or driveway and do not
36 exceed 42 inches in height are allowed in required yards.
37

38 g. Other Structures. Except as otherwise allowed in this subsection (C)(3), structures
39 over 30 inches in height from existing grade or finished grade, whichever is lower, may
40 not be constructed in or otherwise intrude into a required yard.
41

42 4. Setback Deviation. The Code Official may approve a deviation to front and rear setbacks
43 pursuant to MICC 19.15.020. ~~4. Setback Deviation. On any lot with a critical area that makes it~~
44 ~~impractical to locate a building pad on the lot except by intruding into required yards, the code~~

official shall have discretion to grant a deviation from yard setbacks for single lots, subdivisions and lot line revisions.

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

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

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

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

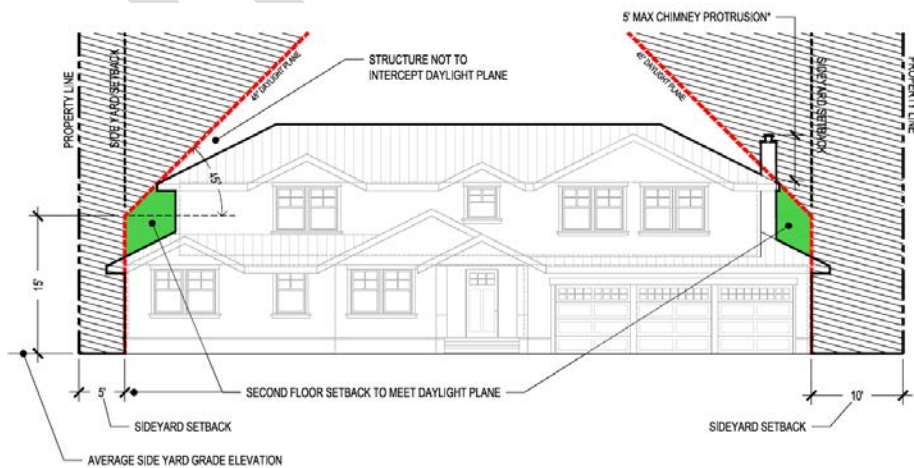
i. Front and rear setbacks may not be reduced to less than 10 feet each;

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

D. Daylight Plane.

1. Applicability. On lots with a lot width of 60 feet or more, a daylight plane shall be established and no single family dwelling, accessory structure, or accessory building shall intrude into the established daylight plane, except as provided in subsection "3." below. Lots with a lot width of 59 feet or less shall not be subject to this section.

2. Daylight Plane Dimension. The daylight plane shall begin at an initial height of 15 feet above average grade at the side yard setback line and extend inward and upwards at a 45° (degree) angle to the point of intersection with the maximum building height allowance.

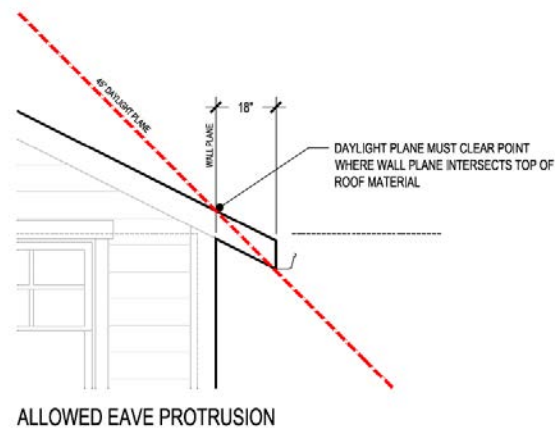


9,000 SF LOT - DAYLIGHT PLANE WITH PROPOSED CODE ELEVATION



1
2
3 3. Minor Building Elements. The following minor building elements may extend beyond the
4 daylight plane:

- 5
6 a. Allowed Horizontal Intrusions in Daylight Plane. Chimney(s) and fireplace
7 extensions, and unroofed, unenclosed outside stairways, and decks shall not project
8 more than three feet horizontally into the daylight plane. Eaves shall not protrude
9 more than 18 inches horizontally into the daylight plane; provided, no penetration
10 shall be allowed into the minimum five-foot setback abutting an interior lot line.



- 11
12
13 b. Allowed Vertical Intrusions in Daylight Plane. Antennas, lightning rods, plumbing
14 stacks, flagpoles, electrical service leads, chimneys and fireplaces and other similar
15 appurtenances may extend to a maximum of five feet vertically above the daylight
16 plane. Provided chimneys and fireplaces may be extended vertically the minimum
17 amount necessary to ensure compliance with Chapter 10 IRC, Figure R-1001.1, as
18 amended.

19
20 E. Lot Coverage.

- 21
22 1. Applicability. Section "E. Lot Coverage" shall apply to regulated improvements in the
23 residential zoning designations of R-8.4, R-9.6, R-12, and R-15. Section "E. Lot Coverage"
24 does not apply to new single family dwellings or residential accessory buildings:

25
26 24. Maximum Impervious Surface Limits for Lots. The total percentage of a lot that can be
27 covered by impervious surfaces (including buildings) is limited by the slope of the lot for all
28 single-family zones as follows:

29

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.

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

a. 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.

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

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

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

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

~~f.~~ Rockeries/Retaining Walls. Rockeries and retaining walls shall be exempt from the maximum impervious surface limits.

~~g.~~ Residences for religious leaders located on properties use by places of worship.

1
2 i. A structure primarily used as a residence for a religious leader provided by its
3 congregation and located on the same lot or lots as the improvements for a
4 church, synagogue, mosque, or other place of worship, shall be exempt from
5 the maximum impervious surface limits, subject to the limitations under
6 subsection "ii." below. All impervious surface areas directly and commonly
7 associated with the residence such as, but not limited to, the footprint of the
8 residence, an attached or detached garage, a patio and/or deck not otherwise
9 exempted by 19.02.020(D)(2)(a) and (c), and a driveway not otherwise used for
10 general access to the place of worship, shall be exempt.

11
12 ii. A residence and its associated impervious improvements, as described above,
13 may only be exempted if 4,999 square feet or less or up to 20% of lot area,
14 whichever is less. For these purposes, lot area means the lot or lots on which
15 the place of worship is located.

16
17 iii. Lot coverage exceeding 60% shall not be allowed whether by variance
18 pursuant to MICC 19.02.020(D) or by this exemption.
19

20 4. Variance. Public and private schools, religious institutions, private clubs and public facilities in
21 single-family zones may request a variance to increase impervious surface pursuant to MICC
22 19.15.020(G).

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

27
28 a. The proposal uses preferred practices, outlined in MICC 19.09.100, which are
29 appropriate for the lot; or

30
31 b. The lot has a unique shape or proportions (i.e., a flag lot, with a circuitous driveway
32 corridor); or

33
34 c. The proposal minimizes impacts to critical areas and provides the minimum extent
35 possible for the additional impervious surfaces.
36

37 The city shall provide notice for the proposed action as required by MICC 19.15.020(D) and (E),
38 Administration.

39
40 4. Variance. Public and private schools, religious institutions, private clubs and public facilities in
41 single-family zones with slopes of less than 15 percent may request a variance to increase the
42 impervious surface to a maximum 60 percent impervious surface and such variance application
43 will be granted if the hearing examiner determines that the applicant has demonstrated that the
44 following criteria are satisfied:

1
2 ~~a. There will be no net loss of pervious surface from the existing pervious surface. No net loss~~
3 ~~will be determined by the code official and may be achieved by off-site mitigation and/or by~~
4 ~~reconstructing existing parking areas to allow stormwater penetration. This replacement will be~~
5 ~~an exception to subsection (D)(2)(b) of this section prohibiting parking areas from being~~
6 ~~considered as pervious surfaces;~~

7
8 ~~b. All stormwater discharged shall be mitigated consistent with the most recent Washington~~
9 ~~State Department of Ecology Stormwater Management Manual for Western Washington,~~
10 ~~including attenuation of flow and duration. Mitigation will be required for any and all new and~~
11 ~~replaced impervious surfaces. In designing such mitigation, the use of a continuous simulation~~
12 ~~hydrologic model such as KCRTS or WWHM shall be required; event based models will not be~~
13 ~~allowed. In addition, mitigation designs shall utilize flow control best management practices~~
14 ~~(BMPs) and low impact development (LID) techniques to infiltrate, disperse and retain~~
15 ~~stormwater on-site to mitigate the increased volume, flow and pollutant loading to the~~
16 ~~maximum extent feasible;~~

17
18 ~~c. The director must approve a storm drainage report submitted by the applicant and prepared~~
19 ~~by a licensed civil engineer assuring the city that city infrastructure, in concert with the project~~
20 ~~design, is adequate to accommodate storm drainage from the project site, or identifying~~
21 ~~appropriate improvements to public and/or private infrastructure to assure this condition is~~
22 ~~met, at the applicant's expense;~~

23
24 ~~d. A deviation under subsection (D)(3) of this section may not be combined to exceed this~~
25 ~~maximum 60 percent impervious surface coverage;~~

26
27 ~~e. The hearing procedures and public notice requirements set forth in MICC 19.15.020 shall be~~
28 ~~followed in connection with this variance proceeding.~~

29
30 **EE.** Parking.

31
32 1. Each single-family dwelling shall have at least three parking spaces sufficient in size to park a
33 passenger automobile; provided, at least two of the stalls shall be covered stalls. This provision
34 shall apply to all new construction and remodels where more than 40 percent of the length of
35 the structure's external walls have been intentionally structurally altered; however, no
36 construction or remodel shall reduce the number of parking spaces on the lot below the number
37 existing prior to the project unless the reduced parking still satisfies the requirements set out
38 above.

39
40 2. Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient
41 by the code official for the use occurring on the lot; provided, any lot that contains 10 or more
42 parking spaces shall also meet the parking lot requirements set out in Appendix A of this
43 development code.
44

1 GF. Easements. Easements shall remain unobstructed.

2
3 1. Vehicular Access Easements. No structures shall be constructed on or over any vehicular
4 access easement. A minimum 10-foot setback from the edge of any easement that affords or
5 could afford vehicular access to a property is required for all structures; provided, that
6 improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed
7 within the 10-foot setback so long as such improvements do not interfere with emergency
8 vehicle access or sight distance for vehicles and pedestrians.

9
10 2. Utility and Other Easements. No structure shall be constructed on or over any easement for
11 water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within
12 the language of the easement or is mutually agreed in writing between the grantee and grantor
13 of the easement.

14
15 H. Building Height Limit.

16
17 1. Maximum building height. No building shall exceed 30 feet in height above the average
18 building elevation to the highest point of the roof.

19
20 2. Maximum building height on downhill building façade. The maximum building façade height
21 on the downhill side of a sloping lot shall not exceed 30 feet in height measured from
22 existing grade to the top of the exterior wall façade supporting the roof framing, rafters,
23 trusses, etc.

24
25 3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and
26 fireplaces and other similar appurtenances may extend to a maximum of five feet above the
27 height allowed for the main structure in subsections "1." and "2." above.

28
29 4. 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
34 of Individual Wall Segment) ÷ (Total Length of Wall Segments)

35
36 See Appendix G, Calculating Average Building Elevation.

37
38 I. Gross Floor Area.

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

41 a. 40 percent of the lot area; and

42
43 b. The following limit shall apply to single family dwellings and accessory buildings
44 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. 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(l)(1)(b) above.

b. The lot contains:

- i. An accessory dwelling unit associated with the construction of a new single family home; or
- ii. A single family dwelling 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.

c. 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.

3. 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.

J. Large lots. Prior to approval of a new single family dwellings and associated site improvements, accessory buildings, and accessory structures on large lots, the applicant shall complete one of the following:

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

a. The proposed site design shall comply with the design requirements of MICC 19.08.030, 19.08.040, 19.09.090, and 19.09.100.

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

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

4
5 d. Approval of a site design that could accommodate a potential future subdivision does
6 not guarantee such future subdivision approval, nor does it confer any rights to a future
7 subdivision.

8
9 2. Subdivide. The proposed single family dwelling shall be located on a lot resulting from a
10 recorded final plat.

11
12 3. Limit subdivision. Record a notice on title, covenant, easement, or other documentation
13 approved by the city, prohibiting further subdivision of the large lot for a period of five (5) years.

14
15 K. Building Pad. New buildings shall be located within a building pad established pursuant to Chapter
16 19.09 MICC.

17
18 L. Front yard landscaping.

19
20 1. Applicability. This section shall apply to the following development proposals:

21 a. New single family dwellings;

22 b. Additions or remodels to single family dwellings that will result in the creation of 500
23 square feet or more of gross floor area;

24 c. The clearing and grading of more than 50% of the area within the front yard setback.

25
26 2. Required landscaping area. 30% of the area within the front yard setback shall be landscaped
27 with vegetation. The required landscape areas shall not contain structures and shall not be
28 hardened with decks, patios, pervious concrete, or other similar materials.

29
30 3. Landscaping objective. The landscaping shall be designed to enhance the neighborhood
31 character. The landscaping should be designed to screen and soften the appearance of existing
32 and proposed buildings, to enhance the quality of the environment, to screen undesirable views,
33 and create identity sense of place.

34
35 4. Landscaping Design. The landscaped area shall incorporate two or more of the following:

36 a. Incorporation of best management or low impact development landscaping
37 techniques (e.g. soil amendments, bio-swales, etc);

38 b. Drought tolerant landscaping;

39 c. Retention of existing large shrubs and prominent trees, provided the city determines
40 that such vegetation will reasonably survive development;

41 d. A mix of shrubs, trees, and groundcover to ensure planting areas are attractive,
42 minimize maintenance and the potential for encroachment of invasive plant material; or

- e. Plant species selection, density, design, and location intended to promote the long term retention of landscaping (e.g. trees that will grow to a large size should be located to minimize impacts to the house);
- f. Preservation of existing, natural vegetation in critical areas;
- g. Other techniques approved by the code official that meet the landscaping objective in subsection "3." above.

...

19.02.040 Garages, ~~and other accessory buildings,~~ and accessory structures.

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

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

C. Detached Accessory Buildings and Accessory Structures.

1. Gross Floor Area.

a. The combined total gross floor area for one or more accessory building(s) shall not exceed 25 percent of the total gross floor area allowed on a lot. For example, on a lot where the total allowed gross floor area was 5,000 square feet, the combined total gross floor area for accessory buildings is 1,250 square feet.

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

2. Height.

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

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

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

4. Accessory structures. The maximum height of an accessory structure shall not exceed 15 feet. The height of an accessory structure is measured from the top of the structure, to the existing

grade or finished grade, whichever is lower, directly below the section of the structure being measured.

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

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

19.02.050 Fences, retaining walls and rockeries.

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

B. Location in Street.

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

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

C. Height Measurement.

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

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

D. Retaining Walls and Rockeries – Requirements.

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

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

3
4 3. Drainage Control. Drainage control of the area behind the rockery shall be provided for all
5 rockeries.

6
7 4. Maximum Height in Required Yard – Cut Slopes. No retaining walls or rockeries, or any
8 combination of retaining walls or rockeries, to the extent used to protect a cut or cuts into
9 existing grade within any required yard, shall exceed a total of 144 inches in height. All retaining
10 walls and/or rockeries within a required yard shall be included in calculating the maximum
11 height of 144 inches. Such retaining walls or rockeries, or combination of retaining walls or
12 rockeries, may be topped by a fence up to 72 inches in height or, if within that portion of any
13 required yard that lies within 20 feet of any improved street, by a fence up to 42 inches in
14 height.

15
16 5. Maximum Height in Required Yard – Fill Slopes. No retaining walls or rockeries, or any
17 combination of retaining walls or rockeries, to the extent used to raise grade and protect a fill
18 slope, ~~shall exceed a total of 72 inches in height within any required yard shall result in an~~
19 ~~increase in the finished grade by more than 72 inches at any point.~~ All retaining walls and/or
20 rockeries within a required yard shall be included in calculating the maximum height of 72
21 inches. A fence or guardrail may be placed on top of such retaining wall or rockery, but in no
22 event shall the combined height of the fence and any retaining wall or rockery exceed 72 inches;
23 provided ~~that the finished grade resulting from;~~ rockeries, retaining walls, fences, or any
24 combination thereof, ~~are shall be~~ limited to a maximum ~~height~~ of 42 inches within that portion
25 of any required yard which lies within 20 feet of any improved street.

26
27 E. Fences ~~and gates~~.

28
29 1. Maximum Height in Required Yard. Fences or any combination of retaining walls, rockeries
30 and fences are allowed to a maximum height of 72 inches within the required yards, except as
31 provided in subsection (D)(4) of this section. All fences, retaining walls and/or rockeries within a
32 required yard shall be included in calculating the maximum height of 72 inches; provided,
33 fences, ~~gates~~, rockeries or retaining walls used to protect a fill, or any combination thereof, are
34 limited to a maximum height of 42 inches within that portion of any required yard which lies
35 within 20 feet of any improved street.

36
37 a. Exception. Open latticework or a similar architectural feature up to 18 inches above
38 the maximum 72 inch height allowed may be constructed, provided it is of open work
39 design with at least 50 percent of its total surface area consisting of evenly distributed
40 open spaces. This exception does not apply to any fence, rockery or retaining wall, or
41 any combination thereof, limited to a maximum height of 42 inches; however, where
42 the height of any fence, rockery, retaining wall, or any combination thereof is limited to
43 42 inches, an architectural feature of open work design as described above that is

1 limited to the entrance of a walkway may be allowed if its total height is no greater than
2 90 inches.

3
4 2. Fill/Berms. No person shall place fill upon which to build a fence unless the total height of the
5 fill plus the fence does not exceed the maximum height allowable for the fence without the fill.

6
7 3. Shorelines. Fence, rockeries and retaining walls located within any shoreland shall also
8 comply with Chapter 19.07 MICC.

9
10 F. Fence or Gate Height Deviations. The Code Official may approve a deviation to fence or gate height
11 standards pursuant to MICC 19.15. Deviations from the 42-inch height limitation set out in subsections
12 (E)(1) and (D)(5) of this section shall be reviewed in the manner set out below:

13
14 1. For nonregulated improvements, a request for a deviation up to 72 inches shall be reviewed
15 by the code official under the following procedure:

16
17 a. The applicant shall submit to the code official two copies of plot plans and elevations,
18 drawn to scale, showing size and construction of the proposed fence, the location of all
19 existing structures, streets, driveways, and landscaping.

20
21 b. The code official shall review the submitted plans with the city engineer and shall
22 base the decision to approve or disapprove the requested deviation on factors of traffic
23 visibility and other public and private safety considerations, lot shape, location and
24 topography, and the nature, location and extent of adjoining public and private
25 structures.

26
27 2. For regulated improvements, deviations shall be reviewed by the design commission under
28 the procedures and criteria set forth in MICC 19.15.040.

29
30 G. Electric and Barbed Wire Fences. Electric fences and barbed wire fences are not allowed.

31
32 H. Exceptions. These provisions do not apply to fences required by state law to enclose public utilities, or
33 to chain link fences enclosing school grounds or public playgrounds, or to screens used for safety
34 measures in public recreation areas such as ballfields.

35
36 ...

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

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1 Chapter 19.08
2 SUBDIVISIONS

3
4 ...

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

7 A. Applications for short subdivisions and lot line revisions or alteration or vacation thereof shall be
8 reviewed by the code official. Applications for long subdivisions or alteration or vacation thereof are
9 reviewed by the planning commission and the city council.

10
11 B. The planning commission may grant a variance, with restrictions if deemed necessary, from the four-
12 acre limitation for purpose of permitting short subdivision of property containing more than four acres
13 into 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
26 D. Preliminary Application Contents. In addition to any documents, information, or studies required
27 under Chapter 19.07 MICC, Critical Areas, an application for a long subdivision, short subdivision, or a lot
28 line revision shall include the documents set forth below and any other document or information
29 deemed necessary by the code official upon notice to the applicant. All documents shall be in the form
30 specified by the code official and shall contain such information as deemed necessary by the code
31 official. The applicant shall submit the 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 2. Long Subdivision, Short Subdivision, or Lot Line Revision Plan. The applicant shall provide
39 copies of fully dimensioned plans of the project prepared by a Washington registered civil
40 engineer or land surveyor, meeting the requirements of Chapter 19.07 MICC, Environment, and
41 containing any other information deemed necessary by the code official. The city engineer may
42 waive the requirement that an engineer or surveyor prepare the plans for a short subdivision or
43 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 arterial,~~
15 ~~capital facility, and land use elements of the comprehensive plan;~~ all other chapters of ~~the development~~
16 ~~code~~ Title 19 MICC; the Shoreline Management Act; and other applicable city, state, and federal
17 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 F. Design Standards for Special Conditions.
35

36 1. Subdivisions abutting an arterial street as shown on the comprehensive arterial plan shall be
37 oriented to require the rear or side portion of the lots to abut the arterial and provide for
38 internal access streets.
39

40 2. Where critical areas meeting the criteria set out in Chapter 19.07 MICC are present within the
41 subdivision, the code official or city council may:
42

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

1
2 b. Increase the usual building set-back requirements; and/or

3
4 c. Require appropriate building techniques to reduce the impact of site development.
5

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

13 1. The use of the land in the long subdivision or short subdivision shall be one permitted in the
14 zone in which the long subdivision or short subdivision is located.
15

16 2. The number of lots shall not exceed the number that would otherwise be permitted within
17 the area being subdivided, excluding the shorelands part of any such lot and any part of such lot
18 that is part of a street.
19

20 3. An area suitable for a private or public open space tract shall be set aside for such use.
21

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

30 5. The ownership and use of any designated open space or recreational tract, if private, shall be
31 shared by all property owners within the long subdivision or short subdivision. In addition, a
32 right of entry shall be conveyed to the public to be exercised at the sole option of the city
33 council if such area shall cease to be an open space or recreational tract.
34

35 6. The open space or recreational tract must remain in its approved configuration and be
36 maintained in accordance with approved plans. Any deviation from the foregoing conditions
37 must receive expressed approval from the planning commission.
38

39
40 **19.08.040 Plat improvements.**

41 A. Streets, Utilities and Storm Drainage. The ~~long subdivision, short-subdivisions, or lot line revision~~ shall
42 include provisions for streets, water, sanitary sewers, storm drainage, utilities and any easements or
43 facilities necessary to provide these services. All utilities shall be placed underground unless waived by

1 the city engineer. Detailed plans for these provisions shall not be required until after the approval of the
2 preliminary plat and shall be a condition precedent to the official approval of the subdivision.

3
4 B. Performance Bond. The owner(s) of a project shall deposit with the city a performance bond or funds
5 for a set-aside account in an amount equal to 150 percent of the cost of the required improvements, as
6 established by the city engineer. Such security shall list the exact work that shall be performed by the
7 owner(s) and shall specify that all of the deferred improvements shall be completed within the time
8 specified by the city engineer, and if no time is so specified, then not later than one year. The city may
9 also require a bond or set-aside account securing the successful operation of improvements or survival
10 of required landscaping for up to two years after final approval.

11
12 C. Site Supervision. Any and all services performed by city employees in field inspection of construction
13 of plat improvements, clearing, and/or grading processes, shall be charged to the developer at 100
14 percent of direct salary cost, plus 35 percent of such cost for overhead. Any outside consultants retained
15 by the city to evaluate any phase of plat design or construction shall be charged at actual cost, plus any
16 additional administrative costs. Billings tendered to the owner(s) shall be payable within 30 days.

17
18 D. Construction Seasons. Either the city engineer or the building official may:

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

25
26
27
28
29
30 **19.08.050 Final plats.**

31 ...

32
33
34 C. Contents of the Final Plat. All final plats submitted to the city shall meet the requirements set out in
35 Chapter 58.09 RCW, Chapter 332-130 WAC, and those requirements set out below.

36
37 Final plats submitted to the city shall consist of one mylar and one copy containing the information set
38 out below. The mylar and copy shall be 18 inches by 24 inches in size, allowing one-half inch for borders.
39 If more than one sheet is required for the mylar and copy, each sheet, including the index sheet, shall be
40 the specified size. The index sheet must show the entire subdivision, with street and highway names and
41 block numbers.

- 42 1. Identification and Description.

- a. Name of the long subdivision, short subdivision or lot line revision.
- b. A statement that the long subdivision or short subdivision has been made with the free consent and in accordance with the desires of the owner or owners.
- c. Location by section, township and range, or by other legal description.
- d. The name and seal of the registered engineer or the registered land surveyor.
- e. Scale shown graphically, date and north point. The scale of the final plat shall be such that all distances and bearings can be clearly and legibly shown thereon in their proper proportions. Where there is a difference between the legal and actual field distances and bearings, both distances and bearings shall be shown with the field distances and bearings shown in brackets.
- f. A description of property platted which shall be the same as that recorded in preceding transfer of said property or that portion of said transfer covered by plat. Should this description be cumbersome and not technically correct, a true and exact description shall be shown upon the plat, together with original description. The correct description follow the words: "The intent of the above description is to embrace all the following described property."
- g. A vicinity map showing the location of the plat relative to the surrounding area.

2. Delineation.

- a. Boundary plat, based on an accurate traverse, with angular and lineal dimensions.
- b. Exact location, width, and name of all streets within and adjoining the plat, and the exact location and widths of all roadways, driveways, trail easements. The name of a street shall not duplicate that of any existing street in the city, unless the platted street be a new section or continuation of the existing street.
- c. True courses and distances to the nearest established street lines or official monuments which shall accurately describe the location of the plat.
- d. Municipal, township, county or section lines accurately tied to the lines of the subdivision by courses and distances.
- e. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
- f. All easements for rights-of-way provided for public services or utilities. Utility easements shall be designated as public or private.

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

5
6 h. Accurate location of all monuments, which shall be concrete commercial monuments
7 four inches by four inches at top, six inches by six inches at bottom, and 16 inches long.
8 One such monument shall be placed at each street intersection and at locations to
9 complete a continuous line of sight and at such other locations as are required by the
10 engineer.

11
12 i. All plat meander lines or reference lines along bodies of water shall be established
13 above the ordinary high water line of such water.

14
15 j. Accurate outlines and legal description of any areas to be dedicated or reserved for
16 public use, with the purpose indicated thereon and in the dedication; and of any area to
17 be reserved by deed covenant for common uses of all property owners.

18
19 k. Critical areas as identified under Chapter 19.07 MICC.

20
21 l. Corner pins made of rebar with caps.

22
23 m. Designated building pads pursuant to MICC 19.09.090.

24
25 3. Other Marginal Data on Final Plat.

26
27 a. If the plat is subject to dedications to the city or any other party, the dedications shall
28 be shown and shall be duly acknowledged. The plat shall also contain a waiver of all
29 claims for damages against the city which may be occasioned to the adjacent land by
30 the established construction, drainage and maintenance of any streets dedicated to the
31 city.

32
33 b. A copy of the protective covenants, if any.

34
35 c. Certification by Washington registered civil engineer or land surveyor to the effect
36 that the plat represents a survey made by that person and that the monuments shown
37 thereon exist as located and that all dimensional and geodetic details are correct.

38
39 d. Proper forms for the approvals of the city engineer and the mayor, on behalf of the
40 city council, in the case of a long subdivision; or the city engineer and the code official in
41 the case of short subdivisions or lot line revisions, with space for signatures.
42

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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 ...

5
6 **19.09.090 Building pad.**

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

- 8
9 1. The ~~applicant must determine the~~ building pad shall be located to minimize impacts to the
10 following: location of a building pad by considering
11 a. Trees and vegetation required for retention pursuant to Chapter 19.10 MICC;
12 b. The existing, natural topography as a result of anticipated development within the
13 building pad;
14 c. Impacts to critical areas and critical area buffers; and,
15 d. the relationship of the proposed building pad to eThe orientation of
16 existing/proposed homes adjacent to the subdivision.

17
18 Access to the building pad ~~must~~ shall be consistent with the standards for ~~driveway-private~~
19 access roads ~~access~~ contained in MICC 19.09.040.

- 20
21 2. Building pads shall not be located within:
22 a. Required setbacks;
23 b. Streets or rights of way; and; yard setbacks, rights of way and
24 c. Critical areas or its buffers; provided, however, building pads may be located within
25 landslide geohazard hazard areas when all of the following are met: {
26 i. a) Aa qualified professional determines that the criteria of MICC 19.07.060(D),
27 Site Development, is satisfied; (b)
28 ii. b) Building pads are sited to minimize impacts to the extent reasonably
29 feasible; and
30 ii. (c) b) Building pads are not located in steep slopes or within 10 feet from the
31 top of a steep slope, unless such slopes, as determined by a qualified
32 professional, consist of soil types determined not to be landslide prone.

33
34 3. No cross-section dimension of a building pad shall be less than 20 feet in width.

35
36 B. No Designated Building Pad ~~Area~~.

37
38 1. New development proposals on a lot On lots without a previously designated building pad area,
39 development shall be located shall establish a building pad outside of critical areas unless
40 otherwise allowed by Chapter 19.07 MICC. consistent with the provisions of MICC 19.09.090(A)
41 above.

42
43 2. A building pad on a large lot shall comply with the provisions of 19.09.100.

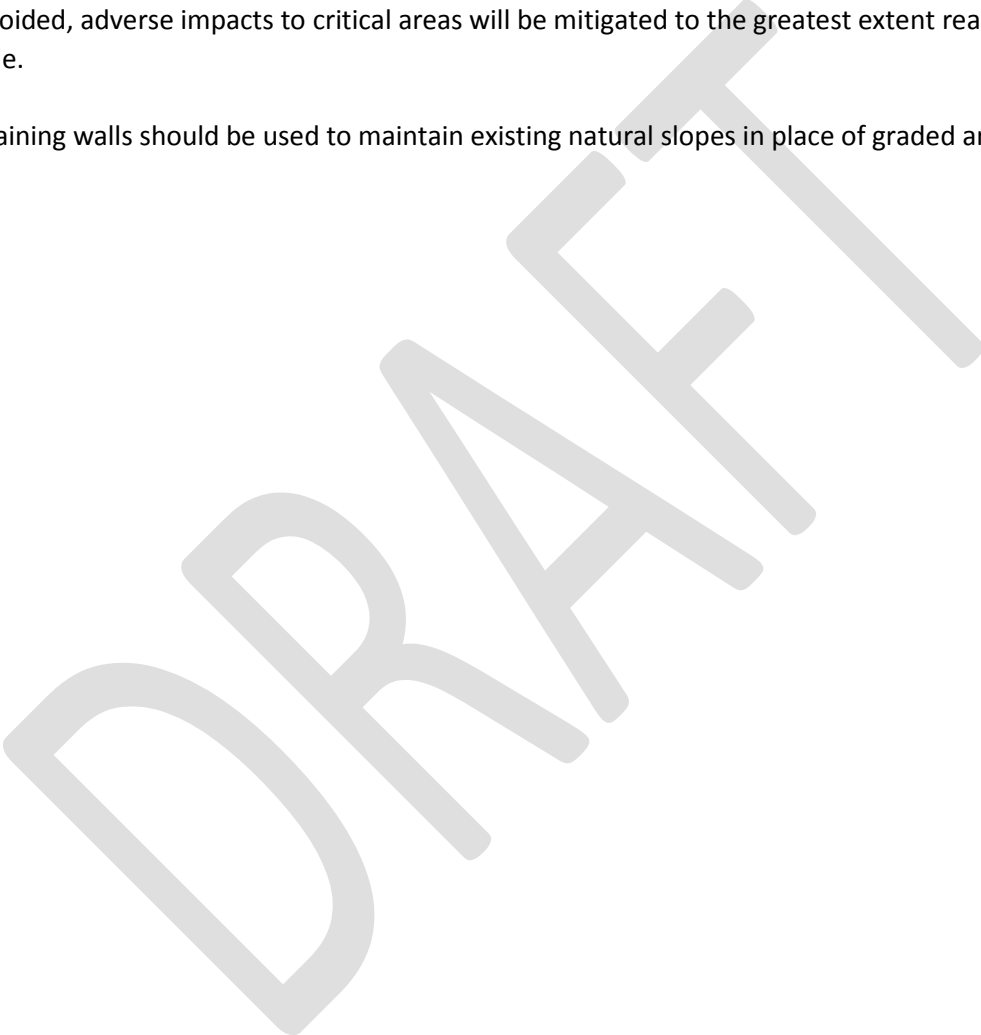
44
45 C. New buildings shall be located within the building pad established by subsection "B." or "C." above.

