
DOCKET REQUEST FORM

The following information is required to be included. Failure to complete this form may result in the application being incomplete. Incomplete applications will not be considered during the annual docket process.

APPLICANT INFORMATION

Name: Mercer Island Beach Club
Address: 8326 Avalon Drive
Phone: (206) 232-3125
Email: gardner.morelli@gmail.com (using my email for purposes of this application vs. General Mgrs.)

AGENT/CONSULTANT/ATTORNEY: (COMPLETE IF PRIMARY CONTACT IS DIFFERENT FROM APPLICANT)

Name: _____
Address: _____
Phone: _____
Email: _____

REQUEST INFORMATION

Please complete a separate Docket Request Form for each item you are requesting to be added to the Docket.

Is this request related to a specific property or zone? Yes No

If yes, please complete the following information:

Property Owner: Mercer Island Beach Club
Address: 8326 Avalon Drive
County Assessors Parcel No.: 312405-9003
Parcel Size (sq. ft.): 327518

If the application is submitted by an agent/consultant/attorney, please demonstrate that the application has been submitted with the consent of all owners of the affected property. For example, attach a signed letter providing consent.

Is this request for a Comprehensive Plan amendment or a development code amendment?

Comprehensive Plan amendment Development code amendment

Would you like to submit a suggestion for a comprehensive plan or development code amendment, or is this an application for a specific amendment (check boxes)? Please note: applications are subject to [applicable permit fees](#).

Suggestion Application

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a narrative responding to the following questions. Attach any additional sheets, supporting maps or graphics. Answer each question separately and reference the question number in your answer. **The application will be considered incomplete without a narrative answering all of the following questions.**

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2. How does the proposal benefit the community or the environment?
3. Explain how the request relates to the applicable decision criteria (MICC 19.15.250(D) for code amendments, and MICC 19.15.230(F) for Comprehensive Plan amendments, see below).
4. For Comprehensive plan amendments: Is the proposal consistent the Growth Management Act and King County Countywide Planning Policies?
5. For development code amendments: how does the proposal align with the goals of the City's Comprehensive Plan?

Signature: _____

Gardner Merelli

Date: _____

9/29/2022

**Narrative – Attached to Mercer Island Beach Club Docket Request
September 23, 2022**

Listed below in *Italics* are the criteria stated on the City’s Docket Request form, followed by the Mercer Island Beach Club’s response.

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1. *Please provide a detailed description of the proposed amendment and a clear statement of what the proposed amendment is intended to accomplish.*
 - a. *Indicate the specific Comprehensive Plan Elements, maps, goals or policies or the specific sections of the development code you propose to amend.*

RESPONSE: The Mercer Island Beach Club (MIBC or Club) seeks to update and rebuild its current marina to meet modern, more environmentally friendly standards. While the MIBC could, and still may, file permit applications under current codes, the City Staff has suggested that pursuing a code amendment is also a good option. Therefore, MIBC requests an amendment to a note found at the end of MICC 19.13.040, Table B, Shoreland Uses Waterward of the Ordinary High Water Mark.

- b. *If the proposal would amend existing Comprehensive Plan or development code text, please provide the proposal in underline/strikeout format with text to be added indicated by underlining and text to be deleted indicated with strikeouts.*

RESPONSE: The MIBC seeks to amend one footnote found at the end of MICC 19.13.040, Table B, Shoreland Uses Waterward of the Ordinary High Water Mark as follows:

Notes:

A use not listed in this table is not permitted within shorelands, provided, however, that this footnote does not preclude any existing private club or residential community serving more than 10 families from using a Shoreline Conditional Use Permit process for the redevelopment of its moorage facilities, floating platforms, mooring piles, diving boards and diving platforms, associated swim areas and other accessory uses, all where the applicable development standards are to be determined on a case-by-case basis.

A use permitted by this table shall meet all other applicable regulations, including, but not limited to, being an allowed use in the applicable zone.

c. If a map amendment is proposed, please provide a map that clearly outlines the areas proposed to be changed.

RESPONSE: The MIBC does not seek a map amendment.

2. *How does the proposal benefit the community or the environment?*

RESPONSE: The MIBC's project proposal as well as this code amendment will benefit both the community and the environment. For example, the marina renovation and reconfiguration will benefit the community, including the significant portion of the Island's families who are MIBC members, by repairing damaged and inaccessible portions of the marina and updating other portions of the marina so as to better protect moored boats, and improve access to the Club's swim area, while at the same time benefitting the Island and surrounding communities by opening and enhancing fish habitat along the shoreline and throughout the marina. However, in direct response to this Docket Request criterion, only the benefits to the community and the environment from the proposed code amendment are described below.

The primary benefit of this code amendment is to clarify the City's Shoreline Master Program (SMP) for all of the community and to ensure that the SMP code provisions are consistent with the City's Comprehensive Plan and State law.