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19.09.100 Preferred practices.

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

- A. Use common access drives and utility corridors.
- B. Development, including roads, walkways and parking areas in critical areas, should be avoided, or if not avoided, adverse impacts to critical areas will be mitigated to the greatest extent reasonably feasible.
- C. Retaining walls should be used to maintain existing natural slopes in place of graded artificial slopes.



1 Chapter 19.10
2 TREES
3

4 **19.10.010 Purpose and intent.**

5 The purpose of this chapter is to prioritize the retention of large, healthy trees on Mercer Island. The
6 intent of this chapter is ~~These regulations are adopted~~ to promote the public health, safety, and general
7 welfare of the citizens of Mercer Island, and to protect large, healthy trees as a community resource,
8 and to protect neighborhood character.

9
10 The city recognizes that trees: -including

11 A. ~~Minimize~~ erosion, siltation and water pollution in Lake Washington, surface water and ground
12 water runoff;

13 B. ~~Reduce the~~ risks of ~~land~~slides, and the need for additional storm drainage facilities; ~~preserving trees~~
14 for the

15 C. ~~Reduction of~~ noise and air pollution;

16 D. ~~Provide~~ wind protection, slope stabilization, animal habitat, ~~and reduction in air pollution;~~ ~~removing~~
17 diseased or hazardous trees; implementing the city's comprehensive plan; designating and
18 preserving

19 E. ~~Provide an aesthetic value to the community; and,~~

20 F. ~~Contribute to neighborhood and community character, in particular through the preservation of~~
21 historical trees;

22
23 The city further acknowledges that the value of trees should be balanced with the ~~and providing for the~~
24 other community goals of:

25 G. ~~Providing~~ delivery of reliable utility service;

26 H. ~~Reasonable~~ development of property; and, ~~and,~~

27 I. ~~Reasonable~~ preservation or enhancement of property views.

28
29 **19.10.020 ~~Permit requirements Exemptions.~~** The following are exempt from the provisions of this
30 chapter:

31 A. Emergency tree removal. Any hazardous tree that poses an imminent threat to life or property may
32 be removed. The city must be notified within fourteen (14) days of the emergency tree removal with
33 evidence of the threat for removing the tree to be considered exempt from this chapter. If the city
34 arborist determines that the emergency tree removal was not warranted or if the removed tree was
35 required by a permit or as a condition of land use approval, the code official may require that the
36 property owner obtain a permit and/or require that replacement trees and vegetation be replanted as
37 mitigation.

38
39 B. Small trees. Trees that meet the definition of small trees. Provided that small trees may be
40 incorporated into a proposed replanting and retention plan, subject to review and approval by the city
41 arborist.

42
43 C. Undesired trees. Alder, Bitter Cherry, or Black Cottonwood, and any plant on the noxious or invasive
44 weed lists established by Washington State or King County, as amended.

1
2 D. Tree pruning. Tree pruning, as defined in MICC 19.16.010, on private property.

3
4 **19.10.030 Permit approval required.**

5 A. Permit approval required. A tree removal permit is required to cut, or remove directly or indirectly
6 through site grading, any large tree unless the activity is exempted pursuant to MICC 19.10.020. Permit
7 approval may take the form of a tree removal permit or it may be included in conjunction with another
8 permit such as a site development permit or building permit.

9
10 B. Peer review and conflict of interest.

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

13
14 2. Where the code official believes a conflict of interest exists (e.g. if an otherwise qualified
15 arborist is employed by a tree removal company and prepares the arborist report for a
16 development proposal), the code official may require the applicant retain a replacement
17 qualified arborist or may require a peer review.

18
19 C. Tree removal permit application form. The city shall establish and maintain a tree removal permit
20 application form to allow property owners to request city review of tree removal for compliance with
21 applicable city regulations. The application shall include at a minimum, the following:

22
23 1. General Information.

24 a. The applicant shall give the name, address and telephone number of the applicant
25 and owner of the property and the street address.

26
27 b. The applicant must provide information on the proposed location, species, diameter
28 and number of trees proposed to be cut or public tree proposed to be pruned.

29
30 c. The applicant must agree to pay all costs of cutting, pruning, removing debris,
31 cleaning, purchasing and planting replacement trees and any traffic control needed.

32
33 d. A site plan reflecting the location of large trees and the relative location of structures,
34 driveways, and buildings.

35
36 2. Critical Tree Area. An application covering a tree located in a critical tree area shall include a
37 proposed time schedule for the cutting, land restoration, implementation of erosion control and
38 other measures that will be taken in order to prevent damage to the critical tree area.

39
40 3. Development plan set. An application for a development proposal that requires tree
41 retention, and that will result in the removal of one or more trees and as a result of construction
42 work, shall include the following:

1 a. Detailed site plan. The site plan shall include the following information at a minimum
2 unless waived by the city arborist:

3 i. Location of all proposed improvements, including building footprint, access,
4 utilities, applicable setbacks, buffers, and required landscaped areas clearly
5 identified. If a short plat or subdivision is being proposed and the location of all
6 proposed improvements cannot be established, a phased tree retention plan
7 review is required as described below;

8
9 ii. Accurate location of large trees on the subject property (surveyed locations
10 may be required). The site plan must also include the trunk location and critical
11 root zone of large trees that are on adjacent property with driplines extending
12 over the subject property line;

13
14 iii. Trees labeled corresponding to the tree inventory numbering system;

15
16 iv. Location of tree protection measures;

17
18 v. Indicate limits of disturbance (LOD) drawn to scale around all trees potentially
19 impacted by site disturbances resulting from grading, demolition, or
20 construction activities (including approximate LOD of off-site trees with
21 overhanging driplines);

22
23 vi. Proposed tree status (trees to be removed or retained) noted by an 'X' or by
24 ghosting out;

25
26 vii. Proposed locations of any require replacement trees.

27
28 b. A Tree Retention Plan and Arborist Report. The tree retention plan shall contain the
29 following information, unless waived by the city arborist:

30
31 i. A tree inventory containing the following:

32 (A) A numbering system of all existing large trees on the subject
33 property (with corresponding tags on trees); the inventory shall also
34 include large trees on adjacent property with driplines extending into
35 the development proposal site;

36 (B) Size (diameter);

37 (C) Proposed tree status (retained or removed);

38 (D) Tree type or species;

39 (E) Brief general health or condition rating of these trees (i.e. poor, fair,
40 good, etc.)

41
42 ii. An arborist report, prepared by a qualified arborist, containing the following:

43 (A) A complete description of each tree's diameter, species, critical root
44 zone, limits of allowable disturbance, health, condition, and viability;

1 (B) A description of the method(s) used to determine the limits of
2 allowable disturbance (i.e., critical root zone, root plate diameter, or a
3 case-by-case basis description for individual trees);

4 (C) Any special instructions specifically outlining any work proposed
5 within the limits of the disturbance protection area (i.e., hand-digging,
6 air spade, tunneling, root pruning, any grade changes, clearing,
7 monitoring, and aftercare);

8 (D) For trees not viable for retention, a description of the reason(s) for
9 removal based on poor health, high risk of failure due to structure,
10 defects, unavoidable isolation (windfirmness), or unsuitability of
11 species, etc., and for which no reasonable alternative action is possible
12 must be given (pruning, cabling, etc.);

13 (E) Describe the impact of necessary tree removal to the remaining
14 trees, including those in a grove or on adjacent properties;

15 (F) For development applications, a discussion of timing and installation
16 of tree protection measures that must include fencing and be in
17 accordance with the tree protection standards as outlined in MICC
18 19.10; and

19 7) The suggested location and species of supplemental trees to be
20 used when required. The report shall include planting and maintenance
21 specifications to ensure long term survival.

22
23 c. Phased Review.

24
25 i. If during the short plat or subdivision review process the location of all
26 proposed improvements, including the building footprint, utilities, and access,
27 was not able to be established, the applicant may submit a Tree Retention Plan
28 that addresses trees only affected by the known improvements at the time of
29 application. Tree removal shall be limited to those affected areas.

30
31 ii. A new Tree Retention Plan shall be required at each subsequent phase of
32 the project as more information about the location of the proposed
33 improvements is known.

34
35 iii. Nothing in this section shall be construed to allow for a reduction in tree
36 retention unless specifically authorized by the city arborist.

37
38 4. Additional Information. The city arborist or code official may require additional
39 documentation, plans, or information as needed to ensure compliance with applicable city
40 regulations.

41
42 A. No Permit Required. Except as otherwise provided in subsection B of this section, no tree permit is
43 required for an owner or an owner's agent to cut or prune trees located on the owner's property as
44 follows:

1
2 ~~1. Outside Critical Tree Area. No tree permit is required to cut any tree located outside a critical~~
3 ~~tree area;~~

4
5 ~~2. Pruning. No tree permit is required to perform pruning of any tree; and~~

6
7 ~~3. Size of Tree. No tree permit is required to cut any small tree.~~

8
9 ~~B. Permit Required. A tree permit is required to cut a tree as follows:~~

10
11 ~~1. Construction Work. A tree permit is required to cut any large tree as a result of construction~~
12 ~~work;~~

13
14 ~~2. Landmark Tree/Grove. A tree permit is required to cut a landmark tree or any tree located in~~
15 ~~a landmark grove;~~

16
17 ~~3. Critical Tree Area. A tree permit is required to cut any large tree located in a critical tree area;~~

18
19 ~~4. Commercial Zone. A tree permit is required to cut any large tree located in a commercial~~
20 ~~zone;~~

21
22 ~~5. Emergency. A tree on private property may be cut without a tree permit in an emergency~~
23 ~~situation involving immediate danger to life or property so long as the city arborist is notified~~
24 ~~within seven days of the tree having been cut, is provided such additional information as the city~~
25 ~~arborist requests in order to verify the emergency, and a tree permit is obtained within 20 days~~
26 ~~following the cutting of the tree if a tree permit is required under this section;~~

27
28 ~~6. Public Tree.~~

29
30 ~~a. By the City. The city is obligated to comply with the permit requirements as set forth~~
31 ~~in this chapter;~~

32
33 ~~b. By Private Property Owners. No private property owner may cut or prune a public~~
34 ~~tree. A private property owner can request the city to prune a tree located on any city~~
35 ~~street subject to the conditions set forth in MICC 19.10.040(A)(2);~~

36
37 ~~7. Private Utility Company. A tree permit is required for a private utility company to cut any tree.~~

38
39
40 **~~19.10.030 Seasonal development limitations.~~**

41 ~~No cutting of trees located in geologic hazard areas or protected slope areas is allowed between~~
42 ~~October 1 and April 1 unless: (i) an administrative waiver has been granted; or (ii) it is required due to an~~
43 ~~emergency situation involving immediate danger to life or property. The city arborist may grant an~~
44 ~~administrative waiver to this seasonal development limitation if the city arborist determines that such~~

1 environmentally sensitive areas will not be adversely impacted by the proposed cutting and the
2 applicant demonstrates compelling justification by a geotechnical evaluation of the site. The city arborist
3 may require hydrology, soils and storm water retention studies, erosion control measures, restoration
4 plans, and/or an indemnification/release agreement.

5
6
7 **19.10.040 ~~Criteria~~Trees on public property.**

8 – ADDITIONAL LANGUAGE WILL BE PROVIDED AT A LATER DATE

9
10 **~~B.19.10.050 Trees on Private Property~~Residential Tree Retention.**

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

13
14 1. A new single family dwelling;

15
16 2. An addition or remodel to an existing single family dwelling that will result in the addition of
17 more than 500 square feet of gross floor area; or

18
19 3. A subdivision or short subdivision.

20
21 B. Retention requirement.

22
23 1. 30% of large trees on a lot subject to retention shall be retained over a rolling five year
24 period, provided the city may authorize a reduction in the number of trees retained:

25
26 a. Based upon the retention of priority trees as provided in MICC 19.10.XXX; or,

27
28 b. Removal is necessary to satisfy the terms and conditions of any covenant, condition,
29 view easement or other easement or other restriction encumbering the lot that was
30 recorded on or before July 31, 2011.

31
32 2. Development proposals on lots that have removed more than 70% of large trees within the
33 rolling five year period, such that the 30% tree retention requirement cannot be met, shall not
34 receive approval until sufficient time has elapsed to allow compliance. For example, a lot that
35 has removed all of the trees in year “one”, may not receive a preliminary subdivision approval in
36 year “four”. However, the preliminary subdivision approval may be granted in year “six”, such
37 that the rolling five year period does not include the tree removal in year “one”.

38
39 3. For the purposes of this chapter, the rolling five year period begins five years prior to the date
40 of application for a development approval that is subject to tree retention.

41
42 4. When the retention calculation results in a fraction, the fraction shall be rounded to the
43 nearest whole number as follows:

44 a. Fractions of 0.50 or above shall be rounded up; and

1 b. Fractions below 0.50 shall be rounded down.

2
3 C. Tree Retention Enforcement. Trees identified for retention through the approval of a development
4 proposal and that are removed, or are damaged to the extent that removal is required, without prior
5 written approval by the City arborist, whether intentionally or unintentionally, shall result in a civil
6 penalty pursuant to MICC 19.10.140(B), in addition to required replanting and remediation. The code
7 official may waive the civil penalty if the code official determines that appropriate tree protection
8 standards were in place and maintained, and natural disaster, or events entirely outside the control of
9 the property owner, resulted in the tree loss.

10
11 **19.10.060 Multifamily and Commercial Tree Retention.** When a tree permit is required to cut a tree on
12 private property and is not subject to the retention requirements of 19.10.050, the tree permit will be
13 granted if it meets any of the following criteria:

14
15 ~~A.~~ A. It is necessary for public safety, removal of hazardous trees, or removal of diseased or dead trees;

16
17 B. It is necessary to enable construction work on the property to proceed and the owner has used
18 reasonable best efforts to design and locate any improvements and perform the construction work in a
19 manner consistent with the purposes set forth in MICC 19.10.010;

20
21 C. It is necessary to enable any person to satisfy the terms and conditions of any covenant, condition,
22 view easement or other easement, or other restriction encumbering the lot that was recorded on or
23 before July 31, 2001; and subject to MICC 19.10.080(A)(2);

24
25 D. It is part of the city's forest management program or regular tree maintenance program and the city
26 is the applicant;

27
28 ~~5. The permit seeks to cut one of the following common, short lived "weedy" tree species: Alder, Bitter~~
29 ~~Cherry, or Black Cottonwood; or~~

30
31 E. It is desirable for the enhancement of the ecosystem or slope stability based upon professional
32 reports in form and content acceptable to the city arborist.

33
34 **19.10.070.C. Trees Cut/Pruned by Private Utility Companies.** A tree permit will be issued to private
35 utility companies to cut trees located on public or private property if necessary for public safety,
36 removal of hazardous trees, removal of diseased or dead trees, as part of any private utility tree
37 maintenance program approved by the city, or for construction work. Regardless of whether or not a
38 permit is required, all cutting or pruning of trees by private utility companies shall be performed under
39 the supervision of a certified arborist and at the sole cost and expense of the utility company.

40
41 **19.10.080 Tree retention prioritization.**

42 A. Trees that meet the following criteria are prioritized for retention:

43
44 1. Trees that are in overall good health and have a greater likelihood of longevity; and

1
2 2. Large coniferous trees with a diameter of 24 inches or greater; or

3
4 3. Large deciduous trees with a diameter of 30 inches or greater.

5
6 B. Every tree retained that meets the criteria in section "A." above for prioritization shall account for 1.5
7 trees of retention. For example, a development that is required to retain 10 trees, may reduce the
8 actual number of trees retained to 8 trees by retaining 4 trees meeting the prioritization in section "A."
9 above, and 4 trees that do not meet the above prioritization.

10
11 C. When the prioritization calculation results in a fraction, the fraction shall be rounded to the nearest
12 whole number as follows:

13
14 1. Fractions of 0.50 or above shall be rounded up; and

15
16 2. Fractions below 0.50 shall be rounded down.

17
18 **19.10.090 Tree protection standards.**

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

21
22 1. All minimum required tree protection measures shall be shown on the development plan set
23 and tree re-planting / restoration / protection plan.

24
25 2. Tree protection barriers shall be installed five feet beyond the drip line of large trees to be
26 protected prior to any land disturbance. No construction related activity or work shall occur
27 within the tree protection barriers.

28
29 3. Tree protection barriers shall be a minimum of four feet high, constructed of chain link, or
30 polyethylene laminar safety fencing or other material, subject to approval by the city arborist.
31 On large or multiple-project sites, the city arborist may also require that signs requesting
32 subcontractor cooperation and compliance with tree protection standards be posted at site
33 entrances.

34
35 4. Where tree protection areas are remote from areas of land disturbance, and where approved
36 by the city arborist, alternative forms of tree protection may be used in lieu of tree protection
37 barriers, provided that protected trees are completely surrounded with continuous rope or
38 flagging and are accompanied by "Tree Save Area – Keep Out" signs or similar signage
39 authorized by the city arborist.

40
41 B. Preventative Measures. In addition to the above minimum protection measures, the applicant shall
42 support the protection measures by employing, as appropriate, the following preventative measures,
43 consistent with best management practices for maintaining the health of the tree:

- 1 1. Retained trees shall not be topped;
- 2
- 3 2. Excessive pruning shall not be allowed unless necessary to protect life and property;
- 4
- 5 3. Visible deadwood on trees to be protected or relocated shall be pruned;
- 6
- 7 4. Fertilizer shall be applied to enhance the vigor of stressed trees;
- 8
- 9 5. Use soil amendments and soil aeration in planting areas;
- 10
- 11 6. Apply mulch over tree drip line areas; and
- 12
- 13 7. Ensure proper water availability before, during, and after construction.
- 14

15 C. Alternative Methods.

- 16 1. The city arborist may approve the use of alternative tree protection and/or preventative
- 17 measures if a protected tree will be protected to an equal or greater degree than through the
- 18 techniques listed above.
- 19
- 20 2. The city arborist may approve construction related activity or work within the tree protection
- 21 barriers if the city arborist concludes that such activity or work will not threaten the long term
- 22 health of the retained tree(s).
- 23

24 **19.10.100 Seasonal development limitations.**

25 No cutting of trees located in geologic hazard areas or protected slope areas is allowed between

26 October 1 and April 1 unless: (i) a tree permit with explicit authorization for removal between October 1

27 and April 1 has been granted; or (ii) it is required due to an emergency situation involving immediate

28 danger to life or property. The city arborist may authorize tree removal between October 1 and April 1 if

29 the city arborist determines that such environmentally critical areas will not be adversely impacted by

30 the proposed cutting and the applicant demonstrates compelling justification by a geotechnical

31 evaluation of the site. The city arborist may require hydrology, soils and storm water studies, erosion

32 control measures, restoration plans, and/or an indemnification/release agreement.

33

34 **19.10.10050 Commission review required in commercial zones.**

35 A tree permit covering regulated improvements located in a commercial zone, that have previously

36 received design commission approval, must first be reviewed, and approved by the city's design

37 commission prior to permit issuance by the city.

38

39 **19.10.11060 Tree replacement.**

40 Any trees that are cut pursuant to a tree permit shall be replaced on the subject property as specified in

41 this section.

42

43 A. Private Utility Company. If the permit is granted to a private utility company and the property owner

44 is unwilling to place any replacement trees on the owner's property, the private utility company shall

1 pay to the city the amount necessary to purchase and plant replacement trees on public property
2 necessary to mitigate the impact of the removed trees based upon arborist industry standards. Monies
3 paid to the city for replacement trees shall be used for that purpose.
4

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

11 C. Size. All replacement coniferous trees shall be at least six feet tall and all replacement deciduous trees
12 shall be at least 1.5 inches in caliper. ~~unless a smaller size tree or shrub is approved by the city~~
13 ~~arborist. The city arborist may authorize the planting of smaller-sized replacement trees if the applicant~~
14 ~~can demonstrate that smaller trees are more suited to the species, the site conditions, and the purposes~~
15 ~~of this section, and that such replacement trees will be planted in sufficient quantities to meet the~~
16 ~~intent of this section.~~
17

18 D. Replacement Trees. ~~Number.~~

19 1. Number. Any large tree removed shall be subject to the following replacement requirements:

20 a. One replacement tree for each coniferous tree with a diameter of 12 inches or more
21 removed and one replacement tree for each deciduous tree with a diameter of 18
22 inches or more.

23 b. Two replacement trees for each coniferous tree with a diameter of 24 inches or more
24 removed and one replacement tree for each deciduous tree with a diameter of 30
25 inches or more.

26 c. Four replacement trees for each coniferous or deciduous tree with a diameter of
27 more than 36 inches.

28 d. The city arborist may reduce the number of replacement trees where other measures
29 design to mitigate the loss of trees by restoring the tree canopy coverage and its
30 associated benefits may be considered. The city arborist may consider, but is not
31 limited to, the following measures:

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

34 ii. Restoration of critical tree areas with native vegetation; and,

35 iii. Protection of small trees to provide for successional stages of tree canopy.

36 2. Location. Replacement trees shall be located in the following order of priority from most
37 important to least important:

38 a. On-site replacement adjacent to or within critical tree areas;

39 b. On-site replacement outside of critical tree areas; and

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

41 3. In-lieu Options. If the city arborist determines there is insufficient area to replant on the site
42 or within the adjacent public right-of-way, the city arborist may authorize the following:

43 a. Donation. Donation of replacement trees for planting within city parks, public right-
44 of-way, or other locations that will provide for community benefit; or

1 b. Fee-in-lieu. The city's acceptance of this payment is discretionary, and may be
2 permitted if the proposed on-site tree replacement does not meet the requirements of
3 this chapter, or tree replacement or management provided within public right-of-way or
4 a city park in the vicinity will be of greater benefit to the community. Fees provided in
5 lieu of on-site tree replacement shall be determined based upon the expected tree
6 replacement cost including labor and materials.

7 In making a determination regarding the number of replacement trees required, the city arborist shall
8 apply a replacement ratio based on a sliding scale of 0:1 up to 4:1, depending upon the criteria in the
9 following priority order:

- 10 1. Percentage of slope, slope stability, topography and general soil conditions;
- 11 2. Trunk size and canopy of tree to be cut and trunk size and canopy of replacement tree;
- 12 3. Size and shape of lot and area available to be replanted; and
- 13 4. Proximity to any critical tree area and/or the existence and retention of vegetative cover in any critical
- 14 tree area.

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 ~~**19.10.070 Bald eagle and other federal and state requirements.**~~

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

22 ~~**19.10.080 Permit applications.**~~

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

25 ~~1. General Information.~~

26 ~~a. The applicant shall give the name, address and telephone number of the applicant~~
27 ~~and owner of the property and the street address.~~

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

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

1
2 2. Critical Tree Area. An application covering a tree located in a critical tree area shall include a
3 proposed time schedule for the cutting, land restoration, implementation of erosion control and
4 other measures that will be taken in order to prevent damage to the critical tree area.
5

6 3. Construction Work. An application covering a tree to be cut as a result of construction work
7 shall include the following:
8

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

11
12 i. Indicate topography by contours at a minimum of five-foot intervals, and the
13 grading by dashed contour lines for existing grades and by solid contour lines for
14 existing grades to be changed. The entire area to be cut and/or filled shall be
15 indicated, and temporary storage of any excavated or fill material also
16 indicated;

17
18 ii. Indicate the location of existing and proposed improvements including, but
19 not limited to, structures, driveways, ponds, the location of building (zoning)
20 setbacks and grade changes; and

21
22 iii. Indicate the location, diameter and/or size, and species of all large trees.
23 Trees proposed to be cut shall be identified and differentiated from those trees
24 not being cut. For a permit involving any critical tree area, the applicant shall
25 also identify vegetative cover that will be retained or removed.
26

27 b. Restoration/Protection Plan. An applicant shall provide a plan for protecting trees
28 that are not intended to be cut, a plan for conducting all construction work in
29 accordance with best construction practices and a plan for erosion control and
30 restoration of land during and immediately following the construction period.
31

32 4. Public Trees. An application for a permit by a private utility company to cut a public tree
33 pursuant to MICC 19.10.040(C) or by a private property owner to prune a public tree on any city
34 street pursuant to MICC 19.10.040 (A)(2), shall include all such information as the city arborist
35 may require in order to verify that all conditions of those sections have been satisfied. If there is
36 a dispute as to whether a tree is located on public property or private property, the city arborist
37 may require a survey, at the applicant's expense, that is not more than one year old indicating
38 the boundaries of the private property and the public property.
39

40 B. City Review. The city arborist shall complete a review and make a decision within 30 days from the
41 date a complete application is submitted unless an extension, not to exceed 20 days, is authorized by
42 the city manager or designee.
43

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

7
8
9 **19.10.090-120 Nuisance abatement.**

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

12
13 B. In addition to the provisions of Chapter 8.24 MICC, Nuisance Control Code, the following
14 requirements shall apply to trees and vegetation:

15
16 1. Branches over roads shall be trimmed to a minimum of 12 feet above the road surface. (see
17 Figure 1).

18
19 2. Branches over sidewalks shall be trimmed to a minimum of eight feet above the sidewalk and
20 one foot behind the sidewalk (see Figure 1).

21
22 3. Street trees and other vegetation will be spaced according to the following spacing
23 requirements to facilitate the safe flow of traffic (see Figure 2):

24
25 a. No tree plantings are allowed within a 30-foot sight triangle at any street intersection.

26
27 b. Shrubs shall not exceed 36 inches in height above the street level within this triangle.

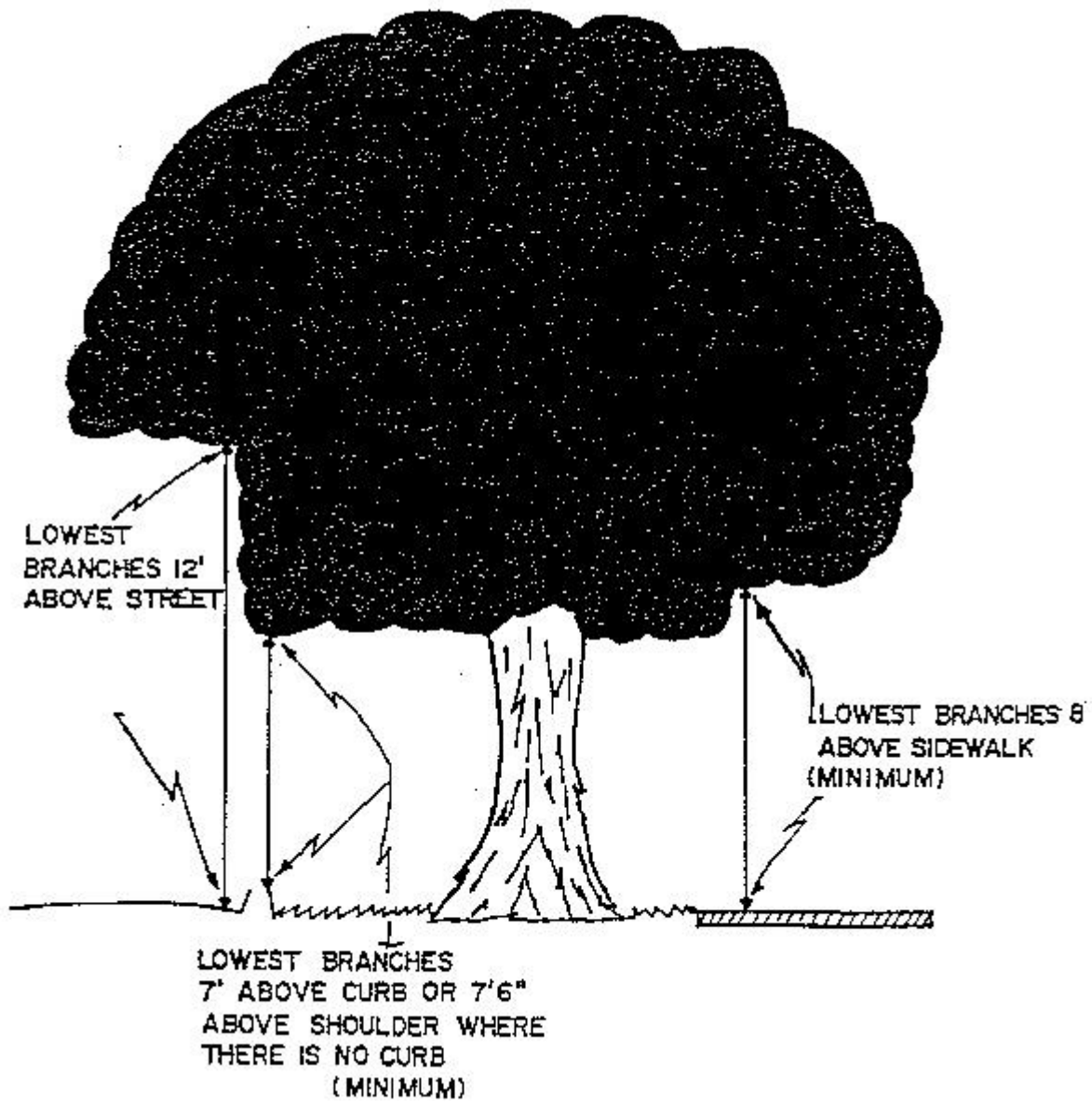
28
29 c. Ten-foot minimum spacing shall be observed for small trees.

30
31 d. Hedges are not allowed between the sidewalk and the curb, and must be planted at
32 least five feet behind the sidewalk.

33
34 e. Hedges must be trimmed at least three feet behind the sidewalk.

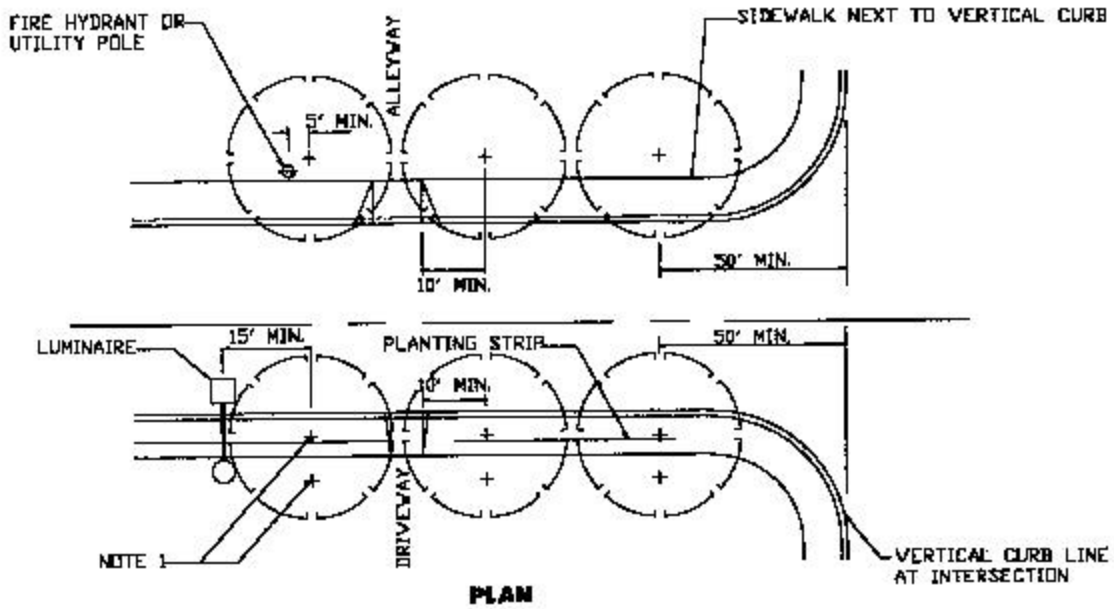
35
36 f. Plantings of trees, shrubs or hedges are not allowed between the street/road edge
37 and a ditch.

38




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 19.10.100-130 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)~~ Chapter 19.15 MICC.

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 **~~19.10.120-140 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 and Remediation.~~**

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

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

- 23 a. Removal of the remaining plant parts or debris;
- 24 b. Preparation of a re-planting plan in a form approved by the code official for re-
25 planting the area where trees were removed in violation of this chapter;
- 26 c. Payment of the costs to review, approve, and administer the remediation process;
- 27 d. Installation of the required re-plantings as reflected on the re-planting plan; and,
- 28 e. Maintenance of the required re-plantings for a period of two years. Reasonable
29 remediation is the cost to develop a plan of remediation and remove the remaining
30 plant parts or debris, the cost to clean up the area, the cost to replant the area, and the
31 cost to administer the remediation process.

32
33
34 **~~19.10.130 Best pruning practices.~~**

35 ~~The city arborist shall prepare and distribute educational materials describing the best practices,~~
36 ~~policies, techniques, methods and procedures for pruning trees.~~

37
38
39 **~~19.10.140-150 Landmark trees.~~**

40 A. Designation of Landmark Trees and Landmark Groves.

- 41
- 42 1. The city shall maintain a register of landmark trees and landmark groves.
- 43

1 2. A property owner may propose to the city that a tree or grove of trees located on his or her
2 private property be designated as a landmark tree or landmark grove. Any city resident may
3 propose to the city that a tree or grove of trees located on public property be designated as a
4 landmark tree or landmark grove. No tree or grove of trees may be designated without the
5 approval of the property owner(s) on which the tree or grove, or any portion of the tree's
6 branches or canopy, is located. Once such approval is given, however, it may not subsequently
7 be withdrawn by the property owner or by a subsequent property owner.
8

9 3. Upon receipt of a proposed designation and the approval of the property owner, the city
10 arborist shall determine whether the tree or grove satisfies the definition of landmark tree or
11 landmark grove.
12

13 4. If the city arborist approves the proposed designation, it shall be memorialized in a covenant
14 signed by the city and the property owner(s) and in form acceptable to the city attorney. The
15 covenant shall require that the tree(s) or grove be maintained in a manner that is consistent
16 with the provisions of this section. The covenant shall be recorded by the county auditor. The
17 city shall pay recording fees. The covenant and designation shall be effective from the date of
18 recording until such time as a tree permit has been issued for the cutting of the tree or grove of
19 trees.
20

21 5. Upon request of a property owner, the city arborist shall provide reasonable advice and
22 consultation on maintenance of any landmark tree or landmark grove without charge to the
23 property owner.
24

25 B. Tree Permit Requirements.
26

27 1. A tree permit to cut a landmark tree or a tree that is in a landmark grove as a result of
28 construction work will only be granted if the applicant has used reasonable best efforts to
29 design and locate the project so as to avoid having to cut the landmark tree or any trees in the
30 landmark grove.
31

32 2. A tree permit to cut a landmark tree or a tree in a landmark grove other than as a result of
33 construction work will only be granted if the applicant demonstrates that the tree removal is
34 necessary for safety, removal of hazardous trees, removal of diseased or dead branches or trees,
35 or if retention of the tree or grove will have a material, adverse and unavoidable impact on the
36 use of the property the use of the property.
37

1 Chapter 19.15
2 ADMINISTRATION
3
4

5 **19.15.010 General procedures.**

6 A. Purpose. Administration of the development code is intended to be expedient and effective. The
7 purpose of this chapter is to identify the processes, authorities and timing for administration of
8 development permits. Public noticing and hearing procedures, decision criteria, appeal procedures,
9 dispute resolution and code interpretation issues are also described.

10
11 B. Objectives. Guide customers confidently through the permit process; process permits equitably and
12 expediently; balance the needs of permit applicants with neighbors; allow for an appropriate level of
13 public notice and involvement; make decisions quickly and at the earliest possible time; allow for
14 administrative decision-making, except for those decisions requiring the exercise of discretion which are
15 reserved for appointed decision makers; ensure that decisions are made consistently and predictably;
16 and resolve conflicts at the earliest possible time.

17
18 C. Roles and Responsibilities. The roles and responsibilities for carrying out the provisions of the
19 development code are shared by appointed boards and commissions, elected officials and city staff. The
20 authorities of each of these bodies are set forth below.

21
22 1. City Council. The city council is responsible for establishing policy and legislation affecting land
23 use within the city. The city council acts on recommendations of the planning commission in
24 legislative and quasi-judicial matters, and serves as the appeal authority on discretionary
25 actions.

26
27 2. Planning Commission. The role of the planning commission in administering the development
28 code is governed by Chapter 3.46 MICC. In general, the planning commission is the designated
29 planning agency for the city (see Chapter 35A.63 RCW). The planning commission is responsible
30 for final action on a variety of discretionary permits and makes recommendations to the city
31 council on land use legislation, comprehensive plan amendments and quasi-judicial matters. The
32 planning commission also serves as the appeal authority for some ministerial and administrative
33 actions.

34
35 3. Design Commission. The role of the design commission in administering the development
36 code is governed by Chapter 3.34 MICC and MICC 19.15.040. In general, the design commission
37 is responsible for maintaining the city's design standards and action on sign, commercial and
38 multiple-family design applications.

39
40 4. Building Board of Appeals. The role of the building board of appeals in administering the
41 construction codes is governed by Chapter 3.28 MICC. In general, the building board of appeals
42 is responsible for hearing appeals of interpretations or application of the construction codes set
43 forth in MICC Title 17.
44

1 5. Development Services Group. The responsible officials in the development services group act
2 upon ministerial and administrative permits.

3
4 a. The code official is responsible for administration, interpretation and enforcement of
5 the development code.

6
7 b. The building official is responsible for administration and interpretation of the
8 building code, except for the International Fire Code.

9
10 c. The city engineer is responsible for the administration and interpretation of
11 engineering standards.

12
13 d. The environmental official is responsible for the administration of the State
14 Environmental Policy Act and shoreline master program.

15
16 e. The fire code official is responsible for administration and interpretation of the
17 International Fire Code.

18
19 6. Hearing Examiner. The role of the hearing examiner in administering the development code is
20 governed by Chapter 3.40 MICC.

21
22 D. Actions. There are four categories of actions or permits that are reviewed under the provisions of the
23 development code.

24
25 1. Ministerial Actions. Ministerial actions are based on clear, objective and nondiscretionary
26 standards or standards that require the application of professional expertise on technical issues.

27
28 2. Administrative Actions. Administrative actions are based on objective and subjective
29 standards that require the exercise of limited discretion about nontechnical issues.

30
31 3. Discretionary Actions. Discretionary actions are based on standards that require substantial
32 discretion and may be actions of broad public interest. Discretionary actions are only taken after
33 an open record hearing.

34
35 4. Legislative Actions. Legislative actions involve the creation, amendment or implementation of
36 policy or law by ordinance. In contrast to the other types of actions, legislative actions apply to
37 large geographic areas and are of interest to many property owners and citizens. Legislative
38 actions are only taken after an open record hearing.

39
40 E. Summary of Actions and Authorities. The following is a nonexclusive list of the actions that the city
41 may take under the development code, the criteria upon which those decisions are to be based, and
42 which boards, commissions, elected officials, or city staff have authority to make the decisions and to
43 hear appeals of those decisions.

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Ministerial Actions			
Tree Removal Permit	Code official	Chapter 19.10	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
Lot Line Adjustment Permit	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	Planning commission
Seasonal Development Limitation Waiver	Building official or city arborist	MICC 19.10.030 , 19.07.060 (D)(4)	Building board of appeals
Development Code Interpretations	Code official	MICC 19.15.020 (L)	Planning commission Hearing Examiner
Shoreline Exemption	Code official	MICC 19.07.110 and 19.15.020 (G)(6)(c)(i)	Hearing examiner
Administrative Actions			

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Accessory Dwelling Unit Permit	Code official	MICC 19.02.030	Hearing examiner
Preliminary Short Plat	Code official	Chapter 19.08 MICC	Planning commission
Deviation	Code official	MICC 19.15.020 (G), 19.01.070 , 19.02.050 (F), 19.02.020 (C)(4) and (D) (3)	Planning commission
Critical Areas Determination	Code official	Chapter 19.07 MICC	Planning commission
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	Planning commission
Short Plat Alteration and Vacations	Code official	MICC 19.08.010 (G)	Hearing examiner
Long Plat Alteration and Vacations	City council via planning commission	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	Planning commission	MICC 19.11.150 (B), 19.15.020 (G)	Hearing examiner

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Reclassification (Rezone)	City council via planning commission ²	MICC 19.15.020(G)	Superior court
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 planning commission 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
Variance from Short Plat Acreage Limitation	Planning commission	MICC 19.08.020	City council
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 19.02.020(D)(4)	Superior court
Legislative Actions			

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
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

¹Final 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).

²The 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.

³Must be approved by the city of Mercer Island prior to review by DOE per WAC [173-27-200](#) and RCW [90.58.140](#)(10).

19.15.020 Permit review procedures.

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

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

B. Application.

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

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

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C. Determination of Completeness.

- 1. The city will not accept an incomplete application. An application is complete only when all information required on the application form and all submittal items required by code have been provided to the satisfaction of the code official.
- 2. Within 28 days after receiving a development permit application, the city shall mail or provide in person a written determination to the applicant, stating either that the application is complete or that the application is incomplete and what is necessary to make the application complete. An application shall be deemed complete if the city does not provide a written determination to the applicant stating that the application is incomplete.
- 3. Within 14 days after an applicant has submitted all additional information identified as being necessary for a complete application, the city shall notify the applicant whether the application is complete or what additional information is necessary.
- 4. If the applicant fails to provide the required information within 90 days of the determination of incompleteness, the application shall lapse. The applicant may request a refund of the application fee minus the city's cost of determining the completeness of the application.

D. Notice of Application.

- 1. Within 14 days of the determination of completeness, the city shall issue a notice of application for all administrative, discretionary, and legislative actions listed in MICC 19.15.010(E).
- 2. The notice of application shall include the following information:
 - a. The dates of the application, the determination of completeness, and the notice of application;
 - b. The name of the applicant;
 - c. The location and description of the project;
 - d. The requested actions and/or required studies;
 - e. The date, time, and place of the open record hearing, if one has been scheduled;
 - f. Identification of environmental documents, if any;
 - g. A statement of the public comment period, which shall be not less than 14 days nor more than 30 days following the date of notice of application; and a statement of the

1 rights of individuals to comment on the application, receive notice and participate in any
2 hearings, request a copy of the decision once made and any appeal rights;

3
4 h. The city staff contact and phone number;

5
6 i. The identification of other permits not included in the application to the extent known
7 by the city;

8
9 j. A description of those development regulations used in determining consistency of
10 the project with the city's comprehensive plan; and

11
12 k. Any other information that the city determines appropriate.

13
14 3. Open Record Hearing. If an open record hearing is required on the permit, the city shall:

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

17
18 b. Issue any threshold determination required under MICC 19.07.110 at least 15 days
19 prior to the hearing.

20
21 4. Notice shall be provided in the bi-weekly DSG bulletin, posted at City Hall and made available
22 to the general public upon request.

23
24 5. All comments received on the notice of application must be received by the development
25 services group by 5 pm on the last day of the comment period.

26
27 6. Except for a determination of significance, the city shall not issue a threshold determination
28 under MICC 19.07.110 or issue a decision on an application until the expiration of the public
29 comment period on the notice of application.

30
31 7. A notice of application is not required for the following actions; provided, the action is either
32 categorically exempt from SEPA or an environmental review of the action in accordance with
33 SEPA has been completed:

34
35 a. Building permit;

36
37 b. Lot line revision;

38
39 c. Right-of-way permit;

40
41 d. Storm drainage permit;

42
43 e. Home occupation permit;

44

- f. Design review – minor new construction;
- g. Final plat approval;
- h. Shoreline exemption permit;
- i. Critical lands determination; and
- j. Seasonal development limitation waiver.

E. Public Notice.

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

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

3. The public notice shall include the following:

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

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

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

[i. Long Subdivisions. Additional notice for long subdivisions shall be provided as follows:](#)

1 (A) Public notice shall also be published at least 10 days prior to the
2 open record hearing on the application in a newspaper of general
3 circulation within the city.

4
5 (B) If the owner of a proposed long subdivision owns land adjacent to
6 the proposed long subdivision, that adjacent land shall be treated as
7 part of the long subdivision for notice purposes, and notice of the
8 application shall be given to all owners of lots located within 300 feet of
9 the proposed long subdivision or the applicant's adjacent land.

10
11 (C) The city shall provide written notice to the Department of
12 Transportation of an application for a long subdivision or short
13 subdivision that is located adjacent to the right-of-way of a state
14 highway. The notice shall include a legal description of the long
15 subdivision or short subdivision and a location map.

16
17 b. Legislative Action. Notice shall be published in a newspaper of general circulation
18 within the city.

19
20 F. Open Record Hearing.

21
22 1. Only one open record hearing shall be required prior to action on all discretionary and
23 legislative actions except design review and street vacations.

24
25 2. Open record hearings shall be conducted in accordance with the hearing body's rules of
26 procedures. In conducting an open record hearing, the hearing body's chair shall, in general,
27 observe the following sequence:

28
29 a. Staff presentation, including the submittal of any additional information or
30 correspondence. Members of the hearing body may ask questions of staff.

31
32 b. Applicant and/or applicant representative's presentation. Members of the hearing
33 body may ask questions of the applicant.

34
35 c. Testimony by the public. Questions directed to the staff, the applicant or members of
36 the hearing body shall be posed by the chairperson at his/her discretion.

37
38 d. Rebuttal, response or clarifying statements by the applicant and/or the staff.

39
40 e. The public comment portion of the hearing is closed and the hearing body shall
41 deliberate on the action before it.

42
43 3. Following the hearing procedure described above, the hearing body shall:
44

- 1 a. Approve;
- 2
- 3 b. Conditionally approve;
- 4
- 5 c. Continue the hearing; or
- 6
- 7 d. Deny the application.
- 8

9 G. Decision Criteria. Decisions shall be based on the criteria specified in the Mercer Island City Code for
10 the specific action. An applicant for a development proposal shall have the burden of demonstrating
11 that the proposed development complies with the applicable regulations and decision criteria. A
12 reference to the code sections that set out the criteria and standards for decisions appears in MICC
13 19.15.010(E). For those actions that do not otherwise have criteria specified in other sections of the
14 code, the following are the required criteria for decision:

15
16 1. Comprehensive Plan Amendment.

17
18 a. The amendment is consistent with the Growth Management Act, the county-wide
19 planning policies, and the other provisions of the comprehensive plan and city policies;
20 and:

21
22 i. There exists obvious technical error in the information contained in the
23 comprehensive plan; or

24
25 ii. The amendment addresses changing circumstances of the city as a whole.

26
27 b. If the amendment is directed at a specific property, the following additional
28 findings shall be determined:

29
30 i. The amendment is compatible with the adjacent land use and development
31 pattern;

32
33 ii. The property is suitable for development in conformance with the standards
34 under the potential zoning; and

35
36 iii. The amendment will benefit the community as a whole and will not adversely
37 affect community facilities or the public health, safety, and general welfare.

38
39 2. Reclassification of Property (Rezoning).

40
41 a. The proposed reclassification is consistent with the policies and provisions of the
42 Mercer Island comprehensive plan;

- b. The proposed reclassification is consistent with the purpose of the Mercer Island development code as set forth in MICC 19.01.010;
- c. The proposed reclassification is an extension of an existing zone, or a logical transition between zones;
- d. The proposed reclassification does not constitute a “spot” zone;
- e. The proposed reclassification is compatible with surrounding zones and land uses; and
- f. The proposed reclassification does not adversely affect public health, safety and welfare.

3. Conditional Use Permit.

- a. The permit is consistent with the regulations applicable to the zone in which the lot is located;
- b. The proposed use is determined to be acceptable in terms of size and location of site, nature of the proposed uses, character of surrounding development, traffic capacities of adjacent streets, environmental factors, size of proposed buildings, and density;
- c. The use is consistent with policies and provisions of the comprehensive plan; and
- d. Conditions shall be attached to the permit assuring that the use is compatible with other existing and potential uses within the same general area and that the use shall not constitute a nuisance.

4. Variances. An applicant or property owner may request a variance from any numeric standard, except for the standards contained within Chapter 19.07 MICC. A variance shall be granted by the city only if the applicant can meet criteria “a.” through “g.”. A variance for increased impervious surface pursuant to subsection “h.” shall be granted by the city only if the applicant can meet criteria “a.” through “h.”:

- a. The strict enforcement of the provisions of Title 19 MICC will create an unnecessary hardship to the property owner;
- b. The variance is the minimum necessary to grant relief to the property owner;
- ca. No use variance shall be allowed;
- db. There are special circumstances applicable to the particular lot such as the size, shape, topography, or location of the lot; the trees, groundcover, or other physical

1 conditions of the lot and its surroundings; or factors necessary for the successful
2 installation of a solar energy system such as a particular orientation of a building for the
3 purposes of providing solar access;
4

5 ee. The granting of the variance will not be materially detrimental to the public welfare
6 or injurious to the property or improvements in the vicinity and zone in which the
7 property is situated;
8

9 ef. The granting of the variance will not alter the character of the neighborhood, nor
10 impair the appropriate use or development of adjacent property; and
11

12 eg. The variance is consistent with the policies and provisions of the comprehensive plan
13 and the development code.
14

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

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

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

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

1
2 iv. The variance may not be used with other provisions to exceed this maximum
3 60 percent impervious surface coverage.
4
5

6
7 5. Deviation. An applicant may request a deviation only from those numeric standards that have
8 been specifically designated below in subsections “b.” and “c.” and MICC 19.07.060(4) as being
9 subject to a deviation. A deviation shall be granted by the city only if the applicant demonstrates
10 all of the following:
11

12 a. General deviation criteria. All deviations shall be subject to the following criteria:
13

14 ia. No use deviation shall be allowed;

15
16 bi. The granting of the deviation will not be materially detrimental to the public
17 welfare or injurious to the property or improvements in the vicinity and zone in
18 which the property is situated;
19

20 ci. The granting of the deviation will not alter the character of the
21 neighborhood, nor impair the appropriate use or development of adjacent
22 property; and
23

24 d. The deviation is consistent with the policies and provisions of the
25 comprehensive plan and the development code.
26

27 v. Existing structures or sites that were established without prior land use and
28 permit approval (i.e. an illegally established non-conformance) shall not be
29 brought into compliance through the use of a deviation.
30

31 vi. The basis for requesting the deviation is not the direct result of a past action
32 by the current or prior property owner.
33

34 b. Setback Deviation. Deviations from the yard requirements of MICC 19.02.020, shall be
35 approved by the code official, provided the application meets the general criteria in
36 subsection “a.” above and the following additional criteria:
37

38 i. The setback deviation is associated with the approval of development of a
39 single lot or subdivision.
40

41 ii. The building pad resulting from the proposed deviation will result in less
42 impact to critical areas or critical areas buffers.
43

44 iii. Yard setbacks shall not be reduced below the following minimums:

1
2 (A) . Front and rear setbacks may not be reduced to less than 10 feet
3 each;

4
5 (B) . Side setbacks may not be reduced to less than five feet.

6
7 c. Fence or Gate Height Deviations. Deviations from the 42-inch height limitation set out
8 in 19.02.050 subsections (E)(1) and (D)(5) shall be approved by the code official
9 provided the application meets the general criteria in subsection “a.” above and the
10 following additional criteria:

11
12 i. For nonregulated improvements, a request for a deviation of up to 72 inches
13 within a yard along a street shall meet the following criteria:

14
15 (A) The proposed fence or gate will not unduly impact traffic,
16 pedestrian, or public safety.

17
18 (B) The proposed fence or gate is located along a property line directly
19 adjacent to a principal, secondary, or collector arterial.

20
21 (C) The proposed fence or gate meets one of the following:

- 22 (1) The proposed fence or gate will be located a minimum of 5
23 feet from the street property line and will be screened by
24 landscaping designed to soften the presence of the fence; or,
25 (2) The proposed fence or gate is a decorative wrought iron
26 fence of open work design with at least 50 percent of its total
27 surface area consisting of evenly distributed open spaces.

28
29 ii. For regulated improvements, deviations to fence height shall be reviewed by
30 the design commission under the procedures and criteria set forth in MICC
31 19.15.040.

32
33 ...
34
35 K. Expiration of Approvals.

36 1. General. Except for long and short subdivisions, building permits or ~~unless as~~ otherwise
37 conditioned in the approval process, permits shall expire one year from the date of notice of
38 decision if the activity approved by the permit is not exercised. ~~Responsibility for knowledge of~~
39 ~~the expiration date shall be with the applicant.~~

40 2. Long and short subdivision.

41
42 a. Once the preliminary plat for a long subdivision has been approved by the city, the
43 applicant has five years to submit a final plat meeting all requirements of this chapter to
44 the city council for approval.

1
2 b. Once the preliminary plat for a short subdivision has been approved by the city, the
3 applicant has one year to submit a final plat meeting all requirements of this chapter. A
4 plat that has not been recorded within one year after its preliminary approval shall
5 expire, becoming null and void. The city may grant a single one-year extension, if the
6 applicant submits the request in writing before the expiration of the preliminary
7 approval.

8
9 c. In order to renew an expired preliminary plat, a new application must be submitted.

10
11 3. Responsibility for knowledge of the expiration date shall be with the applicant.

12
13 L. Code Interpretations.

14 1. Upon ~~request~~ formal application or as determined necessary, the code official shall interpret
15 the meaning or application of provisions of the development code. In issuing the interpretation,
16 the code official shall consider the following:

- 17 a. The plain language of the code section in question;
18 b. Purpose and intent statement of the chapters in question;
19 c. Legislative intent of the City Council provided with the adoption of the code sections
20 in question;
21 d. Policy direction provided by the Mercer Island Comprehensive Plan;
22 e. Relevant judicial decisions;
23 f. Consistency with other regulatory requirements governing the same or similar
24 situation;
25 g. The expected result or effect of the interpretation; and,
26 h. Previous implementation of the regulatory requirements governing the situation.

27 2. The code official may also bring any issue of interpretation before the planning commission
28 for determination. Anyone in disagreement with an interpretation by the code official may also
29 request a review appeal of the code official's interpretation by to the planning
30 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 Detached accessory buildings include, but are not limited to, garages, cabanas, guest rooms, and
13 other similar buildings.

14 ...

15
16 Accessory Structure: A separate structure that is accessory and subordinate or incidental to the main
17 building on the same lot including, but not limited to, the following: decks, porches, fences, trellises, and
18 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 Average Building Elevation: The reference point on the surface topography of a lot from which building
29 height is measured. Elevation established by averaging the elevation at existing grade. The elevation
30 points to be averaged shall be located at the center of all exterior walls of the completed building;
31 provided:

32 1. Roof overhangs and eaves, chimneys and fireplaces, unenclosed projecting wall elements
33 (columns and fin walls), unenclosed and unroofed stairs, and porches, decks and terraces may
34 project outside exterior walls and are not to be considered as walls.

35

36 2. If the building is circular in shape, four points, 90 degrees apart, at the exterior walls, shall be
37 used to calculate the average building elevation.

38

39 3. For Properties within the Town Center: If a new sidewalk is to be installed as the result of a
40 new development, the midpoint elevation for those walls adjacent to the new sidewalk shall be
41 measured from the new sidewalk elevation, rather than existing grade prior to development
42 activity. The city engineer shall determine the final elevation of the sidewalk.

43

44 Formula:

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

3 ...

4
5 Building: A structure having a roof, but excluding trailers, mobile homes, and all other forms of vehicles
6 even though immobilized. Where this code requires, or where special authority granted pursuant to this
7 code requires that a use shall be entirely enclosed within a building, this definition shall be qualified by
8 adding "and enclosed on all sides."
9

10 ...

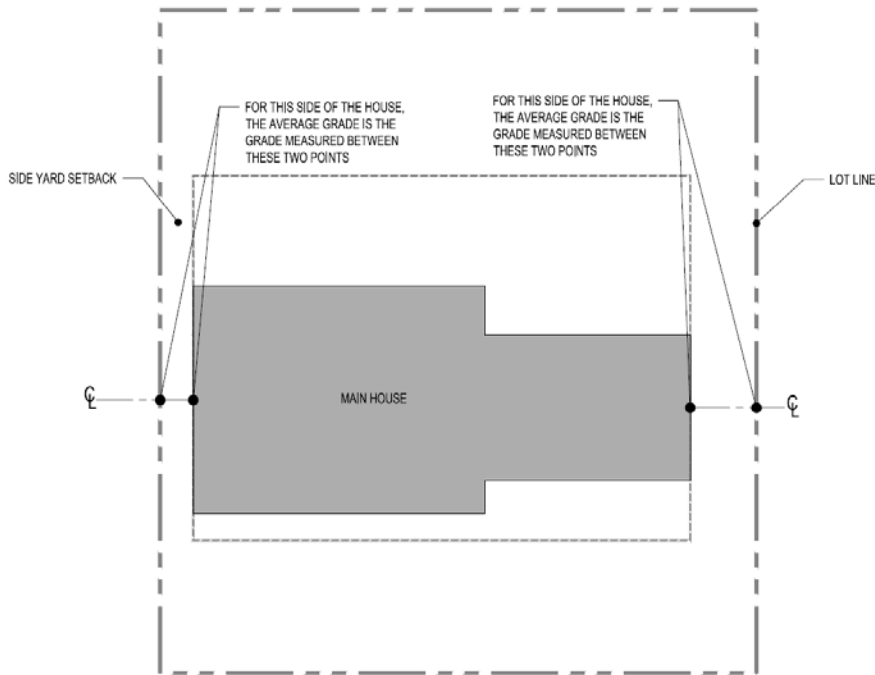
11
12 Daylight Plane: "Daylight plane" means a bulk limitation that, when combined with the maximum height
13 limit, defines the building envelope within which all new structures or additions must be contained. The
14 daylight plane is further described as follows:

15
16 1. Within the Town Center, the daylight plane begins refers to an inclined plane beginning at a
17 stated-specified height at the street-facing property line or edge of through-block
18 connection above the grade of the sidewalk or through-block connection and extending into
19 the site at a stated-specified upward angle up to the maximum height limit consistent with
20 MICC [19.11.030\(A\)\(7\)\(b\)](#) and Figure 5.

21
22 2. Within the zoning designations of R-8.4, R-9.6, R-12, and R-15, the daylight plane begins at a
23 specified height above average grade at the side yard setback, as depicted in the
24 development standards for each zone district, and extending into the site at a specified
25 upward angle to the horizontal up to the maximum height limit. The average grade, for the
26 purpose of determining the daylight plane, is the average of the finished grade at the
27 midpoint of the building and the finished grade at the closest point on the abutting lot line.



1 DETERMINING AVERAGE GRADE



2 DETERMINING AVERAGE GRADE

3

4 ...

5

6 Development:

7

1. A piece of land that contains buildings, structures, and other modifications to the natural environment; or

8

9

2. The alteration of the natural environment through:

10

1 a. The construction or exterior alteration of any building or structure, whether above or
2 below ground or water, and any grading, filling, dredging, draining, channelizing, cutting,
3 topping, or excavation associated with such construction or modification.

4
5 b. The placing of permanent or temporary obstructions that interfere with the normal
6 public use of the waters and lands subject to this code.

7
8 c. The division of land into two or more parcels, and the adjustment of property lines
9 between parcels.

10
11 ...
12
13 Development proposal: The application for a permit or other approval from the City of Mercer Island
14 relative to the use or development of land.

15
16 ...
17
18 Development proposal site: The boundaries of the lot or lots for which an applicant has or should have
19 applied for approval from the City of Mercer Island to carry out a development proposal.

20
21 ...
22
23 Existing Grade: The surface level at any point on the lot prior to alteration of the ground surface.

24
25 ...
26
27 Feasible ~~(SMP)~~: An action that is required for project design approval, such as a design requirement,
28 development project, mitigation, or preservation requirement, and that meets all of the following
29 conditions:

- 30 (1) ~~1.~~ ~~†~~ The action can be accomplished with technologies and methods that have been used in
31 the past in similar circumstances, or studies or tests have demonstrated in similar circumstances
32 that such approaches are currently available and likely to achieve the intended results; ~~(2)~~
33 2. ~~†~~ The action provides a reasonable likelihood of achieving its intended purpose; and
34 3. ~~(3)~~ ~~†~~ The action does not physically preclude achieving the project's primary intended legal
35 use. In cases where these guidelines require certain actions unless they are infeasible, the
36 burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the
37 reviewing agency may weigh the action's relative public costs and public benefits, considered in
38 the short- and long-term time frames.

39
40 ...
41
42 Floor: The continuous, supporting surface extending horizontally through a building or structure that
43 serves as the level base of a room upon which a person stands or travels.

1 ...
2
3 Formal design review: Design review conducted by the Design Commission.
4
5 ...
6

7 Gross Floor Area: The total square footage of floor area bounded by the exterior faces of the building.

8 1. The gross floor area of a single-family dwelling shall include:

9 a. The main building, including but not limited to attached accessory buildings.

10 b. All garages and covered parking areas, and detached accessory buildings with a gross
11 floor area over 120 square feet.

12 c. That portion of a basement which projects above existing grade as defined and
13 calculated in Appendix B of this development code.

14 d. Stairs and stairwells.

15 e. Decks that are attached to the single family dwelling and are covered by a roof.

16 f. Space under stairways or stairwells that is used, for example, as a closet or storage
17 space if that space meets the definition of "Floor".

18 2. The gross floor area of a single family dwelling does not include:

19 a. The air space above an interior space (for example, a clerestory).

20 b. Second- or third-story uncovered decks, or uncovered rooftop decks.

21 32. In the Town Center, gross floor area is the area included within the surrounding exterior
22 finish wall surface of a building, excluding courtyards and parking surfaces.
23

24 ...
25
26 Tree: Any living woody plant species other than a shrub, characterized by one main trunk or few
27 dominant trunks and many branches, known to achieve a typical mature height of at least 15 feet.
28 ...

29
30 Large (Regulated)-Tree, Large (Regulated): Any conifer tree ~~that is six feet tall with a diameter of 12~~
31 inches or more or any deciduous tree with a diameter of 18 inches or more ~~than six inches~~.
32

33 ...
34
35 Small-Tree, Small: Any conifer tree ~~that is less than six feet tall with a diameter or less than 12 inches~~ or
36 any deciduous tree with a diameter of ~~six inches or less~~ than 18 inches.
37

38 ...
39
40 Hazardous-Tree, Hazardous: Any tree that receives an 11 or 12 rating under the International Society of
41 Arboricultural rating method set forth in Hazard Tree Analysis for Urban Areas (copies of this manual are
42 available from the city arborist) and may also mean any tree that receives a 9 or 10 rating, at the
43 discretion of the city arborist.
44

45 ...

1
2 Lot, Large: A lot that contains sufficient area, and is of sufficient dimension, to be subdivided. Large lots
3 shall contain a minimum area as follows:

- 4 1. R-8.4: 16,800 square feet.
- 5 2. R-9.6: 19,200 square feet.
- 6 3. R-12: 24,000 square feet.
- 7 4. R-15: 30,000 square feet.

8 ...

9
10 Lot area: The area contained within the established boundaries of a lot. The lot area includes, but is not
11 limited to, areas encumbered by critical areas, shorelines, and public or private easements.

12
13 ...

14
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. In cases
22 where these guidelines require certain actions unless they are infeasible, the burden of
23 proving infeasibility is on the applicant. In determining an action's infeasibility, the
24 reviewing agency may weigh the action's relative public costs and public benefits,
25 considered in the short- and long-term time frames.

26 ...

27
28 Regulated Improvements: Any development of any property within the city, except:

- 29 1. Property owned or controlled by the city; or
- 30 2. Single-family dwellings and the buildings, structures and uses accessory thereto; or
- 31 3. Wireless communications structures, including associated support structures and equipment
- 32 cabinets.

33
34 ...

35
36
37
38
39 Qualified Arborist: means an individual with relevant education and training in arboriculture or urban
40 forestry, having two (2) or more of the following credentials:

- 41 1. International Society of Arboriculture (ISA) Certified Arborist;
- 42 2. Tree Risk Assessor Certification (TRACE) as established by the Pacific Northwest Chapter of
43 ISA (or equivalent);

- 1 3. American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
- 2 4. Society of American Foresters (SAF) Certified Forester for Forest Management Plans;
- 3

4 For tree retention reviews associated with a development proposal, a qualified arborist must have, in
5 addition to the above credentials, a minimum of three (3) years' experience working directly with the
6 protection of trees during construction and have experience with the likelihood of tree survival after
7 construction. A qualified arborist must also be able to prescribe appropriate measures for the
8 preservation of trees during land development.

9
10 ...
11
12 Street: An improved or unimproved public or private right-of-way or easement which affords or could be
13 capable of affording vehicular access to property.

14
15 1. Collector Arterial: A street designed to collect and distribute traffic from major arterials to the
16 local access streets. The collector arterial is similar to a local access street except for stop and
17 yield privileges over a local access street and restrictions for on street parking.

18
19 2. Local Access Street: A street designated for direct access to properties, and which is tributary
20 to the arterial system.

21
22 3. Major Arterial Street: A street designed to collect and distribute large volumes of traffic from
23 the freeway, Town Center and less important arterial streets. This type of arterial normally is
24 designed to expedite through traffic.

25
26 4. Second Arterial Street: A street designed to collect and distribute traffic from the freeway or
27 major arterials and less important streets.

28
29 ...
30
31
32 Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work
33 artificially built up or composed of parts joined together in some definite manner.

34
35 ...



DEVELOPMENT SERVICES GROUP
 9611 SE 36TH ST., MERCER ISLAND, WA 98040
 (206) 275-7605

	Date	Name	Comment	Related Topic	Staff Comment
1.	8/29/2016	Jim Stanton	<p>The current code should be altered to provide for mutli-generational families to live on Mercer island by encouraging smaller bungalows with shared communal spaces. Particularly on the north end.</p> <p>If the current trend continues the mix of housing on the Island will consist solely of McMansions and traffic will continue to get worse.</p> <p>The current code operates against the interests of both 1) north end families with school age children and 2) south end empty nesters seeking to downsize to the north end of the Island. The code should be changed to discourage buying smaller bungalows on the north end to convert into McMansions. Instead the code should encourage building smaller houses on the north end.</p> <p>On the south end of the Island there a numerous empty nesters living in larger houses on larger lots with close proximity to schools, parks, play fields, and south end amenities. Many of them are actively looking for smaller homes on the north end.</p> <p>On the north end smaller houses are being purchased by developers such as JayMarc to tear down to build McMansions which are then purchased by families with school age children. Traffic on north end residential streets can be intense and increasing the number of large houses on the north end adds to automobile traffic around our schools, particularly on ICW.</p> <p>This situation either keeps empty nesters in south end houses too large for their needs or moves long term residents off the Island.</p> <p>The decision to restrict the number of houses on the Coval site is an example of the city's encouraging fewer, larger houses on the north end rather encouraging smaller homes more attractive to empty nesters. This may serve the interests of developers, but not long time Island residents.</p>		
2.	8/30/2016	Kristin Hart	<p>While I understand the desire to update the codes to keep tacky monstrous houses out of Mercer Island, I worry that you are going to create more codes and harsher rules. Harsher rules punishes remodels even further. I don't think people are mad at remodels. I think they are mad at the tear downs.</p> <p>We have been shopping for a waterfront house for 3 years. I have been into the city several times to understand the rules of remodeling on various lots. My general rule is 1) you have to take the house as it is or 2) knock it down and start fresh. It seems that the city has a bias for new houses is against remodels. You have created a system for contractors. The average joe who wants to add something to the house (enclose a car port, enclose a covered impervious area, add a story to an existing house that is still in compliance) encounters an INSANE amount of rules. The result is that you encourage contractors to tear things down (and normal people too!) and start fresh. These fresh starts open the flood gates to changing the character of the neighborhood. Why do you make remodeling so difficult for the normal person? I feel the city has created the environment for tear downs. I feel you have allowed JayMarc etc. to bend the rules and exploit loopholes while the normal people who just want subtle remodels are left frustrated with no options.</p> <p>I look at the list below and I see you again making my desire to buy and remodel difficult/impossible. But we are not the enemy, are we? Do you want to discourage remodels as well? If you are discouraging remodels that is a shame in my opinion. There are a lot of houses that weren't built well (thin windows, bizarre covered areas, and strange layouts). If you aren't discouraging remodels, maybe you could make</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			some rules more lax somehow. Make sure you are addressing the problem which seems to be the tear downs. You already have too many rules in my opinion.		
3.	9/7/2016	Terry & Morrene Jacobson	Building height - 2 stories maximum above ground. Height should fit in with rest of neighborhood. Impervious surface should not exceed percentage currently allowed, and variances should be granted rarely if at all, not routinely as now seems to happen. Tree retention is essential both aesthetically and environmentally. And the city needs to enforce requirements for protecting trees during construction, preventing builders who move protective fencing to allow machinery to run over roots, then replace fencing to preserve the appearance of compliance. Size of lots should be comparable to others on the street - severely restrict short platting and sub-dividing. Ensure adequate open space on both sides and in front of the structure - no zero lot lines. In general, do not permit deviations. Decide on good rules and let people stick to them. When someone applies for a permit to tear down or enlarge an existing house, neighboring homeowners should be notified by individual letters, not just a sign on the affected property. And those signs must be easily visible, not obscured by vegetation or placed in an out-of-the-way location. Fence height deviations should be allowed only if the owners of properties adjacent to the fence agree.		
4.	9/7/2016	Peter Donaldson	Please include much strong green building codes with as many incentives as possible. All buildings should be EV charging ready and solar ready with at least 20% roof sloop facing south. Also provide creative ways for cottage housing, tiny houses, attachments, and community living to keep a diverse mix of affordable housing on the island.		
5.	9/7/2016	Aurora Bearse	Please reduce the hours allowed for construction. We just suffered through 10 months of construction noise due to a neighbor's remodel-- into the evenings and full weekend days. Limit it to regular daytime working hours, even if it continues to be allowed on weekends.		
6.	9/7/2016	Thomas Imrich	Building height Building heights should only be permitted that are consistent with the norms of the overall neighborhood, and nearby adjacent homes and structures. ?Mega houses? out of character with the adjacent homes, or with the affected neighborhood(s) should be prohibited. Exceptions or deviations should only be approved with specific reasonable justification, as well as with concurrence of any and all adjacent properties, including the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input (not just using the minuscule ?non-descriptive? signs typically presently posted, with even washed away print that is unreadable, as on the City approved actions on 68th near QFC), the City then should document, widely publicize, and justifying any decision allowing any exceptions or deviations. ? Gross floor area Gross floor area fractions should only be permitted that are consistent with the norms of the overall neighborhood, and nearby adjacent homes and structures. ?Mega houses? out of character with the adjacent homes, or with the affected neighborhood(s) should be prohibited. Exceptions or deviations should only be approved with specific reasonable justification, as well as with concurrence of any and all adjacent properties, including the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input (not just using the miniscule ?non-descriptive? signs typically presently posted, with even washed away print that is unreadable, as on the City approved actions on 68th near QFC), the City then should document, widely publicize, and justifying any decision allowing any exceptions or deviations. ? Lot coverage (impervious surface) Lot coverage fractions should only be permitted that are consistent with the norms of the overall neighborhood, and nearby adjacent homes and structures. ?Mega houses? Out of character with the adjacent homes, or with the affected neighborhood(s) should be prohibited. Exceptions or deviations should only be approved with specific reasonable justification, as well as with concurrence of any and all adjacent properties, including the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input (not just using the miniscule ?non-descriptive? signs typically presently posted, with even washed away print that is unreadable, as on the City approved actions on 68th near QFC), the City then should document, widely publicize, and justifying any decision allowing any exceptions or deviations. ? Minimum setbacks Minimum setbacks should only be permitted that are consistent with the norms of the overall neighborhood, and nearby adjacent homes and structures. ?Mega houses? out of character with the adjacent homes, or with the affected neighborhood(s) should be prohibited. Exceptions or deviations should only be approved with specific reasonable justification, as well as with concurrence of any and all adjacent properties, including the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input, the City then should document, widely publicize, and justifying any decision allowing any exceptions or deviations. ? Tree retention Large mature tree removal of healthy trees should generally NOT BE PERMITTED. Critical large mature trees that affect the wind safety of adjacent stands, slope stability, water retention, critical wildlife habitat, or root system interaction with soil drainage should NOT EVER be permitted unless an immediate and proximate greater safety risk of leaving the tree(s) standing is demonstrated. Further, any tree removal that is out of character with the adjacent homes, or with the affected neighborhood(s) should be prohibited. Exceptions or deviations		

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		<p>should only be approved with specific reasonable justification, as well as with concurrence of any and all adjacent properties, including the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input, the City (arborist) then should document, widely publicize, and justifying any decision allowing any exceptions or deviations.</p> <p>? Minimum lot width and depth Any reduction of lot width or depth from the boundaries of existing properties should generally NOT BE PERMITTED (e.g., any additional short platting should general be prohibited). Exceptions or deviations should only be approved with specific reasonable justification, as well as with concurrence of any and all adjacent properties, including the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input, the City then should document, widely publicize, and justifying any decision allowing any exceptions or deviations. ? The definition of a single-family residence as related to very large homes (e.g., is a 15,000 square foot house with 12 bedrooms, 12 bathrooms, and 3 kitchens a single-family home or something else?) Any new home or remodel that is proposing greater than 6000 sq ft of living space, or has more than 25% greater amount of living space (measured in terms of square feet) than the average of the immediately adjacent properties (to be determined by the City), whichever is LESS, must require specific concurrence of ALL adjacent neighboring properties before a building permit can even be considered to be issued by the City. Exceptions or deviations should only be approved by the City with specific reasonable justification, as well as with written input of any and all adjacent properties, including the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input, the City then should document, widely publicize, and justifying any decision allowing any exceptions or deviations.</p> <p>? Lot consolidation / Maximum lot area (impact of creating larger lots resulting in larger homes that are different from the existing neighborhood pattern) Any consolidation of lots, or reduction of lot size from the boundaries of existing properties should generally NOT BE PERMITTED (e.g., any additional short platting should general be prohibited). Exceptions or deviations should only be approved with specific reasonable justification, as well as with input from and concurrence by any and all adjacent affected properties. This should also include the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input, the City then should document, widely publicize, and justifying any decision allowing any exceptions or deviations.</p> <p>? Construction related impacts (hours of operation, parking, length of construction activity, etc.) The City should directly specify publicly vetted guidelines for, and requirements for, construction hours, duration, and minimum disruption to adjacent properties as well as traffic arteries. In no case should any future multi year projects be allowed to even be started that disrupt entire neighborhoods for years, with exceedingly loud noise, and machinery and truck operations, especially at early morning hours, as the ?Funny Farm? has obtrusively done now on ICW, since its inception.</p> <p>? Deviations (process and criteria) See above ? Large residential accessory structures and uses (e.g., 30-foot-high gazebos, 12-car garages, etc.) Any large accessory structures to residences out of scale with the neighborhood should generally NOT BE PERMITTED (e.g., any additional commercial scale or museum scale garages, storage facilities, non-residential use buildings). Exceptions or deviations should only be approved with specific reasonable justification, as well as with input from and concurrence by any and all adjacent affected properties. This should also include the opportunity for broad MI citizen public input on the deviation or exception. Following broad MI public input, the City then should document, widely publicize, and justifying any decision allowing any exceptions or deviations.</p> <p>? Enforcement Tools including penalties Severe fines as well as tax penalties, and legal action for removal, should be used as needed.</p> <p>? Building Permit Process: Public Notice, Public Input, and Right to Appeal Enforcement of existing code, and revised code, particularly with respect to builders, and short plat actions, should be vigorous and serious. Just as an example, RKK construction recently (July ?16) ILLEGALLY dumped over ~100 tons of dirt and debris from a different construction site on their recently purchased lot (6223 86th Ave SE) without any City permit whatsoever. Even worse, that dirt and debris potentially even containing asbestos pipe material (as reported to authorities), with the City of Mercer Island apparently taking no penalty or fine action (to date) against RKK Construction, whatsoever.</p> <p>? Short Plats - Ensuring that short plat process is not circumvented by, for example, applying for a building permit for one part of a lot with the intention of short platting the property after that permit is granted. Short platting should now generally be prohibited on Mercer Island. We cannot afford any further population increases on Mercer Island without severe safety risks (seismic, volcanic, and storm) due to potential bridge isolation, and access, lack of ?on-island? medical facilities, and very limited police and fire capability to deal with a major region wide emergency. Further, any significant increase in population of Mercer Island will permanently risk massive additional traffic congestion with the Council induced I-90 access mess, the evolving center lane closures, the light rail train fiasco situation, leading to essentially severely degraded if not even loss of timely critical access to medical services, as well as serious additional environmental damage. THERE ARE LIIMITS TO GROWTH. It is time for MI to recognize the time las long come, and passed, where MI can successfully tolerate ANY further growth. Period.</p>		

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			? Other suggestions? Perhaps for starters, new City Council members, who actually respond to the long term needs of citizens and society, fiscal and tax responsibility, and actual Islander governmental critical needs, ...and not be primarily driven by developers interests and personal pet agendas, and ?regional interests?, over Mercer Island?s interests?		
7.	9/8/2016	Christine Kenyon	I don't know anything about code or what it entails, but the downtown area development is a serious concern. The streets are not designed for safety, several 3 and 4 way stops are unsafe for pedestrians. It is hard to imagine what the single lane streets will be like once a new complex is full. And there is no character in the new developments. They have no outdoor seating, spots to hang out, pedestrian friendly space. There are some very intelligent people from MI who are trying to guide the council and city to make the best choices for our island. Please know that they speak for all of us.		
8.	9/8/2016	Tempe Evans	I am quite ignorant about all of this, but just wanted to comment that this last apartment building is a monster and I sort of cringe every time I drive by it. It is not at all visually appealing to me, and way too big. I would request limitations on building something so tall and so large. All of the other apartment buildings built thus far appear much more reasonable. Anything bigger than those are too large in my opinion. I am not big on this new style of building apartment buildings with a few shops below. I think we could do a much better job of making Mercer Island much more unique and quaint. I am concerned about the direction that things are going after this last building.		
9.	9/8/2016	Derek Cheshire	I feel that many of our development standards and building codes are too strict. For example, I don't believe that fire sprinklers should be required in all new homes when the data clearly shows that newer homes, single family homes, equipped with smoke alarms, have a low risk of occupant injury. Additionally, in a current home expansion project I'm pursuing, code compliance (widening driveways, adding sprinklers, using expensive windows to meet energy code, etc.) will add \$200-300 thousand dollars to my home project, and make my home a worse place to live. While the development services staff is very helpful, I really feel that we are overregulated and it's making it harder and harder for even upper middle class families to have a home to live in. You will be lobbied by people who will argue for "just one more rule" and it will perhaps appear that the cost of imposing that additional rule will be small, but the totality of rules that a homeowner has to comply with to improve their home are simply staggering.		
10.	9/16/2016	Scott & Jean Majury	Increase the setbacks unless we want haystacks and no greenery and no environmental protection. Mega-houses pouring out into the road and alongside other homes diminishes the Island and the environment.		
11.	9/19/2016	Dina Jeppesen	I would like to comment about the setback requirements for existing conditions. I have an existing house where the combination of side setbacks are less than 15'. I wanted to remodel the house because it looks like a double wide mobile home but if I want to change the design, I would have to alter the house and cut either the garage or side of the house by 2' to make the total of 15'. This would be costly because on one side, I have a basement and the other side, I have a retaining wall. I am an architect and have worked in other jurisdictions where the existing side setback is maintained and allowed. My house has been sited on this lot for years and the neighbors are not complaining. In fact, they would like to see a nicer house in the neighborhood. I can see that new construction or an addition would have to meet the 15' criteria but it makes no sense to me to have to "slice" my house in order to remodel the house. According to the code, if I do not change (I think it was 40%, structurally), then I do not have to change the setbacks. What if I do not want my house to look like a mobile home? What about houses that do not have the 20' front setback? Why should they have to move their house inches from the front in order to remodel their house? Nobody would do this. I can see why homeowners just sell to developers like JayMarc. If you don't want to see developer houses take over the island and want to see some variety and some quality homes, please consider changing the zoning rules. You can research other jurisdictions zoning rules and see that they accept the original setback. If you have any questions or would like more feedback, I would be happy to talk about this further.		
12.	9/20/2016	Lynn Hagerman	I have submitted comments at public meetings in the past and have described my dismay at the changes in our neighborhoods fueled by rapid development. I have lived here on Mercer Island in the East Seattle neighborhood in 3 different houses for over 35 years. The character of the neighborhoods, that many residents desire in locating to MI, is changing dramatically due to a) loss of vegetation and large canopy trees including evergreens, b) houses built out to lot lines, and c) combining lots to build structures that are commercial in size and scale. I am writing to encourage the Planning Commission and City to: fund the "Development Services" department in some other way besides development fees; change the focus and the name of the department, and Identify ways that the planning and development function for the City can be serving the long term interests of communities on MI, its neighborhoods, in a way that prioritizes community residents first, rather than 'serving' the primarily the interests of those who profit from development. The most egregious consequences of the current code that need changing are: 1) Tree removal. Currently trees are removed with some plan to re-plant. There seems to be no oversight and the 1-1 replanting does not take into account the beauty, and stage/age of trees that are providing canopy, as well as the reality that many trees (firs)		

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			<p>must stand as a group. Residents and developers remove trees and then the 'penalty' if applied is so small that there is slight incentive to follow the rules. Our canopy is being desecrated. No one is watching the community interest; each individual owner is doing what the City allows, (except for those who flagrantly ignore the regulations) without anyone (the City) managing the collective impact. Tree removal needs to be more strictly enforced and also the code must be changed to emphasize tree retention. 2) Impervious Surface and House / Lot ratio: Houses are being built out to the very limits (or more with deviations for permeable surfaces) of the lot lines. I would like the City to change the code to influence the size and scale of homes so that there is more space between houses and /or so that the homes are more in keeping with neighboring houses. 3) Figure out the definition of a single family residence. I live nearby a 'house' that is being built that will have 12 bedrooms and 12 bathrooms. This, apparently, is allowed under our current code and is viewed as a single family residence? It will look more like a 'motel' in the middle of a lovely single family neighborhood. 4) Figure out how to manage the definition of other permitted structures. I live across the street now from a commercial size building project that has a 32 car garage (10,000 sq feet) garage. This structure will be in the middle of a lovely single family neighborhood. It also has a 'gazebo' that is a concrete structure 30 feet high by 21feet and 26 feet. It will be an eyesore, and will be out of keeping with the character of the neighboring houses and structures. 5) Lot consolidation: IF lots are consolidated, the municipal code should not be the same as for single lots. The setbacks need to be greater, The look and feel of the property needs to reflect the neighboring houses... Now, this project looks like a commercial site and even when completed will be completely out of scale and character of the neighborhood. 7) and the timeline for construction should not be permitted to carry on over years. There needs to be a limit! I am living across the street from a commercial size project (Proctor) that has carried on and impacted us from 6:30 am - sundown every day for 3 1/2 years! 6 days a week, for what will be up to 4 years. 8) Notices and communication: neighbors did not get sufficient notice for this project, nor did we have sufficient time to respond when notices of deviations were issued. 9) Fees: the projects of the grand scale that involve consolidating lots are conducted by owners for which money is no object. The City must understand that the fees to influence building permitting are not sufficient to sway or address the issues that protect the neighborhood. Fees that are issued for single family / single lots are not sufficient for projects that are commercial in scale. Under no circumstances should a project of this scale (Proctor) ever be approved in a residential neighborhood, ever. Whatever the City has at its disposal to preclude this from happening again, it should put in place. 10) Walls and Block wall / Concrete fences: The City should take another look at fence type and heights that are permitted, especially for the large and/or multiple lot projects. If not, it will seem like we are living in a location of walled communities and neighborhoods. I don't think that is what most of MI residents want. In sum: there has been so much development in my East Seattle neighborhood and nearby First Hill that for many reasons it may seem too late to make changes, but this kind of development is occurring all over the Island. I hope the City will take a long view and a broad view of its role: each neighbor or neighborhood only considers what it is doing, and doesn't see the collective impact. The only place for the collective impact to be considered is at the Planning Commission, the City Council and the City government. To preserve the very things that most people move here to find, it is imperative that the collective impact and implications be at the forefront. We no longer can plan and develop in this Island by looking at each project or house by house. We must look at the collective in order to preserve what is attractive about the Island for generations to come. If not, it will be like any other place that many of us moved from, to be here.</p>		
13.	9/21/2016	Colin Brandt	I would add building mass to the discussion. Not just height or setbacks, but the mass/boxyness of the building.		
14.	9/30/2016	Carolyn Boatsman	<p>Several of us have gotten together to discuss the draft scope of work in an effort to provide to the City some more broadly-shared viewpoints. We also consulted with several who were unable to meet with us and have attempted to assess whether their concerns are covered in the draft Scope of Work. We hope to continue this group effort throughout the code update process.</p> <p>While we considered a broad collection of specific concerns, we concluded that most of them fall, in a general sense, under the topics that are listed below in the City's draft scope of work.</p> <p>The only topic we would request be added is "tree replacement". While "tree retention" is on the list, a number of us have issues with the tree replacement aspects of the code, which we will address when specific input is sought.</p>		
15.	10/7/2016	Ben Warriner	<p>Zoning should have the same minimum that we have today, but new construction should have some percentage limits related to existing actual use</p> <p>Impervious surface deviations should not be the norm, but the exception</p> <p>Paved surfaces should never be open-space *Minimum Lots and setbacks should not decrease</p>		

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			<p>I think that "Very Large Homes" should be categorized differently</p> <p>I am OK with lot consolidation as long as we change the definition for "Very Large Homes"</p>		
16.	10/10/2016	William McDonald	I believe the description of the Residential Development Standards process biases the discussion--specifically the preservationist viewpoint embedded in the characterization "concerns around the rapidly changing character of Mercer Island's neighborhoods". Certainly some residents (myself) have "concerns around the slow pace of development in Mercer Island's neighborhoods". Starting with the assumption of maintaining the status quo weakens opportunities for improvements when we've never been perfect. Specifically, I'm interested in opportunities for leveraging the mass transit resources opening in the next decade by encouraging increased housing density around the light rail station.		
17.	10/13/2016	Ka Anderson	The Proctor Landing residential project across the street is approaching its 4th year of construction, noise, disruption to my neighborhood and my quality of life. I was told by the owners it would be an 18 month to 2 year project. Hundreds of workers a day, a commercial endeavor in a residential neighborhood. Many variances were granted by the City, including an 8 foot high cement fence. A large gate will be added soon separating this property from the neighbors/neighborhood. Down the street a 24,000 sf monstrosity is being built, further down the street 3 adjoining lots with houses on them have been purchased, I shudder to think what will be happening there. The character and quality of life in this once peaceful neighborhood is currently destroyed and will continue to be a nightmare of construction for at least the next 3 years if not longer. Very sad and very hard to live through on a daily basis of truck noise, back up beeping, dust and disruption.		
18.	10/13/2016	Mercer Island Resident	<p>Construction related impacts: (a) Construction signs and contractors vehicles should not obstruct traffic view and force bikers onto road of oncoming cars.</p> <p>Building heights (new/remodeled): (a) restrict heights that block views of existing homes; (b) reinforced to prevent collapse from earthquake/slide.</p> <p>Air BnB type rentals not permitted. If allowed, there must be following: requirement/regulations/restrictions/ordinance (e.g.(a) must vett applicants, (b) provide applicants rules of neighborhood regarding noise/overparking-blocking/trash/property boundaries etc, (c) notify neighbors information on temporary tenant (names who will be staying/length of stay/# of cars/contact if problem, etc) and (d) fees (business license, deposit to defray cost of enforcement, neighborhood damage, etc).</p> <p>Drones: (a) must be registered (regardless of size) with City; (b) enforceable rules restricting where drones allowed/not allowed to fly (e.g. residential areas to protect the privacy of neighborhood). (c) If there is business need to fly in off limit areas: must visibly display drone city registration #, file a request to fly with information: location of flight area, date/time of flight, purpose of the flight, how data collected (video/recording) will be used, kept secured, and require permission of the target of the data before releasing in any media, where drone control located, address/owner/contact info of the drone owner/operator, etc), and post refundable damage deposit (in the event the drone damages Cell tower, windows, etc)</p> <p>No marijuana sold or grown for commercial purpose within/on a residential home/property.</p> <p>Traffic obstruction: Signs reminding bikers to obey rules of the road, stay on shoulder, not ride side by side obstructing motor vehicles, obey stop signs/intersections right of way rules.</p>		
19.	10/19/2016	Lynn Hagerman & Jim Hummer	<p>My thoughts on residential development code changes:</p> <p>Multiple Tax Parcels</p> <p>Side Setbacks should be cumulative.</p> <p>If basic side setback is 10' on each side, with 2 lots it should be 20' on each side.</p> <p>If 3 lots, 30' on each side.</p> <p>Variable Side Setbacks eliminated.</p> <p>I have heard that side backs must total 15' (minimum 5' on one side, 10' on the other; 7.5' on both sides etc.</p>		

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		<p>Should be a minimum of 10' or 15' on both sides.</p> <p>Variances Approved at a higher level than now, such as Planning Commission or City Counsel.</p> <p>Trees Significant trees (an appropriate measure of height) in a parcel's current setback must be retained if parcels are combined.</p> <p>Scale of Projects Permits/fees good for 1 year only Increase cost of fees/permits as construction period lengthens Permit for Year 2 = Same as Year 1 fees/permits Permit for Year 3 = 2 x Year 1 fees/permits Permit for Year 4 = 3x Year 1 fees/permits No extensions beyond 4 years. No additional permits for 2 years</p> <p>Increase cost of fees/permits by size Up to 2,500 SF Base Fee/Permits Up to 3,000 SF 1.20 x Base Up to 4,000 SF 1.50 x Base Up to 5,000 SF 1.75 x Base Up to 6,000 SF 2.00 x Base Up to 7,000 SF 2.50 x Base Up to 8,000 SF 3.00 x Base Up to 9,000 SF 3.50 x Base Up to 10,000 SF 4.00 x Base Up to 11,000 SF 4.50 x Base Up to 12,000 SF 5.00 x Base Up to 13,000 SF 5.50 x Base Up to 14,000 SF 6.00 x Base Up to 15,000 SF 7.00 x Base Above 15,000 SF 10.0 x Base</p> <p>Non-Habitable Structures (Garages, barbeque areas) Reduced Height limitations say 12' Maximum Garage size say 2,500 SF</p>		
20.	10/21/2016 Joy Matsuura	<p>The current residential plan has been failing to maintain the character in our neighborhoods. A lot of people think that the only appeal of Mercer Island is that its good schools keep property values high, but there are people who move here for other reasons, such as the:</p> <ul style="list-style-type: none"> - Greenery. Parts are like Carnation. MI is a bit of country minutes from Seattle or Bellevue. - Large lots and large setbacks. We chose MI over Bellevue because we wanted space around our home and didn't want to be right up against our neighbor. That is quickly being lost. - Safety. <p>There are many other reasons to move here, but I'll focus on these 3, which are being affected by failures in the current residential plan.</p> <p>1) Greenery. The tall firs and pines that we have here add to the beauty of the island and announce to the world that we are in the Pacific Northwest. Other types of trees and bushes add to the beauty. The overall vegetation provides cooling shade, helps cleanse the air and provides habitat for birds, bees and other animals. It is fabulous that we have eagles and other birds on the island, and that they are not limited to the formal parks. Although some of the older homes may have garages or buildings that are close to (or over the setbacks), most older homes were not built to the maximum that the law allows. The extra space is not wasted. It can provide yards for kids to play in. It is this extra</p>		

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			<p>space that has enabled much of the greenery on the island and is where many of the taller trees are. When older homes are torn down and replaced with newer homes, the result tends to be fewer tall trees. In some cases, even if the tree remains, the construction may damage the roots and the tree may need to be taken down later. We talk about saving the rainforests in Brazil--but what about the forests on Mercer Island?</p> <p>2) Setbacks and large lots. I believe that the current plan says that side setbacks can be as little as 5 feet (20 feet total, so it can be 5 feet on one side and 15 on the other). There are some very tiny lots on the island (e.g. over on 88th Ave SE, by the Shorewood Apartments), that can't afford a bigger setback. We generally have larger lots on the island and most of these are ample to allow a larger setback. I recommend that side setbacks be increased, maybe a 15 foot minimum. It is worth considering the impact on neighboring property too. As older homes are often not built to the maximum setback, with the current setbacks and current height restrictions, when a small home is replaced with a maximum new home, it can have a tremendous deleterious impact on the livability of a house next door. E.g. after our previous home was bought and bulldozed, the new structure was built to maximum height 5 feet from our neighbor's property, whose home was built close to the setback on their side. Theirs was a tiny, charming home on a little lot. The bit of land facing our old house used to get sunshine, so they were able to grow some beans and lettuce. After our old house was bulldozed, that bit of land suddenly had a 30-foot wall 5 feet from the property line. No more sunshine. No more vegetables. They also lost all the privacy in their backyard, so I assume this has affected the marketability of their home. If you don't change the setback, then change the height allowance. Perhaps people can build to 5 feet of their neighbor, but are limited to ONE story. This gives some flexibility. What might be better is to have larger side setbacks, but allow people to get exemptions if they can get written approval of the neighbor on that side. I think that insufficient setbacks have been causing a lot of harm to the character of the island. Most of the new development is built to the maximum size that setbacks will allow, especially when short platting occurs. Small homes come on the market and are snapped up before young families have a chance to see them. The buyer is just interested in a quick buck, bulldozes and builds something that he thinks will give him the most profit. It doesn't always work out this way. The builder sometimes sells for a loss and moves on, but the neighborhood is stuck with the result. It doesn't have to be this way, sometimes people have bought property, torn down and built a smaller, beautiful home that enhances the neighborhood. These tend to be people building their dream home, which means they have a commitment to living here long-term. This type of building should be encouraged. Larger lots are good for the island. A lot of them have extra greenery that is good for the planet and good for the soul. btw: developers are not evil. It's not bad to want to make money. If what they are building is ruining the neighborhoods, then the fault lies more in the guidelines that the City has provided than in the businessmen who are following those guidelines.</p> <p>3) Safety. Sadly, one of the reasons we get targeted by burglars is that people feel so safe here, they tend to leave doors unlocked. Based on all the posts, crime is becoming an increasing problem. Other places may be worse, but crime here has been better. Crime can and is being addressed in other ways, but failures in addressing the above two issues I've mentioned may be contributing to an increase in crime. One of the things that makes neighborhoods safer is neighbors knowing each other and looking out for each other. This is helped by people being here for a longer time, moving here with a desire to become part of our community and staying because they like the place and the people. Older families also tend to be home more. When people are around in the day, that can dissuade burglars. When the character of the neighborhood changes, that gives people more incentive to move away. Why stay and pay the high taxes here when it's no longer as nice? When the trees and privacy are gone? As some people move, others do too. If the only reason to move here is for the schools, then people will move here for the schools, stay for the few years necessary for their kids to get educated, then sell (for a profit) and buy a home in a cheaper area. A revolving door community doesn't tend to know each other. People need time to get acquainted. If the houses are large with no space around them, people don't tend to be outside their homes much (or they get in their cars inside their sealed garages, open the door and drive away, perhaps to a park to experience some greenery). We shouldn't need National Night Out for people to meet their neighbors. Having room for greenery helps. People can chat or wave while out raking the leaves from a beautiful fall.</p>						
21.	10/25/2016	Carolyn and Mark Boatsman Anne Fox	<p>Recommended changes in Mercer Island Residential Development Standards *Note: City names in parentheses are those which have comparable standard</p> <table border="1" data-bbox="565 1689 2013 1798"> <tr> <td data-bbox="565 1689 1006 1729">1. Building height</td> <td data-bbox="1006 1689 2013 1729">ESTABLISH 30 FOOT HEIGHT LIMIT</td> </tr> <tr> <td data-bbox="565 1729 1006 1798"></td> <td data-bbox="1006 1729 2013 1798"> <ul style="list-style-type: none"> No height above 30 feet - eliminate current provisions which allow up to 35 feet in some situations (Issaquah, Newcastle, Renton) </td> </tr> </table>	1. Building height	ESTABLISH 30 FOOT HEIGHT LIMIT		<ul style="list-style-type: none"> No height above 30 feet - eliminate current provisions which allow up to 35 feet in some situations (Issaquah, Newcastle, Renton) 		
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Date	Name	Comment	Related Topic	Staff Comment
	Lynn Hagerman and Jim Hummer	<ul style="list-style-type: none"> Measure building height from the average building elevation of the existing or finished grade, whichever is lower (Issaquah) Include an appropriate height to account for roof top decks in measuring building elevation 		
	Barbara VanDyke Shuman and Jim Shuman	<p>2. Lot Coverage (Impervious Surface)</p> <p>DIFFERENTIATE BETWEEN MAXIMUM BUILDING COVERAGE AND MAXIMUM IMPERVIOUS SURFACE</p> <ul style="list-style-type: none"> Establish a building coverage standard of 35% separate and distinct from the impervious surface standard (Newcastle, Bellevue, Renton, Redmond) Eliminate impervious surface deviations on lots with slopes less than 15%; Establish clear purposes for impervious surface deviations, if any, and limit them to lots with unique geographic attributes that would justify a deviation Require as-built certification from surveyor as to final amount of impervious surface 		
	Molly and Dirk Van der Burch			
	Sue and TJ Stewart			
	Elizabeth Malone			
	Erik Jansen	<p>3. Gross Floor Area</p> <p>ELIMINATE GROSS FLOOR AREA EXEMPTIONS; REDUCE GFA; ENSURE COMPLIANCE</p> <ul style="list-style-type: none"> Include the "second level" of multi-story open spaces in the calculation of gross floor area, i.e. revise current practice which counts only the lowest level Include all floor area of basements in the calculation of gross floor area, i.e. do not exclude part of daylight basement from gross floor area calculation on theory that it is partially below existing grade Include roof decks in the calculation of gross floor area Consider reducing GFA to below 45% Require as-built certification from architect as to the final GFA 		
		<p>4. Minimum Setbacks</p> <p>INCREASE SIDE YARD SETBACK</p> <p>Increase side yard setbacks to at least 20' (from 15') with a minimum of 7.5' on any side (Renton 7.5' any side/20' total and Issaquah 8' any side)</p>		
		<p>5. Tree Retention</p> <p>PRESERVE TREES</p> <ul style="list-style-type: none"> Amend purpose section of tree regulations to include community resource values of reducing global warming and preservation of canopy (Issaquah), native trees (Victoria), and landmark trees Establish minimum large tree density for City zones, e.g. 2 trees/5000 ft. sq., etc. based upon lot size (Renton) Establish a maximum large tree removal rate without a permit, e.g. for lots up 9600 ft. sq., removal of two trees/year, 4 trees per five years Prohibit removal of large trees during development unless the development potential of the property cannot be reached; place burden upon developer to prove that the location of the building pad and design cannot be modified to permit retention of large trees Consider departures from development standards to preserve a large tree when development potential of the property cannot otherwise be reached Prohibit removal of large trees from undeveloped land Ensure adequate tree protection during construction <p>TREE REPLACEMENT</p>		

Date	Name	Comment	Related Topic	Staff Comment
		<ul style="list-style-type: none"> Establish incentives and require, in appropriate circumstances, replacement with native species Required replacement trees cannot be removed without providing new replacement trees or, if not feasible, a fee in lieu is paid into the Tree Fund (see below) (Seattle, Issaquah, Lynnwood) <p>PROTECT LANDMARK TREES</p> <ul style="list-style-type: none"> Define landmark tree based upon species characteristics rather than size and vague references to distinction and beauty; eliminate the cumbersome ineffective nomination and approval process (Seattle, Issaquah, Renton, Victoria) <p>IMPROVE TREE REGULATORY PROGRAM</p> <ul style="list-style-type: none"> Require Tree Removal Review (no-fee review of plans to remove trees to determine if a permit is required) (Issaquah) Notify property owners and residents within 300 feet of a tree if removal requires a permit; allow a public comment period Ensure that penalties for illegal tree removal are significant, that replacement trees under such circumstances are mature, and that the development be designed as if the tree had not been removed <p>ESTABLISH A TREE FUND</p> <ul style="list-style-type: none"> Establish a Tree Fund with monies collected from <ul style="list-style-type: none"> civil penalties for illegal tree removal fee in lieu for removal of large trees, whether or not removed incident to development, if not replaced fee in lieu for removal of replacement trees if the placing of new replacement trees is not feasible Use Tree Fund to educate the public regarding the value of trees, tree preservation, and to plant trees and remove invasive species from parks and City property 		
		6. Building pad	<p>NEED TO ENSURE THAT BUILDING PADS ARE ALWAYS LOCATED IN THE BEST POSSIBLE LOCATION FROM AN ENVIRONMENTAL STANDPOINT</p> <ul style="list-style-type: none"> Require City approval as to location or relocating of any building pad under any circumstances to ensure minimal impacts on trees and critical areas. Building pad cannot be located in a place that would result in the loss of any significant tree unless there is no feasible alternative. 	
		7. Minimum lot width and depth		
		8. The definition of a single-family residence as related to very large homes (e.g., is 15,000 square foot house with 12 bedrooms, 12 bathrooms and 3 kitchens a single-family home or something else?)	<p>RECOGNIZE THAT PROJECTS OVER A CERTAIN SIZE ARE NOT THE SAME AS A TYPICAL SINGLE FAMILY RESIDENCE AND HAVE TO BE EVALUATED DIFFERENTLY</p> <ul style="list-style-type: none"> Establish a maximum size for single family residences Consider undergrounding utilities incident to construction of extremely large residences SEPA review for projects of a certain size or greater 	

Date	Name	Comment	Related Topic	Staff Comment
		<ul style="list-style-type: none"> Require a community impact mitigation plan involving such issues as truck traffic, noise and other construction impacts, parking of construction vehicles, work times, etc. 		
		9. Lot consolidation / Maximum lot area	ESTABLISH A MAXIMUM STRUCTURE SIZE IN RESIDENTIAL ZONES	
		10. Construction related impacts (hours of operation, parking, length of construction activity, etc.)	NEED TO ENSURE THAT CONSTRUCTION ACTIVITY DOES NOT UNDULY IMPACT THE ABILITY OF RESIDENTS TO ENJOY THEIR HOMES AND LIVE THE LIFE THEY ARE ENTITLED TO IN A RESIDENTIAL NEIGHBORHOOD <ul style="list-style-type: none"> No work on Sundays or legal holidays No work before 8am or after 7pm Make it clear that property owner/developer is financially responsible for physical damage to neighborhood properties caused by construction 	
		11. Deviations (process and criteria)	UPDATE REGULATORY GOALS AND CRITERIA FOR GRANTING DEVIATIONS <ul style="list-style-type: none"> Establish clear goals for granting deviations Adopt specific criteria that establish the unique circumstances that justify a deviation The existing 5% impervious surface deviation on flat or low angle lots serves no regulatory purpose and should be deleted from the code Require applicants to document that the application satisfies all criteria City decisions to grant a deviation must document the criteria that allow the deviation based upon information provided by the applicant Ensure that all application materials are readily available on the City website so that citizens can review during the comment period Communicate City decision to those who comment on a deviation request with explanation 	
		12. Large residential accessory structures and use (e.g., 30-foot-high gazebos, 12 car garages, etc.)	Establish a maximum size for accessory structures in residential zones	
		13. Enforcement tools including penalties	TOUGHEN ENFORCEMENT TOOLS SO THEY CREATE A MEANINGFUL DETERRENCE TO ILLEGAL CONDUCT <ul style="list-style-type: none"> Enforcement tools must include penalty that precludes someone from being able to benefit from a violation – being able to do something that one could not have done if they had complied with legal requirements. Citizens must have simple means to report suspected violations and be able to learn about the timely disposition of complaints Environmental damage should result in criminal prosecution. 	
		14. Building Permit Process: Public notice, public input and right to appeal	NEED FOR TRANSPARENCY AS TO BUILDING AND SIMILAR LAND USE PERMITS <ul style="list-style-type: none"> Notice of building and similar land use permits must go to property owners within 300 feet of any property boundary with a sign also required advising people of the pending permit application 	


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			<ul style="list-style-type: none"> • Sufficient opportunity must be provided for people to comment on and object to permit applications and to appeal decisions before an administrative law judge. • All materials relating to building permit applications have to be viewable online as of the first day of any comment period. <p>15. Fence height deviations</p> <p>RETAIN A COMMUNITY OF OPENNESS AND WELCOMING NEIGHBORS RATHER THAN WALLS AND GATES</p> <ul style="list-style-type: none"> • Establish clear goals for granting deviations • Adopt specific criteria that establish the unique circumstances that justify a deviation • The existing ease of obtaining a fence height deviation serves no regulatory purpose and should be amended • Require applicants to document that the application satisfies all criteria • City decisions to grant a deviation must document the criteria that allow the deviation based upon information provided by the applicant • Ensure that all application materials are readily available on the City website so that citizens can review during the comment period • Communicate City decision to those who comment on a deviation request with explanation <p>16. Time Limit on Validity of Building Permits</p> <p>PENALTY FOR EXCEEDING INITIAL PERMIT PERIOD Should be a monetary penalty for exceeding permit duration which includes putting a daily amount into an impact fund that can be paid to impacted neighbors</p> <p>17. Short Plats - Ensuring that short plat process is not circumvented</p> <p>PREVENT CIRCUMVENTING THE SUBDIVISION PROCESS Ensure that short plat process is not circumvented by applying for a building permit for one part of a lot with the intention of short platting the property after that permit is granted</p>		
22.	11/2/2016	Dan Thompson	<p>Please find attached to this email my comments to the Planning Commission regarding the residential development update, including:</p> <p>December 4, 2015 letter to City Council with Exhibits 1-9;</p> <ol style="list-style-type: none"> 1. December 7, 2015 letter to City Council regarding solutions; 2. Recent comments posted on Nextdoor regarding the residential development kick-off meeting and November 2, 2016 Planning Commission de-briefing with citizen comments. <p>Would you please make sure these documents are made part of the record in this matter.</p> <p>As noted in my second Nextdoor post, I am concerned that the scope of the review before the Planning Commission may not include changes to the current procedural interpretations and rules for permit notice, involvement, and appeal. I am unable to discern whether these issues are within the scope before the Planning Commission. I would appreciate it if you could confirm whether or not the procedural issues raised in my Nextdoor post and letters to the Council will be before the Planning Commission and within the scope of the development code amendments.</p>		A copy of the referenced attachments will be placed on the website as soon as possible.

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23.	11/2/2016	Sarah Fletcher	<p>Hello Evan, do you know why the Arborist states in the Record of Decision that critical trees will be preserved, and issue an Arborist's Report as part of the Record of Decision, but then in the Development phase, he completely ignores his own Arborist's Report and allows more critical trees to be cut down so that a building's foundation can go where the critical tree that was to preserved goes? This cannot be acceptable. And there needs to be a timeframe on replacing trees and will you please take the language out in the Tree Code "at arborist's discretion." This is causing a major problem in that he is just substituting bushes and shrubs with trees. Could you please tighten up the Code with regard to the destruction of trees in that they should be preserved at all costs. The purpose of the trees is to camouflage the houses, not to have them showing with all the bright floodlights. The arborist said that he can't deny a permit if it means a development being cancelled because of his not allowing a tree permit. How can the arborist deny a permit without having to feel that he is the one responsible for the development not being approved?</p> <p>And will you please stop the property owners from bringing in fildirt or infill to either make a foundation level higher or to level off ground and that if it is brought in illegally, then it needs to be taken out with immediate effect no matter who the owner of the property is. And if dirtfill causes problems with the neighbors' property, he needs to do remediation. And if a neighboring house was built below grade, the new proposed developments' foundations need to be at the same level in that should the foundation level start off at a higher level to the neighbor's house or condo, even going up 30ft, will dwarf the neighboring house or condo and block the neighbors' views. This cannot be allowed.</p> <p>And as for new developments with lots of cars, we don't want to look at a parking lot or find that the fumes are coming into our condos setting off our carbon monoxide alarms. And if there is an orchard, there should be a law that preserves orchards and not be allowed to be developed.</p> <p>And the 15ft border between properties is just not enough room and should be measured from the rooftops.</p> <p>And if the area only have houses that have sloped roofs, for a developer to come in with a huge house that has a flat roof, that brings down the whole neighborhood (which can be seen on 72nd Ave SE with a Jaymarc showhouse), that should not be allowed as part of the design. Neighbors should be allowed to view the proposed development and have some say as to whether they approve the proposed buildings or not. It is not clear at all when we comment on a Notice of Public Application if we are looking at plats or what? And then, between the Planning, the demolition and development, the building can change completely without us being allowed to comment and then a house will go up and spoil our view or bring the neighborhood down. Something is wrong with the process. No McMansions should be allowed to be built next to cottage-type houses.</p>		
24.	11/3/2016	Wendy Wasicek	<p>I am currently living across the street from a new residential construction project. After watching this construction for the last 5 months I believe the following topics need to be revisited in the planning development review process: Consideration of shape of house/roof in the determination of height limits - a flattop roof design has a much more significant impact on neighboring homes than a traditional peaked roof. The visual blot is more daunting, particularly when the overall shape of the home is rectangular, and blocks more sky and light. The height/size limit should be lower with this design.</p> <p>Size of home and impermeable surfaces as a % of lot size ? the maximum current size of home and straight angle design does not allow space for any landscaping to soften the impact of the size of the home. The size allowed is too large. Tree removal - It was my understanding that Mercer Island values its large trees from a beauty and environmental perspective. The project across the street removed every tree from the lot and cut off branches from most neighboring trees at the property line. This was too excessive.</p> <p>Size of basement ? the project across the street has a full basement which required several months of excavation and dirt removal/replacement. The area has significant clay soil and water runoff problems. This type of design should be restricted based on the home/lot size. Repair of damage caused by heavy truck traffic to neighboring streets needs to be required.</p> <p>Handling of runoff water ? excessive tree removal, size of home, and impermeable surfaces negatively impact the amount of storm water runoff. Our current storm water system has limitations that must be considered, particularly given the trend we are seeing toward heavier rainfall. Rain gardens should be considered as possible requirements, similar to those required by Bellevue.</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			Permitting process and notification of neighbors ? the current process does not allow any reasonable input from impacted neighbors. Mercer Island has been a great place to live. I would like to see it continue to be so.		
25.	11/11/2016	Sarah Fletcher	<p>Tree Ordinance. Critical trees should be protected at all costs. And if the Arborist is going to give permission for the developer or homeowner to cut down a critical tree, he has to take pictures and explain why the tree(s) need to be cut down and have the City Council make a decision if the public as to the cutting down of the tree(s). No-one is overseeing the arborist and that is a problem. If trees are cut down and are supposed to be replaced, there has to be a timeframe as to the replacement even if there is a new homeowner. And please take out the words "at arborist's discretion." That is a disaster in that the arborist is replacing critical trees with bushes and shrubs. And someone at the meeting said that developers were going to demolish an orchard which contained a whole lot of apple trees. I was watching Ciscoe Morris the other day and he showed how apple trees from 1930 were being preserved and moved. So, if the trees are not going to be protected at the site, they should be carefully moved to Luther Burbank Park or to one of the other parks in that the apples are a good source of food for the wildlife and if there are a lot of apples, someone could pick those and distribute those to the low income residents. It is a win-win for everyone. The priority of course it to protect the trees at the construction site.</p> <p>Infill Dirt. No infill dirt should be allowed in. Period. And if it is brought in illegally, it has to be paid by whoever owns the plot of land as soon as the City is made aware of this. Also, if someone wants to level their land with infill dirt, they should get a permit in that that could cause problems with the neighbors. Cutting down trees on a slope like what they did on the hillside above Mercerdale Park should have not been allowed because now that causes a landslide risk. There should be some ordinance to stop a development like the one above from happening because of the landslide risk.</p> <p>Height of Proposed Development. If the "average foundation level" is higher than the neighboring condo building which happened to be built below ground level, the neighboring development should be at the same foundation level of that neighboring condo building in that if the foundation level is higher, even if they build a 30ft with a 5ft appurtenance, it is going to dwarf the condos opposite and result in neighbors' views to be destroyed.</p> <p>Houses and Parking Layout. If there are subdivisions, there has to be a traffic study to see the impact of what the impact on the subdivision will do to the neighbors. As an example, some cars from next door were setting off the carbon monoxide detectors. And neighbors should not have to have an orchard and trails be replaced with a whole lot of houses. That destroys the peaceful nature of the neighborhood and once that is gone, that is it. It is forever.</p> <p>Boundary. The 15ft boundary is not enough. I don't know when this boundary percentage came in, but it has to revert to before this new boundary percentage. Roofs. If all the neighboring houses have sloped roofs, the new development should also have a sloped roof. Not like that new Jaymarc house on 72nd Ave. It has ruined the whole neighborhood. Neighbors should have a chance to add their input not only on the planning, but on the proposed houses. When one looked at Mercer Island from the I-90 freeway, the one thing that stood out was how few homes one saw because of the trees camouflaging them. The benefit of having trees will cut down on the freeway noise, so one would think it would be beneficial to keep them for that reason alone. If people are coming to live on Mercer Island and if they don't like trees, they should not move here. The trees make up part of the charm of the island. Trees should not be replaced with bright floodlit houses.</p>		
26.	11/22/2016	Teresa Magaram	Like many others, I'd like the city council to be respectful of present city residents and set codes to protect the character of neighborhoods. There is a new single family home, where external construction has just been completed. It is on the east side of West Mercer just south of 24th Ave. The house is clearly 3 stories on both its' east and west sides. There must have been some interesting math used to justify the 3rd floor as a reasonable interpretation of the existing code 2 story limits. It does not fill me with confidence that codes will be enforced, however they're written. Retaining a 2 story limit would be great. I'd be so very pleased if the city council would at least listens to island residents and adopt codes reflecting our wishes and concerns. Some say that could happen. Personally I'm considering selling the 90 bridge, again and again.		
27.	12/7/2016	Anne Fox	1) It is imperative that protection of trees during new development be sufficient to actually insure the long term health of the tree(s). This requirement can only be met if a wide berth, one appropriate to the height of the tree, is protected before construction begins. Too often roots are cut to accommodate the scale of a new home. This does not result in a reasonable chance for the tree surviving. If this regulation were to be implemented it could result in a reduction to the scale of the house.		

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			<p>2) The requirement to replace one tree removed during construction with some number of newly planted trees is not necessarily a reasonable one. I have seen it result in a "forest" being planted on a site. I don't think that is fair to the owner nor does the crowding necessarily result in a healthy tree growth. I feel the ratio of one down/? replacement trees should be reviewed.</p>		
28.	12/16/2016	Dan Thompson	<p>In today's Seattle Times is an editorial addressing the Seattle Hearing Examiner's rejection of the City of Seattle's plan to allow accessory dwellings in residential neighborhoods even when the property is not owner occupied. I think the Seattle Hearing Examiner's decision, and this issue, raise some good points for our current residential code rewrite:</p> <p>1. In prior letters and emails to all of you I have asked for clarification from the MI Council that administrative processes under MICC 19.15 are within the scope of the rewrite. Most importantly I have asked that 19.15 be amended to provide that all permit appeals go before the Seattle Hearing Examiner (along with other procedural changes to current DSG interpretations that unfairly exclude citizens from the land use permit process). Currently, appeals of variances go before the Seattle Hearing Examiner, but critical issues like deviations (including impervious surface deviations and short subdivisions) go before the planning commission. After sitting through four weeks of Evan simply educating our planning commission on our current code I believe our planning commission does not have the neutrality or legal ability to hear and decide permit appeals. (Imagine our planning commission coming to the same ruling the Seattle Hearing Examiner did). Ironically, our current planning commission (which includes four new members) didn't even understand the bifurcation of appeals, or the distinction between a variance and deviation. Personally, I am not aware of a single instance in the last 10 years in which the planning commission has held in favor of a citizen in an appeal, or reversed the DSG. Most of these decisions never come before the council. If I served on the council I would rather have a complicated land use issue that comes before the council be vetted by the Hearing Examiner rather than the planning commission (i.e. Coval).</p> <p>I would again ask the council to publicly inform Evan that administrative processes are within the scope of the rewrite because it is my understanding Evan does not believe they are.</p> <p>2. Currently our code provides that short subdivisions (i.e. four lots or less) go before the planning commission but not the council, and only long subdivisions (four or more lots) go before the council. I think all subdivisions more than two lots should come before the council, especially if they don't first go before the Hearing Examiner. Our council has an obligation to be more involved in something as critical as the division of land on MI, and there are way more short plats than long plats on MI, and therefore this distinction found in R.C.W. 58.17 (four or fewer lots) isn't applicable to MI.</p> <p>3. Although our current residential code allows accessory dwellings, I am not sure if it allows rental of these units by non-owner occupied property. I think the Seattle Hearing examiner's reasons for rejecting Seattle's position on this issue apply equally to MI, and think both our current code and future code should preclude rental of accessory dwellings by property not occupied by the property owner.</p> <p>4. After sitting through 10 hours of Evan's presentations to the planning commission (which have been quite good (if not understood by the commission) I am convinced our planning commission has no hope of writing a residential code, and will simply rely on whatever Evan suggests (or God forbid Greenberg), although I can see Evan is somewhat nervous about this. Our planning commission has been all over the board, confusing zoning with land use, failing to understand the basic tools of land use like impervious surface limits, calculation of gross floor area and exemptions, average building height, and the formulae for each. Instead our planning commission discusses general theories of density, zoning and cottages. It is apparent to me anyway that this planning commission is being asked to do something it simply doesn't have the knowledge or capacity to do, on a very contentious and important issue, after a disastrous town center process which I can sense makes this commission nervous, and leaves them looking to Evan for the correct solution.</p> <p>What I would strongly suggest is the council begin to include in its regular meetings updates from Evan to make sure the commission (and Evan) don't formulate a code rewrite that isn't what the citizens or council intended, and drop it on the council for an all nighter like the residential code rewrite.</p> <p>I also think it would be helpful (for the commission, not Evan) if the council reiterated the primary purpose of the code rewrite (other than Greenberg's bizarre code interpretations that are the cause of all of this acrimony). The first basic purpose is lot to house area ratios (massing</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>and neighborhood consistency), which could easily be addressed by simply stating gross floor area be measured from the exterior of the house w/o any exemptions including below grade area (like the fire marshal does), with perhaps one exemption for attic area to prevent houses from having flat roofs. This simple rule would remedy 90% of the citizens' anger at McMansions'. It is ludicrous to enact a rule addressing house area to address massing but then allow exemptions to floor area that obviously result in greater exterior massing. This would include Greenberg's reversal of many years of code interpretation (first enacted by Steve Lancaster) now holding celestial space only counts as one floor because the automatic 5% impervious surface deviation Greenberg enacted in another administrative interpretation resulted in houses exceeding the maximum floor area/lot area ratio.</p> <p>5. Which leads me to administrative interpretations, which our current code allows by the Dir. of the DSG. These interpretations don't go before the council or even the planning commission. Under Greenberg they have become nothing more than de facto code amendments without any citizen involvement (usually because they are issued right before major holidays) or council review. I would suggest that any code rewrite provide that all administrative interpretations by the DSG go before the council for approval to stop what has happened under Greenberg.</p> <p>6. Finally, at some point this council has to inform the citizens that without a moratorium, even on deviations and variances, the citizens won't see any relief in their neighborhoods for years because all the permits being filed right now will vest under the old code and Greenberg's "interpretations", and take years to process and build. I was pretty angry when I found out Greenberg had Evan reviewing permits which delayed any residential code rewrite for months, and even now any new code won't be formally approved until next summer. I find it disingenuous for this council to continue to revise its projected 2017-18 budget deficits downwards because Chip Corder continues to revise revenue from residential development upwards because of the spike in permit applications without acknowledging this council is doing what I have accused past councils of doing, namely selling our neighborhoods to cover salaries, benefits and management errors that are unsustainable, but no council will address meaningfully. If the residential development revenue is more important to the council than protecting the neighborhoods from abusive development then this council has an obligation to be honest with the citizens and tell them that.</p>		
29.	12/16/2016	Lynn Hagerman	<p>Dear Mercer Island City Council Members, and Mercer Island Planning Commission Members:</p> <p>This is to request that all Council Members, and Planning Commission members take a few minutes and see this in person. The mass of it cannot be communicated effectively via descriptions or pictures. We (neighbors) have tried to appeal to the owner at Proctor, to consider its aesthetics, environmental impact and impact on our experience / and the character of the neighborhood, to no avail. And, apparently, the City Planning Dept has no discretion to alter this if it meets the current code for setbacks and height originally designed for single family homes. So it is a free-standing set of concrete walls 30 feet high by 21 and 26 feet respectively.</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>I am asking you to personally take a look, so that you can see what we (Mercer Island) allow to be constructed under the current code, so that this may be an example of one key area that needs consideration under the code revision.</p> 		
30.	12/19/2016	Anne Woodley	<p>Hello, I am interested in protecting the Island and our quality of life from the developers who know all too well how to maximize their profits. I believe we need development fees for infrastructure and associated other expenses. Then we need protections of fence heights, plats , impervious surface, tree protections.</p> <p>Traffic safety. Bainbridge island has a development code we can use as a model. No one is going to be able to undo the problems if we do not act now. The problems are way overdue. We also have an additional problem of unoccupied houses from investors (many of them foreign who have no one in town to watch their homes). I am living in a neighborhood with multiple investment houses that are empty some without gardeners or rodent protection. This erodes property value. I appreciate the complexity of these issues but we need to protect the wonderful parts of this community. Lots of people are making a lot of money without being held to reasonable standards. Thank you.</p>		

Public Comment Summary
Updated through: 03-9-2017

	Date	Name	Comment	Related Topic	Staff Comment
31.	12/19/2016	Johan Valentin	I believe that the current residential code is adequate and that we should not rush into changing the general code to address a problem in a few isolated areas of the island. Thank you!		
32.	12/19/2016	Eric Radman	Huge homes are being developed where older homes used to exist. I know of 3 developments where one house with a large lot was purchased and 3-4 homes were/are built. One large 6,700 sq ft home being built by Barcelo Homes is totally out of character of our neighborhood. Also, I'd like to see stricter ordinances on dumping roof runoff into catch/percolation basins (we have no storm drain system in my neighborhood). I'm particularly concerned because these catch/percolation basins are located within 50 feet of a very steep hill. Developers should NOT be able to dump water into the ground without knowing where it goes - especially when you are near very steep hillsides.		
33.	12/19/2016	Paige Behrbaum	As you are reviewing and updating the residential development code, please consider not all residents view new development in neighborhoods as a negative. Many older homes do not have proper drainage and gutter systems to control water on impervious surfaces. New construction improves water drainage management and often puts power underground. Many 1960s and older homes do not accommodate today's families' lifestyles - more people working from home, exercising and watching movies at home...life is different now and different rooms are desired by today's families. Renovating an old house doesn't always make sense. Also, I hope the building code won't be overly restrictive compared to Bellevue and other cities, making it difficult for buyers to use their property as they wish within reasonable city rules. Tree removal should not be overly restrictive since large trees near homes can be dangerous in windstorms and families should be allowed to remove them if they are not comfortable with their location relative to their new homes and bedrooms. Neighborhood consistency should not be a factor when the neighborhood is possibly outdated and the whole concept is subjective and should not be codified. We have witnessed trees fall in our neighborhood, and gutters fall off of homes or break so that water just runs off a property into the neighboring property - in these cases updated construction would have been a blessing.		
34.	12/20/2016	Sheila Wheeler	This has been a unique area--parkland forest and a sense of village/community. Low density, no mega houses on smaller lots, and low-rise have a part in this. It should not go in the "Bellevue direction" or Seattle high density direction as our unique character is then lost. If anyone wants that for the future, move there. There are a lot of areas doing that alternative...help yourself to an alternative--a good one, but in no way with the special quality of our Island!		
35.	12/20/2016	Michael Fink	I think that much of the development happening in the island is changing the character of the city for the worse. It seems like all applications for deviations for things like imperious surface coverage are rubber stamped by the city. Instead of it being an exception to being granted it is the norm. In many cases trees are not protected at all. I have seen many year downs and lot splits where the land is essentially clear cut changing the feel of the neighborhood forever. Also the size of many new houses is too large for the lot and surrounding neighborhood.		
36.	12/20/2016	Sue Stewart	Lot size needs to allow for mature trees. Loss of privacy due to mega homes requires buffer landscaping with the cost to the developer. Watercourse definition needs to tighten up...rain gardens bring mosquitoes and lake contamination. Traffic issues need critical addressing-solutions. Coval property review -ultimately a disaster as accepted.		
37.	1/1/2017	Sarah Fletcher	<p>I am writing to you because I do not understand your process or why you are not adhering to the Code and I am using the Sub15-001 Sub-Division as an example of what is not right.</p> <ol style="list-style-type: none"> 1. There was a Notice of Public Application for sub-dividing two plants into three in order to build 3 houses, a few of us commented, some of the comments when it came to the Record of Decision were ignored and the Arborist's Report was inaccurate. I went to the City to inform them of the mistake, but I was told that I would have to pay \$875 to appeal the decision. For a start, there should be no fee and if the arborist makes a mistake on marking up his Arborist Report, I should not have to pay to query his error and if I do have to pay to appeal, and it turns out that the arborist did, in fact, make an error, I should be refunded my money. 2. Then, the developer was given a demolition permit. Demolition should mean demolition, it should not mean bringing in a whole ton of fill dirt or whatever rocks and soil is called. There should be a completely separate permit for anyone should they want to bring in fill dirt, that they are given a reason why they need to bring in fill dirt, how much, and whether it has been tested for contaminants, and if the fill dirt needs to have a retaining wall built to make sure that it does not cause problems with the adjacent development. 3. In the Record of Decision, it stated that the developments would be 30ft above the average foundation level which is too vague because now there is a problem in that had the fill dirt not been brought in, the foundation level would have been in line with the neighboring development, but now that they brought in so much fill dirt, it has caused the average foundation level to be 12ft higher. The City needs to explain how they get to the average foundation and there needs to be some code that does not allow a 		

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			<p>development's foundation level to be higher than the adjacent condos or homes like ours. Any foundation higher than our condos is going to cause our condos to be dwarfed. What code can you bring in to address this major issue?</p> <ol style="list-style-type: none"> 4. The City should make the developer remove the illegal dirt fill and that is where there is a problem. The City refuse to make the developer remove the dirt fill, the foundation level is too high, again, the City are refusing to make the developer lower the foundation level. And as far as the developments themselves, they were supposed to be 30ft above the average foundation level, but now the City is allowing the developments to go up 35ft to 36ft above the average foundation level and are ignoring the neighbors. This is not fair nor is it right. 5. So where does that leave the neighboring condo owners/renters? They can't say or do anything because not only are they up against the developers, but they are up against the City who are not acting in our interests. 6. And as far as the foundation level, no-one from the City has come to the property and had a meeting with any of the adjacent homeowners. Nor has there been any mediation talks. 7. And there is a Sequoia tree which is classified as a landmark tree which under no circumstances should be removed, but there is a disconnect in that in the Record of Decision and in the Arborist's Report and as part of the demolition, all efforts were made to ensure that the tree did not get removed and the roots did not get damaged only to find that now, the third house is going right where the Sequoia tree is placed and now, apparently, the Arborist has produced a subsequent Arborist's Report to have the Sequoia, a Landmark tree removed, as well as some other trees. Again, the City are not doing anything to make the developer either develop around the tree like he is supposed to, and nor is anyone overseeing the Arborist to make sure that he doesn't just permit trees to be cut down. It is totally unacceptable. <p>I just ask for fairness. We cannot move the neighboring condo or make the foundation level higher, whereas the developer with his subdivisions can make the foundations where they are supposed to be and make his houses no taller than the 30ft height. And there has to be not only a Notice of Public Application for the allowance of the subdivision, but there has to be a Notice of Public Application for what the developer is planning with the developments. And should the neighboring condo owners/renters' views be compromised in that as things stand, they are going to lose their views of lakes and mountains and in all probability, the developments are going to make it awfully dark for them.</p> <p>And lastly, because there might be a problem with so many cars so close to the neighboring development, a traffic study needs to be implemented to make sure that putting three developments with additional cars might cause an air quality problem with the car fumes coming into the neighboring condos or into the new developments' homes.</p> <p>So will you please bring the developments into line with the average foundation level being the average foundation level, with the height not being taller than 30ft tall, and no more trees being cut down, not even a branch and the Arborist needs to still produce a report showing where all the other trees that were previously removed under the last owner are replaced immediately before any new development commences. None of this is too much to ask. If the developer cannot adhere to the code, then he should not be allowed to build. It is not complicated.</p>		
38.	1/2/2017	Sheryl Morelli	<p>We are unable to attend upcoming community meetings, but wanted to express our family's thoughts on Mercer Island Residential Development Standards.</p> <p>We are concerned about the increasing number of homes being torn down by developers on the island, often replaced with multiple large homes which are completely out of scale for the lot size. Further, we are concerned about the continued variances the city is granting developers, allowing for construction of these homes.</p> <p>We are concerned about the environmental and community impact of the above construction trends. The average price and size of homes on Mercer Island continues to increase, pricing many individuals and families off of the island. A healthy community consists of a varied housing market; accessible to new couples, young families, growing families and aging/ retired families (including aging individuals). All are vital to a healthy, diverse community. Further, we are concerned about growing trend of foreign investors purchasing homes on Mercer Island which</p>		

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			<p>then remain vacant. In addition, we are concerned about the impact to Mercer Island schools and infrastructure with the current unchecked growth of our population supported by current housing trends.</p> <p>We strongly urge the Mercer Island government to consider updating current residential development standards to support policy which better reflects our diverse community and ensures that it continues to thrive for generations to come.</p> <p>Our family has lived on Mercer Island for more than 40s, we hope it remains a community that we will want (and be able to) to reside for the next 40 years.</p>		
39.	1/3/2017	Anonymous	<p>Part 1: Building Height Home heights should be limited to 10 feet over the house(s) next to it.</p> <p>Part 2: Tree Protection Trees over 3 feet wide should never be cut down. They should be protected.</p>		
40.	1/4/2017	Barbara Shuman	We need to update our standards for residential development. We are living in a constant demolition/construction zone with the same going on both sides of our street, 4 in one block bounded by 32nd and 36th (no other cross streets) . I suggest that the number of constructions going on within one block be limited. It is total destruction of our neighborhood, 5' setbacks, 30' walls, all trees removed, etc etc.		
41.	1/10/2017	Thomas Alexander	<p>Deviation to the Maximum Impervious Surface Requirement code suggestions:</p> <p>1) Do not include slopes greater than 20% in the available area calculation. Then, limit the Maximum lot coverage to 30% of the area that is left for single-family residential property.</p> <p>2) Do not allow an additional 5% deviation. It now seems that it is a given that the developer will be given the extra 5%. We need smaller homes instead of the giant boxes now being approved, which are destroying the character of our Mercer Island neighborhoods.</p>		
42.	1/10/2017	Thomas Alexander	<p>Suggestions to improve small around table discussions:</p> <p>1) Each participant needs a name tag with his name, if he is a Mercer Island resident, and if he has a conflicting interest other than being a resident.</p> <p>2) Each participant should introduce himself at the being of each discussion period giving the above information to the table.</p>		
43.	1/10/2017	Thomas Alexander	<p>Tree Code Suggestions:</p> <p>1) Silt and Tree Protection fence placement will be enforced by the City before development can commence. <u>No activity</u> on a job site should be permitted until the City Arborist has inspected (to approved drawings) and approved the fencing installation. Any unapproved movement of fencing will cause a week stop work order and a fine of \$1000 being levied by the City on the contractor. This "fine action" is encouraged by the Western Washington Storm Water Manual and is now common disciplinary action taken by other municipalities.</p> <p>2) All evergreen trees larger than 25" DBH shall be retained during tear-down and remodel developments.</p> <p>3) 50% of all evergreen trees larger then 10" DBH should be retained during tear-down and remodel development.</p> <p>4) On previously undeveloped lots at least 50% of the evergreen trees over <u>25" DBH</u> shall be retained in addition to all trees on steep slopes.</p> <p>5) On previously undeveloped lots at least 50% of all evergreen trees over <u>10" DBH</u> shall be retained in addition to all trees on steep slopes.</p> <p>6) An analysis of proposed removal trees on previously undeveloped property will be conducted to minimize the potential for wind throw when the undeveloped property and surrounding properties tree's constitutes a larger tree grove. This may govern both the size and design of any proposed development due to safety considerations.</p> <p>7) All cutting of trees over 25" DBH on developed property shall be justified by the property owner to the City Arborist. "To improve the view" will not be a justification for tree cutting.</p> <p>8) All evergreen trees larger than 30"DBH on developed property will be retained by property owners unless they are deemed dangerous by the City Arborist.</p>		
44.	1/10/2017	Thomas Alexander	Yard Size and Set Back Code suggestions:		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>1) New developments, teardowns, and remodels should blend into the existing neighborhood and not be much more massive than the other neighboring properties.</p> <p>2) Deviations on setbacks should not be given if the property is large enough to accommodate the minimum setbacks.</p> <p>3) Setbacks should be in proportion to the setbacks of the neighborhood properties.</p> <p>4) Perhaps there should be a different set of setbacks to match each neighborhood characteristics. Some neighbors would have larger setbacks, some with smaller to match the character of the neighborhood.</p>		
45.	1/10/2017	Thomas Alexander	<p>Building Height Code suggestions:</p> <p>1) Residential houses should be limited to two stores plus a basement.</p> <p>2) Not roof observation deck should be allowed which lets residence to look down on surrounding properties.</p>		
46.	1/11/2017	Scott McRae	<p>Mercer Island is a diverse community of individuals with a myriad of needs and wants. We have all seen these manifested in a variety ways over the years and especially with architectural trends in the development of our Islands single family homes and multifamily homes. Each trend has resulted in small groups that do not like a particular style, or manner of architecture.</p> <p>In the past during the morning coffee clutches, or over the fence commiserating, folks complained or groused about their disdain of said trend du jour, but eventually accepted the change and moved on. This time there is a small contingent which has become very vocal and organized about their discontent with the current trend, but do they speak for the majority?</p> <p>As someone who is 3rd generation of the First Hill neighborhood, and having grown up in what is now a hot bed of dissent with current trends, I will admit that seeing the houses of my childhood friends torn down to accommodate someone else's vision of the perfect home is hard...but I am a realist in that change is part of our daily lives and our community.</p> <p>That said, we are in my opinion starting down a dangerous path of potentially hasty and ill thought out changes to our building codes...changes that are potentially destined to impose this small vocal groups vision and ideals upon us all.</p> <p>I realize that the builders in the course of their business have to a degree brought this upon themselves, but are not totally to blame. A portion of blame lays in a permitting system that has many exploits inherent in it, and staff that oversees this process that most likely has not adequate resources to be as exacting as we might all wish. And lastly, are the people that are objecting to change seeing it as their right to impose their ideal of their neighborhood on everyone else coming in? It very much feels that way.</p> <p>The framework for building regulation is beaten up and mangled right now, but is the framework broken as it is currently written? No, I feel the system is just in need of stronger oversight and adherence to the already existing standard. The stripping of home owner's rights to enjoy their property to highest and best use is being threatened with the current batch of proposed modifications along with property values, and the realizing of maximum equity to the homeowners will be egregiously eroded...especially for our seniors looking to use their equity nest egg for downsizing and retirement.</p>		
47.	1/12/2017	Kurt Wilson	<p>The City's FAR is too restrictive. Make similar to Bellevue. Bellevue has other formulas such as 2nd story set back 5' along side property lines and or an 8' set back with 10' up at property line with a 45 degree angle needs to clear the roof. Mercer FAR is 40% Bellevue is 50%, plus Bellevue has the other optional exemptions Delete eaves from impervious calcs. Allow infiltration to offset impervious areas. Don't get caught up in keeping with the character of the neighborhood. With progress comes change and neighborhood enhancements. As it becomes unaffordable for old housing stock to remain due to land values, change should not be restricted in a manner that takes away property value from one who desires to sell for redevelopment because the new rules and regulations are very costly to comply with as well.</p>		
48.	1/12/2017	Carolyn Boatsman	<p>1. I favor the increased setbacks between houses. The table you've provided is good.</p> <p>2. Accessory buildings: I favor Concept A in which the size of an accessory building is limited to 25% of the allowed gross floor area but it is not super important to me.</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>I favor Concept B the height limit on accessories because I think it looks obtrusive to have a couple of very tall, very skinny structures on the parcel. I would prefer a max height of 20 feet but anywhere in the range of 5 to 22 feet is also OK.</p> <p>3. I favor eliminating the impervious surface area, fence height, and house size deviations. I would favor modifications to the setback requirements in order to preserve trees. The latter, unfortunately didn't seem to get much positive review in the group I was in re: trees and I think was widely misunderstood.</p> <p>4. Very interesting to see our construction hours lined up against other cities! What were we thinking?! Was anyone thinking at all?! I go with Issaquah M-F 9 to 6. Saturday 9 to 5. Sunday and holidays not.</p>		
49.	1/13/2017	Steve Jensen	Increase FAR, see Bellevue's Code. Allow infiltration to offset impervious areas, 2nd option, pervious concrete or asphalt. Delete Eaves from impervious calcs, at the least 2nd story Eaves and minimal cantilevers. . Allow Infiltration in lieu of on site Detention Reservoir.		
50.	1/16/2017	Carolyn Boatsman	At an early December Planning Commission meeting, one of the Commissioners expressed concern that many comments were from people who live on First Hill but that that these comments might not be representative. This is a reasonable concern. I would like to correct the impression that the group of people who are coordinating their effort all live on First Hill. For example, three of the nine who endorsed the attached comments do not live on First Hill. One third of the attendees of a meeting in the First Hill neighborhood on December 6 and attended by City staff were from elsewhere on the Island. Finally, the petition submitted to the City Council in January 2016 had been posted on Next Door and was supported by 175 people from all over the Island. It's helpful to briefly look again at the comments of those who signed the petition while we are in the midst of a process to amend the code. I've attached them for your reconsideration. The concern regarding loss of neighborhood character, overly large houses, and loss of trees is widespread on Mercer Island.		
51.	1/16/2017	Carolyn & Mark Boatsman Erik Jansen Charles Zwick Elizabeth Malone Lynn Hagerman Sue Gross Dave Menz Mark Coen	<p>We appreciate the City's commitment to seeking public input regarding possible amendments to residential development standards. We're concerned though that that an important component of the process to obtain that input may not be providing the City with the informed input that is needed. We refer to the public meetings at which attendees can provide input in small group settings, most notably the meeting on January 11, 2017.</p> <p>The problem is that options for amending the code were provided to attendees, who were immediately asked to register their opinions in small groups. Many attendees said that the options were too complicated or they didn't have sufficient background to quickly take a position. Some options that were not well understood seemed to generate a defensive reaction. Perhaps what one doesn't understand, one is unlikely to support.</p> <p>It is possible that the excellent work by staff to date in preparing options could be diminished by an ineffective "roll out" to the public.</p> <p>The meeting was unnecessarily unpleasant and stressful. It put attendees on the spot for snap judgements about complex issues about which they have little knowledge in an atmosphere of controversy.</p> <p>A method that would address all of the above concerns would be for City staff to present and explain the options being considered at the beginning of the meeting. Subsequently, attendees could visit stations for discussion about specific topic areas. Stations could be manned by knowledgeable staff. An onsite survey could be offered in which individuals could make their preferences known. In the course of such an event, attendees would become reasonably aware of the variety of opinions in the room, which seems to be a goal of the current process.</p> <p>Also frustrating last night was that some of our note takers, though City staff and well intentioned, were not very knowledgeable about the topics, nor did some of them keep the conversation on track. Groups tended not to complete their task, i.e. provide comments on a slate of topics. It was evident that, in some cases, note takers didn't accurately record and express attendees' views.</p> <p>We recommend meetings that inform and offer attendees an easy way to share their views directly rather than via a note taker. This will give Islanders the best result.</p>		

	Date	Name	Comment	Related Topic	Staff Comment
52.	1/16/2017	Listed in "Comment" to Right	<p>Resident interests in preserving neighborhood character and tree protection should be reflected in city codes and council decisions regarding property subdivision rather than developer interests</p> <p>Mark Coen Mercer Island WA 98040 United States 1/13/2016</p> <p>Allison Hughes Mercer Island WA 98040 United States 1/13/2016 I want to save our neighborhood integrity and the trees</p> <p>Caroline McCullam Mercer Island WA 98040 United States 1/13/2016 I see the character and attractiveness of our neighborhoods being ruined by usually ugly and inappropriately-sized new houses.</p> <p>Jack McHale Mercer Island WA 98040 United States 1/13/2016 Do not want MI to look like Federal Way.</p> <p>Larry Sarchin Mercer Island WA 98040 United States 1/14/2016 The code really needs a thorough review to eliminate the byzantine exceptions that allow outsize houses with too much paved area that trash the character of Island neighborhoods.</p> <p>Mark Boatsman Mercer Island WA 98040 United States 1/15/2016 I'm here so I won't get fined.....</p> <p>D Menz Mercer Island WA 98040 United States 1/15/2016 Character and health of neighborhoods and effectiveness of our drainage systems (to not pollute the lake) has a lot to do with greater retention of the large healthy trees which are coming down so fast now and are not being replaced.</p> <p>erik jansen Mercer Island WA 98040 United States 1/15/2016 I agree with the facts, spirit and challenges of the problem. Mercer island must not be overwhelmed by developer's short-term and absentee needs. We need a building code that works for the character of a neighborhood and limits the size and scope of new builds on a lot. What ever happened to permeable surfaces? Over-sized houses with concrete up to the house on too small lots. It isn't working with these homes that are too big for their lot.</p> <p>Suzanne Davis Mercer Island WA 98040 United States 1/15/2016</p> <p>Lori Wisenteiner Mercer Island WA 98040 United States 1/15/2016 I want to preserve the character and health of our MI neighborhoods. Change the code.</p> <p>Barbara Winkelman Mercer Island WA 98040 United States 1/15/2016 The City has done a poor job of insuring that its infrastructure can withstand the construction it allows</p> <p>Salim Nice Mercer Island WA 98040 United States 1/15/2016 The City has chosen to ignore most of the protections provided under the Growth Management Act, including impact fees, while adopting almost every pro-growth, high-density aspect of the legislation. It is time to align Title 19 of the Mercer Island City Code with the aspirations and expectations of the citizens of Mercer Island.</p> <p>barbara shuman Mercer Island WA 98040 United States 1/15/2016 Our neighborhood is becoming like a development by Jaymarc! We are losing our trees and landslide danger is frightening. Mega houses are closer to the street because shorter drives = more impervious allowed in the house construction. We need to be heard!</p>		

Date	Name	Comment	Related Topic	Staff Comment
	Jim Shuman Mercer Island WA 98040 United States	1/15/2016 This issue is critical to maintaining the character of our neighborhoods on Mercer Island and needs to be acted on ASAP by the City Council.		
	Tinya Anderson Mercer Island WA 98040 United States	1/15/2016 There needs to be a reasonable compromise. This is absolutely possible. It's not about us vs them.		
	Kristy Nice Apex NC 27502 United States	1/15/2016 As a former resident of the area with family who still reside on the Island, I want my grandchildren to grow up in a community...it appears that the his sense of community is threatened by unrestrained and thoughtless growth.		
	deborah ehlers Mercer Island WA 98040 United States	1/16/2016 We need to preserve our quality of life on this special island. That means keeping trees, tailored development, and no more mac mansions squeezed onto tiny, now treeless, lots.		
	morrene jacobson mercerc island WA 98040 United States	1/16/2016 We need standards that preserve the character of the island, leaving room for open space and trees on residential lots. We need to protect the environment by strictly limiting the impervious surfaces on lots. And we need to see to it that the new guidelines are respected, rather than being circumvented by easily-granted variances and deviations.		
	Martha Cramer Mercer Island WA 98040 United States	1/16/2016 The attractiveness of our island is being destroyed by large houses overwhelming the lots. Please change the code.		
	Muffie Cohen Mercer Island WA 98040 United States	1/16/2016 I want to preserve the character of this special neighborhood		
	Melody Smith Mercer Island WA 98040 United States	1/16/2016 Unhappy with the City Council decisions on density and building heights.		
	Jennifer Buckmiller Mercer Island WA 98040 United States	1/16/2016 I'm signing because I would like to see the new homes being built reflect better the size of the existing moderate-sized homes. Larger square footage can be realized through designs that are not huge block faces which have started dominating First Hill. All we see is "house" without much thought put into interesting landscapes and height variations of the homes. The new homes are consistently big block faces which seem excessive.		
	Conner Webster Mercer Island WA 98040 United States	1/16/2016 As a 3rd generation Islander who has lived here 33 years, I do not like the direction that Mercer Island is heading. Green space needs to be retained and even grown - not cut down.		
	Richard Phelps Mercer Island WA 98040 United States	1/16/2016 To protect the character of the city's neighborhoods, and prevent what appears to be runaway, inconsiderate development that lacks justification for too numerous variances to existing codes.		
	Nancy Spaeth, RN Mercer Island WA 98040 United States	1/16/2016 Zoning on residential construction needs to be changed. The houses are to big and the yards are too small. Too many trees are being removed.		

Date	Name	Comment	Related Topic	Staff Comment
	kelly Evers	Mercer Island WA 98040 United States 1/16/2016		
	Tom Acker	Seattle WA 98118 United States 1/17/2016		
	jonathan fox	Mercer Island WA 98040 United States 1/17/2016		
	Anne Swofford	Mercer Island WA 98040 United States 1/17/2016		
	Sara Vallerie Carole	Mercer Island WA 98040 United States 1/17/2016		
	Clarke	Mercer Island WA 98040 United States 1/17/2016		
	BARON DICKEY	Mercer Island WA 98040 United States 1/17/2016		
	Ron Malayesta	Mercer Island WA 98040 United States 1/17/2016		
	Charles Zwick	Mercer Island WA 98040 United States 1/17/2016		
	Jude / Jim Mitchell	Mercer Island WA 98040 United States 1/17/2016		
	Daniel and Emily Thompson	Mercer Island WA 98040 United States 1/17/2016		
	Wallace Tomy	Mercer Island WA 98040 United States 1/18/2016		
	Lisa Koper	Mercer Island WA 98040 United States 1/18/2016		
		Mercer Island WA 98040 United States 1/19/2016		


	Date	Name	Comment	Related Topic	Staff Comment
			<p>Teresa Magaram sustainability of the environment and life on Mercer Island.</p>		
			<p>Diamond Ken Mercer Island WA 98040 United States 1/19/2016 This is important. Why are City Council members sitting on their hands while the neighborhoods are being undermined?</p>		
			<p>Beverly Bridge Mercer Island WA 98040 United States 1/19/2016 I'm concerned about the character of the Island- seems like exceptions are being made to allow these huge homes.</p>		
			<p>Vickie Carper Mercer Island WA 98040 United States 1/19/2016 A big ugly monster house is being built next to me. its overbuilt (7 bathrooms) for the lot. Its replacing a picturesque log cabin.</p>		
			<p>DrStaten Medsker Jr Mercer Island WA 98040 United States 1/19/2016 I'm new. Sounds like a fair request. I'm interested in how Title 19 got passed in the first place if this is the case.</p>		
			<p>Hans Andersen Mercer Island WA 98040 United States 1/19/2016 Agree 100% with sentiments expressed in this petition - we moved to MI three years ago because of the unique character of this place and contrast to Seattle and other overly-built-up suburbs. It saddens me to think that MI is headed the same direction</p>		
			<p>Fletcher Sarah Mercer Island WA 98040 United States 1/19/2016 People are buying the current houses for the land only to bulldoze the current houses in order to build large, out-of-proportion houses for the lots and the new houses might have flat roofs and can build higher in order to get a view, but it spoils the area when all the surrounding houses have sloped roofs such as on 72nd Ave SE and all these things contribute to the neighbor-hood losing its character and look. In some cases, neighbors' views of the lake and mountain are allowed to be replaced with views of huge houses bunched together and views of lots of parked cars which seem to come with new developments/sub-divisions.</p>		
			<p>Priscilla Feathestone Mercer Island WA 98040 United States 1/19/2016 I feel that people that are allowing mega-houses to be built on small lots, three houses on prior two house lots, and six story condo and apartment buildings are transforming Mercer Island into a luxury island that lacks character and healthy genuine community. Long time Mercer Islanders who wish to downsize are finding it difficult to do so on the island and younger families are not able to afford to live here. I moved to M.I. for a multigenerational neighborhood, safety, yards for children to play, and neighbors to interact, our schools, parks, and the community interaction. I am a parent and teacher. I do not believe children should grow up in an all inclusive community of the same economic level, and the life style of many with sizable resources, etc. This is not the real world. Please think about the island that you have been changing. It is impacting our schools, businesses, and the lives of residents and our future generation.</p>		
			<p>Hollern Victoria Mercer Island WA 98040 United States 1/20/2016 I am tired of big houses being allowed on small lots. They have no yards and are not in character of the neighborhood.</p>		


	Date	Name	Comment	Related Topic	Staff Comment
			<p>Matt Pritchard Mercer Island WA 98040 United States 1/20/2016 The trend of houses too big for their lots is upsetting the character of neighborhoods for the maximization of developer profits and contributing to making the island fit only for a certain exclusive type of owner.</p> <p>Sandra Andrews Mercer Island WA 98040 United States 1/20/2016 We urgently need to discuss the value of constructing over sized houses on undersized lots. This is destroying the look and feel of our neighborhood and is not an improvement for M.I. citizens or the wild life that shares our space.</p> <p>Jan Hauge Mercer Island WA 98040 United States 1/20/2016 As a Mercerwood resident, I am concerned about the pressure from builders to ruin our neighborhood with cheesy McMansions.</p> <p>Trudi Wright Mercer Island WA 98040 United States 1/20/2016 The developers are ruining our residential areas with McMansions which are poorly designed and unsightly.</p> <p>Rick Nagel Mercer Island WA WA 98040 United States 1/21/2016 For the very well-articulated reasons presented with the petition.</p> <p>David Nagel Mercer Island WA 98040 United States 1/21/2016 It is important to protect Mercer Island from self-interested developers and politicians who together profit from degrading the Island's environment -- without even consulting its residents.</p> <p>Sc Condiotty Mercer Island WA 98040 United States 1/22/2016 House size needs to be in proportion to landscape. Trees and vistas are lost in the re-definition of a single family home.</p>		
53.	1/17/2017	Bev Miller	<p>I work for a builder that builds on Mercer Island. From what I hear and see currently at our work place, our business on Mercer Island will be impaired if this code change passes.</p> <p>At this time, I am trying to explain to clients that we cannot pay what we originally offered in 2016....we can safely (?) pay about 15% less today.</p> <p>They can't quite wrap their heads around that and think we are trying to manipulate market with a "lowball" offer.</p> <p>We can foresee a market slow down in our company which is incredulous given the real estate boom in the area.</p> <p>There are lots of people that will be affected by this code change and it means a potential loss of jobs never mind the loss of property values.</p> <p>Please put me down as a no for the code change or just make a note that this will have further consequences than just smaller homes.</p>		
54.	1/20/2017	Rose	<p>I must sell my home because of my health. I need all the money so I can live in senior home. They are very expensive and it is all I have. Don't make my home cheaper. My home is old and not for a family but a builder. My neighbor sold his house and got lots of money. I want the same money. If you make changes – this won't happen.</p>		
55.	1/20/2017	Michael & Suzanne Medeiros	<p>I have been speaking with builders regarding selling my old and tired home.... value is in the property, not the home. I have been planning to sell in a year or two to coincide with my retirement with these forecasted code changes I will be forced to sell TODAY to get the most value. If I sell in a year or so I have been told by buyers that my property value will be LESS. That means realistically I can't retire when I planned to. This affects my retirement and my pocket book. I really don't want a building code change.</p>		
56.	1/20/2017	David Y.	<p>As an investor and landowner on Mercer Island, I am feeling the pinch of dealing with the city hall and permits already. It has just gotten more difficult in the last year to get anything done in a timely manner. I understand you are busy and there have been staff changes and retraining. It all means money out of my pocket at the end of the day. NOW you want to devalue my investment property with a restrictive new building code. I bring business to this community. I create jobs and employ people. I sell to families of substance. I implore you to not change the building codes.</p>		
57.	1/26/2017	George Smith	RE: FAR Reduction		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>Ten years or so ago, an Economics professor at UW calculated that the costs of land use and building regulations added \$200,000 to the cost of each house. The builder next to me has spent over one-half million dollars in site preparation before he erected one 2X4. My house, built in 1968, exactly 50 feet away with none of these excesses, hasn't moved an inch. Moral? MI's outrageous building codes have created the "McMansion" forcing builders to use every square foot of permissible lot coverage in order to obtain a reasonable return on investing so much money in a residential lot.</p> <p>Solar panels? Residential sprinkler systems? Low flush toilets? Affordable housing? Don't your "Greenies" realize the incongruities? I, too, have an investment property that figures significantly in my retirement portfolio. Reducing the FAR will adversely impact my property's value. Your proposal is capricious, a sop to the very few who loudly whine.</p> <p>Leave the FAR where it is. Drop the solar requirement. Quit the social engineering. Get the building department off the backs of the builders.</p>		
58.	1/29/2017	Richard Granshaw	<p>One of the goals of the Planning Commission is certainly to keep Mercer Island neighborhoods livable, attractive and up-to-date. However, this is a moving target.</p> <p>There is a decades-old drive towards larger and more light-filled homes. In addition, the Seattle area has been fortunate to become markedly more prosperous over recent decades due to the growth and success of Boeing, Nordstrom, Microsoft, Amazon, other smaller companies and the biotech area.</p> <p>Mercer Island has long been seen as one of the most desirable places to live in the Seattle area, especially with the excellent public schools, and as a consequence there is a lot of money chasing the limited amount of spacious housing with up-to-date amenities.</p> <p>To maintain its place among other competing high-end neighborhoods, Mercer Island should encourage the upgrading of its housing stock however it can. Remodels are usually cost-prohibitive for the limited benefit they give, so the Planning Commission needs to be supportive of the demo/rebuild process and the quantum leap in building quality that this provides. At the same time, residents in older homes need to be shielded from some unwelcome impacts of the new housing.</p> <p>As buyers are generally seeking much more spacious homes than they were a few decades ago and lot sizes generally remain the same size, it appears counter-productive to reduce the floor area ratio from 45% to 40%. It's possible that a limited application of the Daylight Plane concept could be used to reduce the overshadowing of older houses in the worst cases, but in general it appears more important to allow houses of sufficient size to be built. Eventually, one would expect most of the older homes to be replaced, and once sufficient newer homes are built, those newer homes will be side-by-side and the overshadowing effect goes away.</p>		
59.	1/31/2017	Sue Medeiros	<p>My goal was to live here for another couple years and then sell our house to a builder which is what is happening to our smaller/older homes on the block.</p> <p>I loved living here for 20 years but the floor plan and the house is too small. In addition, the poor quality in which it was built makes it not worth remodeling. Yet with your changes you are proposing, I am having to sell my property this year because the changes you are proposing will affect the property value in a negative way for me. I am not happy because it seems like the city is trying to regulate the market which is hurting me. I am now going to have to sell to the builder before I really wanted to get the price I need to secure my retirement. It does cause a lot of trouble for us. Now if I was going to live here another 10 years, then I wouldn't be paying attention to these changes. But because of the value impact, I need to move now due to the Potential value which can be lost with these proposed residential changes.</p>		
60.	2/4/2017	David Yeh	<p>We are very concerned about upcoming proposed Residential Code Change by City of Mercer Island or any residents on Mercer Island. We are totally against such a code change.</p> <p>The reason for us to be against such a code change are as following:</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>1. The code change is against the current residential trend or house trend on the market. All the buyers want to have a new house build above 4,000 SQF or bigger. Very few new residents on Mercer Island wants to have smaller house with a big yard, although a big yard was popular 40 years ago.</p> <p>2. Reducing the FAR from 45% to 40% will totally wipe out or eliminate all the new construction on Mercer Island until the market can adjust to this change, it may take 5 to 10 years for the market to accept these new changes. That is not good for the business and economy on Mercer Island. It is only benefit to a small group of residents, but benefit for most of residents.</p> <p>3. Reducing the FAR will keep around the fixer/blue tarp properties that does not fit the modern or new housing market or housing trend any more. New buyers do not want these old style of houses, the new buyers feel the old style of house are out of date and disconnected to their current and modern life. Another reason is to keep these old style of houses around, it will cost a lot of money to keep the maintenance going, the electricity, the sewer line, the energy efficiency are all out of date, they waste a lot of energy than the new houses. Old house are not GO GREEN! They are energy suckers!</p> <p>4. To reduce or discourage new development on Mercer Island will make the city get less income on construction permits and it will also make Mercer Island disconnect with modern city like Bellevue. This will discourage young buyers to buy houses on Mercer Island.</p> <p>Any proposed change of code must be balanced and not only favor older residents and discourage young residents or young buyers.</p>		
61.	2/13/17	Sarah Fletcher	<p>Thank you for putting these graphics together. They are very helpful.</p> <p>I would like to comment as follows:</p> <p>1. I favor Plan B. I would like a development be approved on a case-by-case basis in that let's say, there originally was a single story home, and a developer wants to come in and build a two-storey home, but in doing so, he raises the foundation level to a higher foundation level, plus he builds up two storeys (20ft, plus a 5ft appurtenance), a house that size with a higher foundation could block the neighbors' views completely. How can this be addressed?</p> <p>2. With regard to the daylight plane, obviously, it is better to allow more light, but again, this has to be on a case-by-case basis in that if all the houses on the street have sloped roofs, and a developer wants to come in and in order to get a view for his customer, he will want to build a flat-roofed, taller house for that lot, it can ruin the whole area which is what can be seen on 72nd Ave SE on First Hill. This should not be allowed to be done again.</p> <p>3. What is more important - appeasing developers or appeasing neighbors? What are Mercer Islanders' values and the City's? The values should govern.</p> <p>B. Trees and Vegetation.</p> <p>1. It should refer to all trees regardless of construction or not</p> <p>2. It should not be that a developer has a laissez-faire attitude in that they can have as many trees cut down on a lot as they want. As many trees should be maintained as possible. If you have an orchard consisting of hundreds of trees, that area should be maintained as orchard area and not be allowed to be turned into a huge development in that changes the character of the neighborhood. And the idea that the developer can cut down as many trees as possible and the arborist allows bushes and shrubs or small saplings to be planted in their place should not be allowed. If you have a larger setback, that would help with preserving the trees to a degree.</p> <p>3. A critical tree is a critical tree. There is a large Sequoia tree that they want to cut down for a development. This tree should be preserved at all costs. The developer, if he cannot build around the tree, then he should not be allowed to develop on that particular site. You can't replace an old tree with a few trees. It is unique to the property.</p>		

Date	Name	Comment	Related Topic	Staff Comment
		<p>4. I don't quite know what I am looking at. I will say that what gives Mercer Island its uniqueness is that if one travels from Seattle to Mercer Island, if you look at the houses, they tend to be camouflaged by the trees which should stay that way. There must have been something in the Code that made developers retain the trees.</p> <p>5. As long as "high-quality landscaping" does not involve the use of chemicals to maintain the high-quality landscaping. If maintaining the high-quality landscaping does involve the use of chemicals, then there should be a law banning the use of chemicals.</p> <p>C. Site and Process.</p> <p>1.I do support wider setbacks. It is ridiculous that houses have to be built so close to the next house. There should be at least a minimum of 15ft between each side, not 5ft each side.</p> <p>3. They need to disallow deviances and variances to the Code. This will make it much easier for the Development Team and Arborist and take the pressure off them. The developer needs to modify a setback in order to preserve trees, in particular, critical trees.</p> <p>4, Impacts of Construction. This is very important.</p> <p>I would please ask that you adopt Bellevue's Construction Hours in that they have had lots of construction going on and the construction crew still managed to get their developments done. Just so that you are aware, because of where we live, we will be surrounded by construction as follows: On the east side of us, they are going to be building three houses, to the west of us, the North Enatai Sewer group will be installing their sewer pipes, and to the south of us, we are going to have to deal with Sound Transit's construction. It would, at the very least, be of benefit if you brought in the same Code as Bellevue's, such as:</p> <p>Bellevue Monday – Friday 7:00am - 6:00pm Saturday 9:00am to 6:00pm Sunday and Holidays No construction</p> <p>We will need some reprieve from all the construction noise which is anticipated with all the various projects that are coming up.</p> <p>And just one more thing, there was no mention of developers bringing in fill dirt or dirt fill. That is causing all kinds of problems. I am attaching a photograph which shows you what bringing in fill dirt can do to a foundation level. It can raise it so high that should any house be built on top of that dirt fill, it could cause neighbors' views to be obliterated which is not fair. I am also enclosing two photographs which show the current view of lakes and mountains which will be lost and will affect the value of the neighbors' properties. How can the new developments be considerate of the neighbors' views?</p> <p>And one last thing, if there are subdivisions, shouldn't their need to be a traffic study done?</p> <p>Thank you for your consideration. I hope this is of help.</p>		

						
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	Date	Name	Comment	Related Topic	Staff Comment
					
62.	2/17/2017	John Herzog	<p>I've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Please DO NOT move forward on new single-family zoning limits that address the concerns of a vocal minority at the expense of all other homeowners.</p> <p>Mercer Island's Residential Development Standards are already fair! This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. I strongly advocate for denial of the proposed zoning changes.</p>		
63.	2/17/2017	Shawn White	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
64.	2/17/2017	Sophie Wu	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		

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65.	2/17/2017	George Yang	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
66.	2/17/2017	Selena Famularo	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
67.	2/17/2017	Chad Badziong	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
68.	2/17/2017	Terry & Daphne Donovan	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
69.	2/17/2017	Jo Ballantine	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
70.	2/17/2017	Michelle Mancusco	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
71.	2/20/2017	Michelle Cartmel	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
72.	2/20/2017	Dodi & Rachael Nov	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		

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73.	2/20/2017	Cara Perla	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
74.	2/20/2017	Don & June Samuelson	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
75.	2/21/2017	Debbie Schwartz	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
76.	2/21/2017	Daniel Schwartz	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
77.	2/21/2017	Chris Blakeslee	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
78.	2/21/2017	Kent Rowe	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
79.	2/21/2017	Janice Casserd	We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
80.	2/21/2017	Sarah Fletcher	With regard to:		

Date	Name	Comment	Related Topic	Staff Comment
		<p>1. Modify the side yard setback to require that the side yard setbacks cumulatively equal 17% of the lot width for lots over 90 feet wide. Retain a minimum dimension of 5 feet."</p> <p>Could you please change the "Retain a minimum dimension of 5 feet" to "15 feet?" When houses get built so close to each other, that can block a neighbor's view.</p> <p>I don't understand your permitting in that if it states in the Code and in the Notice of Public Application, that the height is to be 30ft, 30ft is 30ft, but then I will be told, it is going up to 35ft And the same with the "average foundation level," on each application, the developer needs to state clearly which levels are they using as the average in that on the lower street, the ground level is lower than at the higher street, but that the side street's street level is the average level or the neighboring condos. The current language is too ambiguous. And if the "average foundation level" is too high by 6 feet too high, how can the neighbors have a chance to appeal?</p> <p>"3. Lot coverage." There should be a limit on how much cement driveway in proportion to the house in that if the neighbors.</p> <p>5. With regard to the proposed Tree Ordinance:</p> <p>"Adopt more specific and predictable tree retention standards for new construction and significant (> 500 sq. ft.) remodels and additions. a. Tree permit is required for removal to allow for tracking of retention. b. Significant tree is a 12" diameter at breast height (DBH) evergreen tree and an 18" DBH deciduous tree. c. Requirement to retain 30% of significant trees. d. Exempt "weed" tree species (e.g. cottonwood, alder, etc.) from permit and retention requirements."</p> <p>Could you please change the "Significant tree DBH back to 6" diameter at breast height (DBH) evergreen tree and to an 6" DBH deciduous tree. That was what it was before and I checked other neighboring cities, and they have 6" diameter. I don't know why you want to change this.</p> <p>And with regard to "C". Significant trees should be retained at all costs, not "retain 30% of significant trees." It is like you deliberately want to change the tree ordinance to allow a lot of felling and that should not be what Mercer Island is about. Construction should be built around the trees, that sort of thing.</p> <p>"e. Prioritize retention of large, healthy trees. f. Establish specific tree protection standards. g. Specify replanting ratios and allow for a fee-in-lieu of replanting."</p> <p>You can't prioritize retention of large, healthy trees in one sentence and in the next, talk about allowing for a fee-in lieu of replanting." "g" is a terrible idea. Allowing a fee in lieu of replanting will mean nothing to a big developer who stands to make a lot of money from developing the property and selling it. The same for a rich person purchasing a property. It the idea is to put them off from cutting down a tree, that is not the way to go about it. What is a few thousand dollars to a developer when they stand to make millions? A developer is just in the business of making money, he doesn't have to live in the neighborhood, whereas, we do. Make it a crime to cut down a tree and if they do, they will have to pay compensation and replant the same amount of trees on that property, and contribute money to the Parks' fund.</p> <p>I don't see anything about clear cutting. Clear cutting should not be permitted on property prior to development at all and especially not on a hillside which is what happened on the hillside behind Mercerdale Park.</p> <p>Developers should not be allowed to just cut trees for no reason except to give the new home owner a view. If a tree is not in the way of construction, but that the new homeowner just wants a view, then, the arborist could suggest pruning measures, but he should not give a permit for the trees to be cut down in that if new homeowners don't like the trees, they should not come and live on Mercer Island. The trees are what gives Mercer Island part of its charm.</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>The Code should make it that if anyone wants to cut down any tree on their property not for development that they need to notify the City for a start But the thing is, the arborist can just give a permit. How does one curtail this and take the pressure off the arborist in that he might feel pressured into giving the permit because of the costs involved and he doesn't want to have to be the one to have to scupper their plan for a multi-million dollar development? Could the arborist just suggest pruning?</p> <p>And for a sub-development, as an example, the arborist allowed over 60 trees to be cut down, but there was no follow-up, hence, only half the amount of trees have been replanted (going on 10 years) and now, there are more subdivisions, and the arborist not only did insist on the trees being replanted, but then went and allowed even more trees to be cut down. There has to be a plan for where the replacement trees are to go, what type of trees should be replanted, how many. This Arborist Report should be issued at the same time as the development and the trees should be planted by the end of the construction.</p> <p>And once the Notice of Decision is given which included an Arborist's Report, that should be that, the arborist should not be allowing more and more trees to be cut down after the Notice of Decision. The Notice of Decision should be final.</p> <p>The owner of the subject lot shall take necessary measures to ensure that supplemental trees remain healthy and viable for at least five years after inspection by the City and the owner shall be responsible for replacing any supplemental trees that do not remain healthy and viable for the five years after inspection by the City. This happened with the Utility Company. They just planted some trees and they did not put fertilizer or anything and within a year, the trees just died.</p> <p>"14. Building Permit Process. Public Notice, Public Input, and Right to Appeal." I was not happy with this process in that when I looked at the Public Notice of Application, I didn't know if I was looking at the plats or the houses that were to go onto the plats. It wasn't clear. Then, when it came to my comments during the time period between the Notice and the Record of Decision, I had some questions, but they were ignored? Are those questions to be included in the Record of Decision or is it only for within the 14 days that one has to respond to the Public Notice of Application. And, when it came to the Record of Decision, there were some discrepancies, but it would have cost me \$850 to appeal, when all I had was some questions with regard to the Arborist's Report? I should not have had to pay to appeal, that should be free.</p> <p>And the confusion is that the Application was just for the plats, the Record of Decision came out for the plats, but then, they added another cement driveway to the original Plan and this was added after the Record of Decision. There needs to be another Public Application for the proposed houses to be built in that if the foundation level is too high, if the height is too high, if the neighbors' views will be blocked because there is not enough room between each subdivision, what can the neighbor do or you do?</p> <p>12. It sounds like a boarding house more so than a residence. Is there anything that stops one from them using that 12-bedroomed house as a boarding house?</p> <p>I was very happy to see that you are proposing changing the Construction hours. That is huge. Thank you very much.</p>		
81.	2/21/2017	Andrea Saal	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
82.	2/21/2017	Russell Benaroya	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		

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83.	2/21/2017	Leslie Shtabsky	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
84.	2/21/2017	Sam LeClercq	<p>We've heard that the City is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This down-zone would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth - resulting in severely restricted property rights.</p> <p>Mercer Island's Residential Development Standards are already fair - and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
85.	2/21/2017	David Brondstetter	<p>I think the 45% lot coverage is fine. Not sure why anyone is up in arms about it? I've got a number of new houses going up in my neighborhood. All of them are replacement houses for 1950s and 1960s houses. Yes, the new ones are bigger, but so what, families moving to the island want a bigger house and most of the new houses look much better than the ones they replaced. The yards are better kept and they are not eyesore many of the older houses have become.</p> <p>I fear that moving the GFA from 45% to 40% will slow much of the new housing development leaving run down and ill maintained homes to slip further into disrepair as it won't be financially viable to buy and replace those aging homes at 40% coverage. I would submit that very few "nice" houses are being torn down. It's the ones that you're happy to see go that are getting the blade.</p>		
86.	2/21/2017	Carolyn Boatsman	<p><u>Impervious surface area limit deleted</u></p> <p>I am not in agreement with the Planning Commission's (PC) decision to do away with the impervious surface limit. This goes against the City's intention to encourage Low Impact Development as stated on the City's webpage devoted to this intent. Mercer Island, in this case, has a more effective regulation than surrounding suburban cities that don't establish an impervious surface limit.</p> <p>The goal of LID is to allow rainwater to infiltrate the ground, the key strategy being the reduction of impervious surface. This mimics the natural hydrologic regime, recharging groundwater that discharges to streams during the drier months, providing wildlife habitat, and preventing erosion associated with peak flows. Retaining site vegetation is another key strategy. This once-in-decades opportunity to update the code should be taken to consider integrating all aspects of LID.</p> <p>There seems to be an interest in encouraging single story homes. Has this interest been balanced against environmental concerns? A 30% landscaping requirement for the front yard is woefully insufficient. The rest of the lot may be pavement and other hardscape. What a step backwards for Mercer Island.</p> <p>I don't think that proposed tree preservation standards will in an indirect way result in sufficient green space. Many lots have few trees to preserve. Furthermore, we are seeking a code that more clearly gets at its goals rather than indirectly. Please keep the impervious limit but please do delete the 5% deviation.</p> <p>Here is a link to the webpage on the City's website re LID: http://www.mercergov.org/Page.asp?NavID=2660</p> <p><u>Reduce the burden of invasive plants in City forests</u></p> <p>The City pays contractors to remove invasive species in forests. Citizen groups also do this backbreaking work. Invasive species are established, in most cases, when birds eat the seeds and deposit them in the forest. This code update offers a rare opportunity to include provisions that reduce the problem of invasive species in our urban forests, including English ivy, English holly, English laurel, and European mountain-ash.</p> <p>Strategy: For species listed as 1) Non-regulated Class B and C Noxious Weeds; and 2) King County Weeds of Concern: Do not require a permit for removal; and Prohibit the use for replacement trees and landscaping, where regulated.</p> <p><u>Preserve native species; Increase the use of native plants in landscaping</u></p> <p>Native plants are adapted to our climate and need little water and no pesticide to thrive, conserving water and limiting nonpoint pollution to streams and Lake Washington. Birds obtain food and habitat from these species to which they are adapted. The code update offers an opportunity to preserve the current extent of native species by requiring replacement of native species with native species. A percentage of</p>		

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			<p>required landscaping should consist of native species. Incentive approaches should also be used to encourage native species.</p> <p><u>Preservation of exceptional trees and clusters of trees</u> We should incorporate a provision in our code to preserve exceptional trees. A definition should be included which denote these trees by species and size. An incentive approach could be used whereby replanting requirements could be reduced for developers or homeowners who preserve these trees.</p>		
87.	2/21/2017	Cristi Duea	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
88.	2/22/2017	Bree Medley	<p>I was talking with Linda Pineau regarding permit extensions and she mentioned that City Council will be restricting construction project expirations and limiting to one year extension, period. If projects are not completed, new applications may be required and will be required to meet whatever codes are in effect at that time. I am wondering if there is further information about this and when the meetings will be held to discuss this issue, or if there are update email lists that I can be added to?</p>		
89.	2/22/2017	Alice On	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
90.	2/22/2017	Edward Mills	<p>We have heard that the city is considering drastic limitations on the amount of square footage a land owner can build on his property This is grossly unfair and is a taking without compensation.</p> <p>Please do not move forward on zoning restrictions advocated by a few at the expense of property owners.</p>		
91.	2/22/2017	Michelle & Jay Shleifer	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
92.	2/23/2017	Stuart Sulman	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
93.	2/23/2017	Steve Curran	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p>		

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			<p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
94.	2/23/2017	Derrick Schwartz	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
95.	2/23/2017	Mrs. Scott Majury	<p>Without a link to lot size and home size, the code means nothing. Arguments promoting homes with huge square footage confuse greed with necessity. Supposedly, we all moved here or want to because of the gorgeous environment. So is the desire, as realtor Alan Hovespian suggested, for residences to feature home theaters, gyms, dual master bedrooms, et cetera, more essential than preserving the environment? Should more profit for home sellers and realtors justify demolishing small homes and replacing them with giant ones on small lots? Do we want to swallow up our precious environment in this way? Perhaps we all need to look in the mirror and see how our actions today affect the Island's tomorrow.</p>		
96.	2/23/2017	Jason Koehler	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
97.	2/23/2017	Scott Rockfeld	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
98.	2/23/2017	Jim Stanton	<p>The city should encourage smaller residences on the north end. As it is now, many older citizens who have raised their children in neighborhoods within walking access to elementary schools and IMS are unable to downside to the north end. Why? Because developers have first access to small houses or lots on the north end and build much larger houses on them reducing the inventory of smaller homes. This hurts the city because larger houses within walking distance of schools are being occupied by empty nesters without children. The new, larger homes on the north end are generally in locations that require motorized transport to schools thereby increasing traffic congestion on the Island. Recent city decisions actively work against smaller homes on the north end, such as the decision to reduce the number of homes to be built on the Coval property. The city zoning should actively encourage town homes with common areas toward the north end. This would improve support of city center businesses, reduce traffic congestion, take advantage of light rail's possibilities, while opening up the south end's wonderful possibilities for families.</p>		
99.	2/23/2017	John Hall	<p>We've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – at the expense of restricting property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p> <p>You can't legislate good design!</p>		
100.	2/23/2017	Todd Anderson	<p>We're heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p>		

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			<p>Advocates for this dramatic change would like to see Mercer Island stop new growth — at the expense of restricting property rights.</p> <p>Mercer Island’s Residential Development Standards are already fair — and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
101.	2/23/2017	Sue Stewart	<p>Regarding Residential development changes:</p> <ol style="list-style-type: none"> 1) A much stricter review of watercourses is critical. The Coval property was changed from watercourse to rain garden. It is now a mosquito ridden swale in the summer. A breeding ground for mosquitos in the era of the Zeka virus is not acceptable. 2) Impervious surface areas limits are necessary – don’t remove them...limit impervious surface areas in all new construction. The runoff is detrimental to Lake Washington. 3) Tree easements at the Coval property have been destroyed. All tree easements should have third party protection – the best would be our city protecting them! 4) Significant trees should be identified and preserved. The Moody property at 3005 84th has some wonderful trees that should be identified and preserved. The Coval development overseen by Wes Geisbrecht is the perfect example of what should never be allowed again. All significant trees will be gone. 5) Green buffers that serve as privacy buffers should be required of all developers at their cost. Huge homes with multiple windows looking into existing homes is not acceptable. 6) Review and approval of large green buffers – particularly along utility easements should be required and approved or denied by the city staff. 7) When neighbors request meeting with developers...the developers should meet. Wes Geisbrecht just says no...and the city has notified neighbors there is no recourse. 8) The traffic review of the Coval 16 home development now being built by Windsor Homes said there would be 6 cars at peak hours leaving the development and yet they’re building 16 homes with 3-4 car garages. Be more sensitive to traffic in residential areas. <p>Please proceed with real changes to keep our water clean and free of runoff and erosion. Runoff from my neighborhood runs right into the south wetland of Luther Burbank Park. Please take readings of that water quality!</p>		
102.	2/23/2017	Horace & Mary Hall	<p>We have heard the city is considering drastic limitations on the amount of square footage a single family owner can build on their land. This downzone would truly and severely limit property rights for owners and restrict our ability to obtain a fair market value for many a property.</p> <p>Advocates for this dramatic change would like to see a stop to new growth on the Island... all at the expense of restricting property rights.</p> <p>Mercer Island's R/D Standards seem fair and we support keeping them that way. Please do NOT move forward on new single family zoning limits that address the concerns of a few at the expense of all Property owners and Homeowners.</p>		
103.	2/23/2017	Joe & Andrea Arnold	<p>We are 30+ year residents of the First Hill neighborhood and are very concerned that a "passionate few" are trying to steer the direction of the residential development process to limit what can be built in the future. We own a small home on a large lot - a lot which we have beautifully maintained, including planting many trees and vegetation over the years, and of course have paid taxes on the property. We believe that any attempts to create new restrictions on size and type of homes will negatively impact us and our rights as property owners. In fact, we believe this discussion and the concern about new regulations will push a number of residents in similar circumstances towards selling their property now before new restrictions become reality. We are concerned about the character of our and other neighborhoods and strongly urge you to vote to uphold the current Residential code and eliminate the opportunity for the DSG to allow variances as they have been doing.</p>		
104.	2/23/2017	John Casserd	<p>I have heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p>		

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			<p>Mercer Island’s Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p> <p>I am a real estate broker with John L Scott Real Estate since 1982. I grew up on Mercer Island. I have family on Mercer Island that would be directly affected by these more restrictive development standards. The current development standards are protecting neighborhoods on the Island very well and don’t need to be changed.</p>		
105.	2/23/2017	Laura Alexander	<p>I am not in favor of downzoning the area that homes can be built on. I disapprove of the idea of only being able to use 40% of the buildable lot size. I am a home owner here and have lived on MI since I was 2 years old. (1962) I see the need for the older homes to be replaced with newer homes and agree with using as much of the land as each individual homeowner/builder wishes to use. I would be very disappointed if my land value decreased because some residents do not like the bigger homes. It's what's coming and and I would like to protect my investment without the fear that regulations could be put in place to my disadvantage.</p>		
106.	2/23/2017	Michael Fay	<p>I have recently been informed that the city is considering increasing the limitations on the amount of square footage a single-family owner can build on their land. This potential downzone would severely limit property rights for owners and restrict their ability to obtain fair value for their property in the event of a sale of the property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth - at the expense of restricting property rights.</p> <p>Mercer Island's current Residential Development Standards are already fair and I support keeping them as is.</p> <p>Please do not adopt any new restrictive single-family zoning limits that address the concerns of a few residents at the expense of all the homeowners living in Mercer Island.</p>		
107.	2/23/2017	Tatu & Tuuli Saloranta	<p>We recently became of the project (via its opponents bulk mail). While we are relatively new homeowners on the island (although residents for past 10 years), the problem of too big houses on small lots is close to our heart and is one of main concerns regarding Mercer Island. We think that the current development practices (of oversizing houses built to maximum allowed by law) are detrimental to actual values of Mercer Islanders and that stricter limits on maximum allowed size (and perhaps various other zoning aspects) are very welcome and desperately needed.</p> <p>Given this, we fully support the Residential Development Standard Update.</p> <p>In addition to this general feedback, here are notes regarding questions of a questionnaire related to project (that was helpfully mailed to us as well):</p> <p>1. Should the goal be retaining traditional scale or should we recognize the fact... Do you support the use of these tools?</p> <p>Yes. we think that simple and straight-forward formulas make sense and keep the playing field level. This could also help restrain the escalation in both house sizes AND prices: as-is, developers will keep on maximizing amount of square feet per house. Limits could help convince developers to consider sizing more carefully, possibly offering more reasonable priced (bit smaller) houses.</p> <p>40% limit seems reasonable, especially when ensuring that waivers are not granted by simple requests (currently it appears they are easy to get for smaller lots).</p> <p>2. Use of "daylight plane" -- Do you support the use of this tool.</p> <p>Yes. It is important to also consider appearance of bulkiness, above and beyond basic footprint. This tool could be a reasonable way to add limits but retain some flexibility in how to achieve less bulky appearance.</p>		

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			<p>3. Importance of property value, cashing out</p> <p>Sale price can not and should not be the main measure of value of a home. You can't eat, drink or breathe money. Livable environment matters.</p> <p>As importantly, value (both external and internal) of a house derives much from WHERE house is -- houses on Mercer Island are highly prized due to good livability, school system, location, and none of these would be detrimentally affected by reasonable additional limits. In fact it seems that livability could be improved (or at least maintained) by trying to avoid over-sizing of the single-family houses built.</p> <p>So we are not concerned about potential (but by no means guaranteed) short-term effects on house prices.</p>		
108.	2/23/2017	Dan Thompson	<p>I have given a lot of thought to what I call "Maxim's Residential Development Code", because that is what it will be because our planning commission and council are deferring to you and <i>relying</i> on you to come up with the concept and code language to satisfy their promise to the citizens and neighborhoods first made in 2014 for <i>immediate</i> relief from residential development the citizens rightfully see as abusive because they never saw it before 2012, and the code hasn't materially changed since 1992. If we blow this last chance there is basically zero chance the citizens will vote for one, let alone two, property tax increases, at which point you will be the last remaining employee at the DSG. Land use is politics, and politics is making the voters/citizens happy. We don't pay a fortune in salaries and benefits for a DSG to protect the developers.</p> <p>There are two problems in meeting the council's promise to the citizens: 1. the already filed and vested permit applications since there was no moratorium during the code rewrite; and 2. the holes in the current draft of Maxim's residential code.</p> <p>MAXIM'S RESIDENTIAL DEVELOPMENT CODE</p> <p>I will begin here. I appreciated your earlier, more elegant approach using house footprint as the primary tool, but apparently our PC didn't quite understand that, and it has been abandoned in the "parking lot". Basically what we have now is our current code that the citizens and council indisputably believe is allowing abusive development but with a 5% reduction in GFA/lot ratio and no impervious surface limits.</p> <p>The roll out to the council had two glaring flaws: 1. developers are not going to build single story houses on MI because a. they haven't in over 20 years, because b. it is not economical. The absence of any impervious surface limits on its face called into question the legitimacy of the code rewrite, and concerned a number of council members who didn't even read or understand the draft code provisions. What they did read and understand they didn't like, or worse trust.</p> <p>IS limits are going to be part of any code -- especially one that resembles our current code -- whether the IS limits are included by the PC or the council upon adoption which would be embarrassing to you and the PC. One of the main points of my request for these council study sessions is so you and the PC are not blindsided and embarrassed by the council during adoption as occurred during the town center code adoption.</p> <p>If the PC really believes it can legislate single story houses even though they are less economical (and who wouldn't want to see more single story houses on MI on huge lots) it will have to tie IS limits to the proposed height of the house. It doesn't take a land use expert to realize if the height limit is 30' and there are no impervious surface limits houses are going to extend from the yard set backs and be 30' high. This would leave only the house GFA/lot area as the limiter, and our past DSG practice does not comfort me this will be property enforced. If a developer agrees to build a single story house then remove the IS limits, but only then. There must be some binding agreement and <i>ratio</i> between number of stories (including height, I don't want a 30' high single story house extending from the yard set backs) and IS limits.</p>		

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		<p>Which brings us to height. It comes across as disingenuous for the PC to first recommend reducing height to 25' to encourage single story houses, or less tall houses, but to then raise height back up to 30' after IS limits have been abrogated. Some, like me, saw a bait and switch, like maybe the developers got to our PC.</p> <p>Height should be reduced to 25' which is enough for a two story house with 10' ceilings and a five foot pitched roof. What exactly is the purpose or need for 30' of height except three story houses? It doesn't come across well when our PC publicly states it is encouraging single story houses when in fact all of their proposals are encouraging -- and more importantly allowing -- three story houses extending from the yard set backs. There has to be some public honesty to this process.</p> <p>From what you told me the PC rejected a five foot increase in height for a pitched roof (when proposed maximum height was still 25') and an exemption in GFA for non-livable area within the pitched roof because it would influence design. But what are daylight planes that will create a wedding cake look on the side yards and no relief on the front or rear yards and have never been implemented in any residential code but design influences.</p> <p>I really think if we are going to go with the template of our current code, we should restrict GFA to 40%, eliminate all exemptions to GFA except for a pitched roof because of all the abuse of this in the past, reduce height to 25', and tie IS limits to the house and levels of the house.</p> <p>(Otherwise houses under Maxim's new code will either be larger or the same size as under the current code, and that is not what you were hired to do. The citizens could have just kept their current code, with Greenberg's interpretations, rather hire you to reach the same conclusion with pretty much the same template but without IS limits).</p> <p>Oh, wait, a reduction of GFA to 40%, reducing height to 25', and pitched roofs were your original plan that is reflected in the Jan. PC minutes. This is what I will be hammering on the council to adopt, whether the PC does or not, when it takes up the PC proposed code. This are very simple concepts I think even the council will understand and will adopt, and they will wonder if they are missing from Maxim's proposed residential code.</p> <p>Please forward this email onto our PC so they are not surprised or hurt when the council takes up their proposed residential code and modifies it, making the PC and DSG once again look like puppets of the developers.</p> <p>CURRENT PENDING PERMIT APPLICATIONS</p> <p>.</p> <p>The problem here is the current interpretation by our beloved DSG of the residential code allows what the citizens think is abusive development, and which the council promised to remedy immediately, certainly no later than adoption of Maxim's new residential code.</p> <p>My humble suggestion is the DSG figure out some way to get a code that was designed to prevent McMansions and did prevent McMansions for 30 years until 2012 to once again prevent McMansions. The other option is no property levy increases, which has the benefit to the citizens of limiting permit application approvals to the one remaining DSG employee, whoever that may be.</p> <p>Understanding your predicament, my suggestion is to ask the PC to refer AI 14-02 and AI 13 re: an exemption for celestial space to outside independent counsel who hopefully and probably will invalidate both, allowing the DSG to save face. Neither were ever</p>		

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			<p>reviewed by our city attorney or PC or council, and have enormous impacts on house area. I have long told our council it is foolish to expect the PC to save you, like Coval and so many other land use decisions that our poor PC didn't realize would end up before the council with hundreds of citizens holding pitch forks. (Thus our incredible turn over on the PC). If you wonder why Dan Grausz is so interested in this issue it is because he was on the PC in 1992 when the PC wrote the current code to prevent the development we are once again dealing with. Meanwhile since the council ultimately adopted our current code they wonder why they have to explain why they adopted such an abusive development code when they never did.</p> <p>Land use planners love to say land use has little to no discretion and little to no politics. Of course that isn't true, otherwise we wouldn't have the GMA, or Kittitas County, and PC members wouldn't send all those letters to the council whenever there is a vacancy on the council pointing how they stood up for regular citizens on the PC. If there were no discretion Scott Greenberg would not have been able to reverse 10 years of black letter authority on celestial space, and "deviations" would not have a 100% approval rate, and the citizens would not be so unhappy at a code they adopted 25 years ago to stop this kind of residential development, and we wouldn't have so many new PC members, and you and the PC members wouldn't be testifying in front of the council.</p>		
109.	Barbara & Eli Lahav	2/23/2017	<p>We've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth - at the expense of restricting property rights.</p> <p>Mercer Island's Residential Development Standards are already fair - and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
110.	2/23/2017	Lori Holden	<p>Mercer Island Residential Development Standards are already fair, I support not making any changes. Please do not move forward on new single family zoning limits that address the concerns of a few at the expense of all other property owners on Mercer Island.</p> <p>If those property owners who are proposing the changes in the development code would like to regulate their own properties, they can do so by placing restrictions on their title to accomplish this.</p> <p>This proposed change in the building code affects my rights as a property owner.</p> <p>At the very least it should be put to an island wide vote to determine if these restrictions reflect the opinion of the majority of Mercer Island residents.</p>		
111.	2/23/2017	Roger Landberg	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a <i>few</i> at the expense of <i>all</i> other homeowners.</p>		
112.	2/24/2017	Jamie Kezner	<p>I have heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. I believe Mercer Island's Residential Development Standards are already fair – and support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
113.	2/24/2017	Thach Nguyen	<p>We've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p>		

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			Advocates for this dramatic change would like to see Mercer Island stop new growth – at the expense of restricting property rights. Mercer Island’s Residential Development Standards are already fair - and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.		
114.	2/24/2017	George Bouvet	Please do not limit the amount of Sq Ft a buyer can build on our property. The existing building rules seem fair to me.		
115.	2/24/2017	Makenzie Lacount	Please do not limit the amount of Sq Ft a buyer can build on our property. The existing building rules seem fair to me.		
116.	2/24/2017	Melissa Hay	We’ve heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island’s Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
117.	2/24/2017	Amy Wolff	We’ve heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island’s Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.		
118.	2/25/2017	Jennifer Reibman	I have heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth - resulting in severely restricted property rights. Mercer Island’s Residential Development Standards are already fair - and I support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners. We are already going to take a hit to home values because of the I-90 access issues. Please don’t add to the problem.		
119.	2/25/2017	Shelley Boyle	I am in attendance at the meeting but unlikely to make it to the mic. My issue is with flat roofed homes-nothing makes a building 'loom' like having no roofline-we would like this discussed in conjunction with the daylight plane setback issue.		
120.	2/25/2017	John Orehek	I understand the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property. Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island’s Residential Development Standards are generally fair – and I support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners. Further, I remain interested in understanding evolving zoning issues in our MI urban area. Hopefully, they allow for the logical development of a premier MI downtown environment.		
121.	2/25/2017	Jeffrey & Kellis Borek	As long time residents of the Island, we are concerned about the proposed limitations on the amount of square footage a single family owner can build on their land. We are counting on the equity in our home as part of our retirement nest egg as we look to the future, and therefore do not want to see these limitations put into place.		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>We believe this downsizing represents the desires of a small but active minority who want to "turn back the clock" and are against progress/change. As such, we are taking the time over the weekend to inform you of our desire to maintain the current code. We are busy professionals, and were not able to attend today's Community Meeting. Never the less, we wanted to insure that our views are made know to the City. Please let us know what the outcome of today's meeting was, and any next steps from here. Thank you.</p>		
122.	2/25/2017	Wanda Hughes	<p>Thank you so much for your informative meeting this a.m. on Residential Development Standards. I was so pleased to hear of the Planning Commission's plans to reduce the gross floor space from 45% to 40% of the lot, implementing a maximum house size, daylight plane setback and 30% tree retention.</p> <p>My husband and I have been so unhappy seeing the enormous houses being built on the Island with the trees almost completely gone. It is ruining our beautiful green Island and making it ugly!</p> <p>Cutback on construction times is also a very good idea. Thank you for working for us who have lived on and loved our island for so many years.</p>		
123.	2/25/2017	Molly van der Burch	<p>Thank you for a well run meeting today. I appreciate all of your hard work and time to tackle this complicated issue and also to take into account public feedback. I live on First Hill at 3204 74th Ave SE. In the past 2 years, there have been 23 tear-downs and new construction within a 2 block radius of our house. Currently, there are 6 homes being built by JayMarc on our block, including one directly across the street. This has caused tremendous change in our neighborhood. I want to make the following points for your consideration:</p> <ul style="list-style-type: none"> • TREES I am a Master Gardener and knowledgeable about trees. Your proposed changes to require 30% of trees kept with a priority given to large, healthy trees are a good start, but they do not go far enough. Would you consider making the requirements reflect the size of the trees? For example, 30% of the trees 25" in diameter or larger need to be retained and an additional 30% of trees smaller than 25" in diameter would also need to be retained. These very large trees are essential to the eco system and to the visual quality of the island. Also, please be especially careful that the root space around these large trees that are to be retained is honored by the builders. The JayMarc house directly across from us did retain 2 large pine trees but then proceeded to cut into the roots to within 5' of the base of the tree in order to build the driveway. The two trees were so damaged by this intrusion into their root system that they subsequently had to be removed. What is your system for monitoring whether or not the builders respect the root base of these protected trees? Will the builder be penalized or have to pay a fee for this violation? Without monitoring, the new regulations will not solve the problem of protecting these beautiful large trees. • TREE PERMIT The proposed requirement to get a tree permit for removal of large trees was addressed today. This is of great concern to me as I think builders are blatantly abusing this. I totally support the requirement to get a tree permit to remove a tree from your property. My concern is, how will this new requirement prevent builders and homeowners from having their property clearcut of all trees prior to the construction contract? You seemed to state the most permit requests would be granted. What would be the conditions under which they would NOT be granted? I think it is important to spell those out. This would alleviate concern from those who don't want to get permits and might also hold the builders responsible. • LANDSCAPING The new proposed regulations require 30% of the 20' setback from the street to be landscaped. This is not nearly adequate to maintain privacy and the beauty of the neighborhood. This implies that the rest of the property could be hardscape — driveway, tennis courts, patio, etc. Please consider adding additional landscaping requirements. • DAYLIGHT PLANE I am faced now with staring directly at the 3 story windows of the new JayMarc house. Before it was built, my back yard in our 1950s house was totally private. I think that the new idea of requiring the daylight plane is a good one as it will help to combat the brutal reality of staring at a huge and imposing wall that also blocks the sunlight and takes away your privacy. • EXTRA LARGE HOUSES I am strongly in favor of restricting the size of a house to the maximum size for that zone, despite the lot size. In other words, if an individual buys up 5 lots and wants to build a mega-house on those 5 lots, that should not be allowed. The size of the house would need to be the maximum size allowed for 1 lot, even if they have purchased 5 lots. • PROPERTY VALUES There was alot of discussion about how the new construction will improve our property values. I would suggest that depends on the demand for the type of homes being built. All of the new homes built in our neighborhood in the last two years have been 4,000sq or larger. Most of the prices are in the 1-2.5 million dollars. No homes are being built that are 2500-3000sq and that are appropriate for down-sizing for baby boomers to "age in place" or that are ADA accessible. I think there is a HUGE demand for this smaller type of home, but no builders are building that type of house. So to argue that buyers only want these very large houses is not totally accurate. Any way that 		

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			<p>these new regulations can encourage builders to construct smaller homes appropriate for down-sizing would help preserve the original character of our neighborhoods and also provide diversity to these very large new homes.</p> <ul style="list-style-type: none"> Finally, I remain very concerned about the elimination of the impervious surface limits. You spoke today about trying to get at the problem by surface water managements, landscaping, and tree retention. I am not convinced that builders will be reduced to the current 40% impervious surface requirements by these strategies. I am concerned that the builders will find loopholes to get around these new ideas and end up with more than the 40% impervious surface. 		
124.	2/26/2017	Toni Okada	<p>I attended the 2/25/17 meeting and thank you for gathering comments from the public. I support the proposed changes for gross floor area with a cap, the daylight plane, preserving trees, and limiting hours of construction and permit extensions.</p> <p>I do think there could be some exceptions for very small houses as one of the speakers described. With the building of larger houses, there is less and less diversity of housing choices. The increasing property values, resulting in increased property taxes, is making it more difficult for retirees to remain in their homes or find smaller houses they can downsize to.</p> <p>I still have some concerns about there being no limits on impervious surfaces. I live downhill from a 5 acre plot where 16 houses are being built. Several cottonwood trees were cut down, as well as many orchard trees, before construction began. Despite the fact that there is some kind of underground tank to catch runoff, there has been an incredible amount of water coming down the open trench that flows along my street. The builders claim there is no watercourse on the 5 acres, but the neighbors disagree. While this project is already approved, I would like to see more assurance that water runoff will be addressed in the new regulations.</p> <p>No one has mentioned sustainability. Could there be some incentives for building to a LEED standard or reusing materials from homes that are torn down? This issue was discussed during revisions to the building code for the Town Center and sustainability is something Mercer Islanders value.</p> <p>Regarding process, the granting of exceptions seems to happen too frequently and with very little public input. Although I believe there is supposed to be an opportunity for public comment, it frequently is not known to the immediate neighbors. It is unfortunate that the incentive is to grant exceptions in order to make more money for the City.</p> <p>I like the idea of the 3-dimensional outline of the project before any building is approved. In addition, it would be great if the builders could meet with the immediate neighbors to discuss impacts and see if changes are possible. At least some builders are willing to do this and it does a lot for the feeling of good will.</p> <p>Thank you for all the work you are doing to improve the code and preserve the character of our neighborhoods.</p>		
125.	2/26/2017	Nancy Kezner & Michael Krebs	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
126.	2/26/2017	Alexis Rebenstein	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		

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127.	2/26/2017	Cindy & Scott Rockfeld	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights. Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
128.	2/26/2017	Jim & Kathie Hood	<p>I appreciated attending the 2/25/17 community meeting. I wanted to submit a comment/proposal.</p> <p>Topic: Need for public-accessible, online "contractor complaint" tracking database system. For residents impacted by day-to-day contractor and developer jobsite safety violations and complaints.</p> <p>Our residence at 9315 SE 70th place was impacted by several significant PUBLIC SAFETY issues by Millad Development and MN Construction in our neighborhood during 2015 and 2016. In the first instance Millad Development had a toxic VOC chemical release that impacted our health and required us to file an insurance claim (still unresolved) against Millads contractor. The second instance with MN construction involved their cutting of our local telephone landline which - given poor cellular coverage in our neighborhood - cut us off from any ability to reach 911. Both of these are obviously PUBLIC SAFETY issues of consequence. When the events were reported to DSG the traction we received was negligible and as far as we could tell little effort was made by DSG other than generic advice (go hire an attorney, submit a complaint to the state or OSHA, etc). The reaction of DSG to serious public health and PUBLIC SAFETY considerations was underwhelming and seemed to be vastly in the favor on the contractor in all cases. There were other events by Millad (heavy equipment extended over our property and glass/debris outflows to our property which were also of concern and were documented with photos and insurance claims.</p> <p>Here's my proposal: DSG and the city should maintain a database ticketing system to track ALL complaints from impacted residents, businesses, or individuals. the database should include obvious features: a registered ticket complaint number, date of event, city employee in charge of investigating, outcome/resolution, financial fine or work stoppage outcome, prior complaints or "linked events" to state or federal agencies, impact (serious, medium, negligible), deployment of response and mitigation to affected individual AND to contractor, etc. The database should be online and easily searchable. Reports and metrics should be generated for obvious concerns: contractors with high ticketing complaint/event volume, high risk event summaries, fines and work stoppage summaries, links to state or federal actions related to the event, etc. I would not put DSG in charge of the project, my trust in them and Scott is quite low, perhaps another IT affiliated department could investigate feasibility. Finally, the planning commission should consume monthly output from the database and make it a standard agenda topic for all planning meetings.</p>		
129.	2/27/2017	Rod Birkland	<p>We've heard the city is considering drastic limitations on the amount of square footage a single family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth-at the expense of restricting property rights.</p> <p>Mercer Island Residential Development Standards are already fair-and we support keeping them that way. Please do not move forward on new single -family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
130.	2/27/2017	Douglas & Susan Vosper	<p>We've heard the city is considering drastic limitations on the amount of square footage a single family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop growth - at the expense of restricting property rights.</p> <p>Mercer Island's Residential Development Standards are already fair - and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		

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131.	2/27/2017	Michael LaCount	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
132.	2/27/2017	Mei Y. & Bao Zeng	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
133.	2/27/2017	Mason Helms	Please do not move forward on new single-family zoning limits that address the concerns of a <i>few</i> at the expense of <i>all</i> other homeowners.		
134.	2/27/2017	George & Delores Smith	<p>We've learned that the City is considering drastic limitations on the amount of square footage a single-family property owner can build on his or her land. This downzone would severely limit property rights for owners such as us and restrict our ability to obtain a fair value for a property we have owned since 1985.</p> <p>A handful of noisy and selfish people, led by Dan Grauz, want to stop property regeneration by restricting the amount of lot coverage and building bulk. The existing residential development standards are time tested, and are accepted by the building community. The onerous demands of the Development Department have driven the costs of site improvements to well over half a million dollars, forcing builders to use nearly every square foot of permissible lot coverage to recoup these costs.</p> <p>Deny these proposed changes advocated by the selfish few. The status quo works just fine.</p>		
135.	2/27/2017	Muriel MacFeidh	<p>We've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth--at the expense of restricting property rights.</p> <p>Mercer Island's Residential Development Standards are already fair--and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
136.	2/28/2017	Mary Bahrami	<p>I am depending on the sale of my home to fund my retirement. The proposed limit on square footage would unfairly affect my property values.</p> <p>Please do not rezone my neighborhood to limit square footage.</p>		
137.	2/28/2017	Rich Benjamin	<p>We've heard the city is considering drastic limitation on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – at the expense of restricting property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
138.	2/28/2017	Kim Wegodsky	<p>We've heard the city is considering drastic limitation on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – at the expense of restricting property rights.</p>		

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			<p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
139.	3/1/2017	Michael Schnad	<p>We've heard the city is considering drastic limitations on the amount of square footage a single family owner can build on their land. This downsize would severely limit property rights for owners and restrict their ability to obtain a fair value for their property!</p> <p>Advocates of this dramatic change would like to see Mercer Island stop new growth at the expense of restricting property rights.</p> <p>Mercer Island's Residential Development Standards are already fair in this respect – and we support keeping them that way. Please do not move forward on new single-family zoning limits as proposed in these specific property limitations! They address only the concerns of a few at the expense of all homeowners.</p> <p>I do approve of limitations that would STOP the building of condos on MI. Those of us who have lived here for a long time (we bought our property in 1949) think you are ruining MI just so you can collect a little extra tax money. We prefer a few holes in the road to an innumerable amount of additional vehicles that are being brought to the Island with all these condos!</p>		
140.	3/1/2017	Lenore Defliese	<p>Thank you so much for holding the community meeting at West Mercer last Saturday morning. I was there for about an hour and a half and found it most informative.</p> <p>Since I did not speak at the time, I am giving you my feedback in writing.</p> <p>In general, I am very supportive of the revised standards that you are considering. In particular, I like the idea of the daylight plane side setback and the increase in side yard setbacks on large lots. It seems that often, new development on the Island has not taken the impacts on immediate neighbors into account. While I understand the idea of property rights for those moving here, it seems that those already here should not have to have their property devalued when new homes crowd them in and make their homes less desirable. I also like the idea of proposing a maximum home size for each residential zone to prevent the construction of huge homes that are totally out of character with their neighbors (like the one under construction on 60th Avenue.)</p> <p>Regarding variances and deviations, I totally agree that they should be granted only infrequently, if at all. There is no point in having planning standards if they are violated on a regular basis.</p> <p>I was disappointed that the proposal did not include any regulations on measuring building height. The current height levels may be fine, but builders game them by regrading the lot prior to measuring. In the case of my next door neighbor, they brought in truckloads of dirt and raised much of the the lot level by about 3 feet before building. This enabled them to have a better view at the expense of the homes located above them on the hill. It also created a very steep slope down from their house to mine, which is difficult to keep landscaped, and creates water runoff problems onto my driveway. I suggest that the height levels be established by measuring both before and after regrading and then using the lower number.</p> <p>Finally, I wanted to make one suggestion re: construction hours. There should be short term emergency extensions on weekends or evenings (perhaps 48 hours or something similar) for emergency repairs that need to be made to keep a home from suffering water or other damage due to storms or other disasters. There are times when a blue tarp will not suffice because of high winds, etc., and a homeowner should not have to wait until Monday just because the damage happened on Friday night.</p> <p>Thank you for all the time and effort you are putting into this important commission.</p>		
141.	3/2/2017	Chris & Jen Brenes	<p>We've heard that the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land, as well as restricting new home design. These restrictions would significantly limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – resulting in severely restricted property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all other homeowners.</p>		
142.	3/3/2017	Viola Shu	<p>We've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights fir owners and restrict their ability to obtain a fair value for their property.</p>		

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143.	3/3/2017	Laura & Ken Yocum	<p>We have attended one of the meetings re: the changes proposed to the existing Zoning for Single Family Property.</p> <p>This meeting was concerning in that at all of the round tables were "note takers" who were to stand and report the content of the discussions that occurred at their tables. Unfortunately, the end reports offered by note takers omitted many of the strong arguments for leaving the regulations in place "as is".</p> <p>Accurate representation of the impact this will have on Mercer Island properties and the immense adverse effects for property owners seems to have been diluted!</p> <p>Not only will this have a huge negative impact on property owners but will also have tax implications that will become apparent long-term.</p> <p>The current Residential Development Standards are already fair and we support keeping them as is. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
144.	3/3/2017	Joanne Chapa	<p>I am writing in response to your invitation to attend public meetings on residential issues because I have been unable to actually attend. Please accept my comments below:</p> <p>-Myself and numerous Island residents have been upset by the many new, over-sized structures masquerading as residences which appear practically daily on the island. In sum, they look more like bloated mini-hotels that ruin views, block sunlight onto neighboring lots, crowd the look of pleasant streets, and risk turning the island into an urban mess of row houses popping up like elephants all over the Island. With rare exception, their architecture is bulky and ugly. They detract from the beauty of existing homes, are out of scale with these homes, and thus hurt property values. A fine, retro-fitted home has no value against a behemoth built where an older home was torn down simply because the only value was in the lot.</p> <p>-My family first came to the Island in the late 1940s; I moved here as a young mother in the 70s (away from the city) to enjoy the parks, schools, and graceful suburban atmosphere. I'm not against rational development, and am Ok with the new look in the business district, as long as it doesn't get too dense. However, our codes allow way too much re-development of lots (3'paths are not sufficient beside huge houses), and residents are bombarded with solicitations to sell all the time. Others pretend to not want guidelines on re-development for fear of loss of their property value, when the reverse is true for those who have to live nearby.</p> <p>-Our gorgeous canopy of fine evergreens is in particular danger. Not only do these wonderful trees clean our air, they support wildlife, and provide much needed shade on hot days. Black asphalt only adds to global warming, while our trees protect us. In my neighborhood alone, I can practically guarantee that a new home owner will first cut down a tree or greenery before any other landscape changes are made. They seem to have an irrational fear of anything over 6' tall falling. Couldn't the city provide some sort of an arborist-counselor who could help people make decisions about trees and protect our canopy in the process. It is scary to see lot after lot literally de-forested in order to construct some huge mansion for a family of 2-4 with a few bushes in front!!</p> <p>-Another issue is what appears to be absentee ownership. After all of the above has happened... de-foresting the lot, building the mini-hotel... then the windows are blinded, the lights go on travel mode, and the house stays dead. For what purpose? and not at all friendly.</p> <p>I shall try to make at least one of your public meetings. I support your new protective 40% gross floor area ratio, as well as the cap on the size of a home based on the zoning designation. These appear to be balanced proposals.</p>		
145.	3/3/2017	David Chang	<p>Drastic limitations of the amount of square footage a single family owner can build on their land is unacceptable.</p>		

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			<p>The downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property</p> <p>Advocates for this drastic change would like to see MI stop new growth – AT THE EXPENSE OF RESTRICTING PROPERTY RIGHTS</p> <p>MI residential development standard are already fair!!</p> <p>PLEASE DO NOT MOVE FORWARD on new single family zoning limits that address the concerns of a few at the expense of all homeowners</p>		
146.	3/4/2017	Doug & Kale Kim	<p>Just to let you know that we are homeowners on Mercer Island, and we oppose further limitations of the building footprints for residential housing. Our city needs to grow and change, and we are opposed to the proposed changes to the Residential Development Standards. They are already amongst the most detailed and restrictive in the region, and we don't need further impositions on what we can do with our own property.</p>		
147.	3/4/2017	Vince & Keri Bailey	<p>I attended the public meeting on Feb 25. The proposed "Daylight Plane Setback" really seems intrusive to me. My home built in the 50s would not conform as it is, a daylight basement split level. Also the house to the north of me is three stories straight up and MI should at the very least let me match the height of my neighbors. Take a look at neighboring communities and see new construction you will see that MI is going overboard on these restrictions. On MI the city has allowed construction of these big box homes for many years, if a street such as 78th AVE already has big houses, how can MI restrict neighbors from the same opportunity?</p>		
148.	3/6/2017	Martha Lammers	<p>We've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – at the expense of restricting property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
149.	3/6/2017	David Davis	<p>We've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This downzone would severely limit property rights for owners and restrict their ability to obtain a fair value for their property.</p> <p>Advocates for this dramatic change would like to see Mercer Island stop new growth – at the expense of restricting property rights.</p> <p>Mercer Island's Residential Development Standards are already fair – and we support keeping them that way. Please do not move forward on the new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
150.	3/6/2017	Dennis Dahl	<p>One option often missed in a decision making process is to do nothing. I have no doubt that when our house was originally built the cabin owners were not happy with the changes they saw. And I will assume the discussion was not much different than what is going on today. A lot of people are simply resistance to change. And some like to close the door behind them. Once they have their large home, then they want to block others from doing the same. I would like to know the actual percentage of the M.I. population that are in favor of changing the code to restrict building size. Please don't let the minority rule. I have lived on M.I., in the same home, for 24 years. I enjoy the architectural diversity of the homes. I have lived in neighborhoods where if you are not careful you could come home to the wrong house as they all look alike. The crucial point to me is the ability to build MY house on MY property, using the architecture I like. I have to say that I do not care for the boxy style I see a lot of today but that is the owner's choice, not mine, nor should it be. The current codes have been working for a long time and are very similar to surrounding communities. I don't think there is a need to change them. Trying to reduce house size through the code will result in something else the complainers won't like and I am sure at some point they will want you to regulate the color of your house. Please don't change the structural part of the code just for the sake of change or at the request of the minority. The best option, in my opinion, is to do nothing, with the exception of working hours. I think limiting there is good for the peace and quiet. Thank You</p>		
151.	3/6/2017	Leslie Meagley	<p>Thank you for the opportunity to comment on the proposed changes to the City's Residential Development Standards. I attended the most recent two community meetings and applaud the thoughtful process that the commission has undertaken.</p> <p>My comments relate specifically to the need for trees and tree retention.</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>We live on the South end of the Island in the Mercer Island Estates neighborhood. Like so many people on Mercer Island, we moved here 25 years ago for the life style, schools and park-like feel that came from the many beautiful mature trees throughout the Island. The proposed tree retention and landscaping standards relate to new construction, but not to existing homes. I would urge the Commission to consider the need for additional guidelines that relate to developed properties to retain the large healthy trees that make this place so special.</p> <p>In the past two years, we've been dismayed to see so many people removing large mature conifers – some clearly over 80 years old. This is due in part to new construction, but also to a troubling increase in the number of people removing trees as homes sell. Trees are disappearing even when our new neighbors do not launch remodels. The result is increased noise from I-405, open wind tunnels and shade loss. In our neighborhood on the south end of the Island, so many large trees have come down that this past summer the noise from 405 caused us to have to close our windows at night. That's a first. We as a community seem to forget that these trees not only contribute to the health of our soil, prevent landslides and aid water drainage, but add significant value to all of our properties –https://www.arboday.org/trees/benefits.cfm. With regard to keeping 30% of trees on undeveloped land for new homes and large remodels, I would recommend increasing that number to 35 or 40% for the same reasons. After all, once these large trees come down, it will be another 80-100 years before they are back.</p> <p>Please feel free to contact me if you'd like any additional information.</p>		
152.	3/7/2017	Ted Samuelson	<p>we've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This down zone would severely limit property rights for owners and restrict their ability to obtain a fair value for the property.</p> <p>Advocates for this dramatic change would like to see Mercer island stop new growth at the expense of restricting property rights. Mercer island's residential development standards are already fair and we support keeping them that way please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
153.	3/7/2017	Sue Samuelson	<p>we've heard the city is considering drastic limitations on the amount of square footage a single-family owner can build on their land. This down zone would severely limit property rights for owners and restrict their ability to obtain a fair value for the property.</p> <p>Advocates for this dramatic change would like to see Mercer island stop new growth at the expense of restricting property rights. Mercer island's residential development standards are already fair and we support keeping them that way please do not move forward on new single-family zoning limits that address the concerns of a few at the expense of all homeowners.</p>		
154.	3/8/2017	Bennett Williams	<p>Last night I began reading comments that you forwarded yesterday and found them very interesting. I have yet to begin reading the Council minutes.</p> <p>Many comments refer to "character change in a neighborhood". If this is in any code, could you please send a copy of the code?</p> <p>Secondly, many people were concerned about rising taxes due to increasing valuations some of which are rooted in the cost and expense of new construction com parables.</p> <p>Has MI ever thought about capping taxes for the elderly under fair system based on income.</p> <p>As an example, I am 73 and would probably qualify by age to have my taxes capped but I would not be qualified by income.</p> <p>That said, In would vote to have senior's taxes capped and pay more myself.</p> <p>The reaction, I think would be very favorable from seniors but resisted by the City Counsel because like most communities Mercer Island income barely covers it's costs.</p>		

	Date	Name	Comment	Related Topic	Staff Comment
			<p>I believe that if the proposed ordinance passes that eventually income will be substantially diminished because the new, the young and the fairly wealthy will bypass MI and that property tax revenue will go down and therefore taxes will necessarily go up putting further financial pressure on those who can least afford it.</p> <p>The proposal in front of the City Council is very bad for seniors. They may be able to sustain their neighborhood character whatever that means but be forced to leave because of higher taxes, commensurate lower home values and therefore may not be able to enjoy their neighborhood because they are taxed out of their enjoyment.</p>		
155.	3/8/2017	Alan Lippert	<p>I've heard that the City is considering "drastic" limitations on the amount of square footage a single family home can occupy on its plot. If those limitations result in decreased impervious surfaces, I applaud them.</p> <p>The downzone does not go far enough. The practice of giving 99% of the requests for impervious surface upward variances by the DSG must be halted. There must be an end to paving over our island, causing avalanches and flooding.</p> <p>The complaint that residents cannot receive fair value for their property is bogus. Property values on the island have tripled in the last 20 years. That is more than fair. Please do not pass any zoning limits that allow for the increasing the impervious surfaces of any residential homes.</p>		
156.	3/8/2017	Meg Lippert	<p>I echo the sentiments of my husband, who sent you the email below. Bigger buildings on steep slopes not only sop up green space, but also lead to landslides and flooding as well as wasting our natural resources in material to construct them, and energy to heat and light them. My husband's email is quoted below, and I share his concerns as well as his request that you do not pass any zoning limits that allow for increasing the impervious surfaces of any residential homes.</p> <p>"I've heard that the City is considering "drastic" limitations on the amount of square footage a single family home can occupy on its plot. If those limitations result in decreased impervious surfaces, I applaud them.</p> <p>The downzone does not go far enough. The practice of giving 99% of the requests for impervious surface upward variances by the DSG must be halted. There must be an end to paving over our island, causing avalanches and flooding.</p> <p>The complaint that residents cannot receive fair value for their property is bogus. Property values on the island have tripled in the last 20 years. That is more than fair. Please do not pass any zoning limits that allow for the increasing the impervious surfaces of any residential homes."</p>		



PLANNING COMMISSION PLANNING SCHEDULE

All meetings are held in the Council Chambers unless otherwise noted.

All meetings begin at **6:00 pm** unless otherwise noted.

Items listed for each meeting are not in any particular order and may change.

MARCH 15		
Item Type	Topic/Presenter	Time
Regular Business	ZTR16-004: Residential Development Standards (Review of compiled regulations)—E. Maxim	120

MARCH 29		
Item Type	Topic/Presenter	Time
Public Hearing	ZTR17-001: Code Text Amendment: Appeals and Review Processes—S. Greenberg	60
Regular Business	ZTR16-004: Residential Development Standards (Continuing discussion of proposed regulations)—E. Maxim	90
Regular Business	Transportation Concurrency, Essential Public Facilities and I-90 P Zone Uses (policy discussion)—S. Greenberg	45

APRIL 5		
Item Type	Topic/Presenter	Time
Public Hearing	ZTR16-004: Residential Development Standards—E. Maxim	120
Regular Business	ZTR17-001: Code Text Amendment: Appeals and Review Processes (Recommendation to City Council)—S. Greenberg	45

APRIL 19		
Item Type	Topic/Presenter	Time
Regular Business	ZTR16-004: Residential Development Standards (Recommendation to City Council)—E. Maxim	120

MAY 3		
Item Type	Topic/Presenter	Time
Regular Business	ZTR17-002: Transportation Concurrency Code Amendment –S. Greenberg	120

MAY 17		
Item Type	Topic/Presenter	Time
Regular Business	ZTR17-004: P Zone Amendment-Light Rail Use—S. Greenberg	75
Regular Business	ZTR17-003: Essential Public Facilities Code Amendment—S. Greenberg	75

MAY 31 (POSSIBLE SPECIAL MEETING)		
Item Type	Topic/Presenter	Time
	TBD	

JUNE 7		
Item Type	Topic/Presenter	Time
Public Hearing	ZTR17-004: P Zone Amendment-Light Rail Use—S. Greenberg	60
Public Hearing	ZTR17-003: Essential Public Facilities Code Amendment—S. Greenberg	60
Public Hearing	ZTR17-002: Transportation Concurrency Code Amendment—S. Greenberg	60