The City of Mercer Island's SMP Comprehensive Plan policies and regulations combine and treat together two similar shoreline uses that are provided for in State law. Under State law, "recreational development" is a type of shoreline use that includes "commercial and public facilities designed and used to provide recreational opportunities to the public." WAC 173-26-241(3)(i). In contrast, "boating facilities" are a separate type of private dock and moorage, albeit specifically excluding docks serving four or fewer single-family residences. WAC 173-26-241(3)(c).

MIBC representatives and City staff have met, separately, with the Washington State Department of Ecology (Ecology). As the Club understands the situation, a use like the MIBC's marina would typically be regulated in a local SMP as a "boating facility," and all development standards would be set on a case-by-case basis. Case-by-case determination of development standards is used because it is difficult to craft regulations to govern the wide variety in marina design resulting from unique shoreline geography, wave action and weather patterns. Since "boating facilities" were not separately described in the SMP regulations, MIBC presumes that its redevelopment was intended to be permitted using the catchall State law allowances for Shoreline Conditional Use Permits.¹ Specifically, WAC 173-26-241(2)(b) calls for conditional use permits to be used to

¹ The opposite presumption that the use is prohibited is not consistent with State law, because State law, RCW 90.58.020, sets a policy to prefer water-dependent uses, not prohibit them.

permit unanticipated uses that are not otherwise classified in that SMP, and WAC 173-27-160(3) also allows uses not classified in the SMP to be authorized as conditional uses.

However, when the City's current Shoreline Master Program was adopted, MICC 19.13.040, Table B, Shoreland Uses Waterward of the Ordinary High Water Mark, included a footnote stating "a use not listed in this table is not permitted within shorelands." Due to that footnote, City Staff is concerned now about how to process the MIBC's desired redevelopment permits and whether or not a Shoreline Conditional Use Permit can be used, as MIBC contends it must under State law. MIBC anticipates similar concerns may be raised in the event the Mercerwood Shore Club, or Covenant Shores seeks to redevelop their favored, water-dependent uses.

Thus, community benefits of the proposed code amendment include not only assisting the permitting process for the MIBC and the significant number of residents who are its members, but also assuring that other private marinas on the island which serve a significant number of residents, such as the marina at the Mercerwood Shore Club and the marina at Covenant Shores, will now have the same clarified permitting process described in code.

The scope of the amendment includes reference to facilities used by more than 10 families. The reason for the dividing line at more than 10 families, is because the City's current SMP code provisions applicable to uses that are landward of the ordinary high-water mark creates different categories for "semi-private waterfront recreation areas" serving either 10 or fewer families, or more than 10 families. Because 10 families is set as a dividing line for those upland uses, the MIBC's proposed code amendment for shoreland uses also sets the dividing line at more than 10 families.² MIBC crafted its code amendment proposal to ensure that the MIBC code amendment provides the community benefit of not altering the existing permitting process and standards for any private moorage facility serving 10 or fewer families.

The environmental benefits of the code amendment are to clarify that redevelopment of the Island's several private marinas is possible, and to expressly state that all development standards (e.g., dock width) for these marinas will be set on a case-by-case basis. This ensures that the facilities can upgrade to today's environmentally friendly designs, rather than be forced to continue to simply repair and replace decades old facilities.

Finally, we again note that all of the component parts of the MIBC's marina are listed as permitted shoreland uses on MICC 19.13.040, Table B, including "moorage facilities," "floating platforms", and "mooring piles, diving boards and diving platforms." Given that reality, the MIBC contends that its planned reconstruction already is permitted under the current code. However, in response to City Staff suggestion, the Club is seeking this code

² This is intentionally different from the State law definition of boating facilities, which sets a dividing line at all docks that serve four or fewer families. Importantly, the State law definition of boating facilities "excludes" docks serving four or fewer families but does not preclude a local City from regulating boating facility docks serving between four and 10 families differently, from boating facilities serving more than 10 families.

amendment so as to emphasize the permissibility of the planned reconstruction and to better clarify the permit process.

3. *Explain how the request relates to the applicable decision criteria (MICC 19.15.250(D) for code amendments, and MICC 19.15.230(F) for Comprehensive Plan amendments, see below).*

RESPONSE: The criteria for a code amendment stated in MICC 19.15.250(D) are:

- D. *Criteria.* The city may approve or approve with modifications a proposal to amend this Code only if:
 - 1. The amendment is consistent with the comprehensive plan; and
 - 2. The amendment bears a substantial relation to the public health, safety, or welfare; and
 - 3. The amendment is in the best interest of the community as a whole.

The MIBC code amendment proposal meets these criteria. First, consistency of the proposed code amendment with the Comprehensive Plan is described in item 5, below.

Second, this code amendment bears a substantial relation to the public health, safety, or welfare. As described above under item 2, the City's adopted SMP is unusual and should be implemented in a manner that ensures continued support for water dependent uses. For a City like Mercer Island that includes several private marinas used by many island residents, as well as other potential shoreland uses that include many of the various component parts listed as permitted uses in the shoreland use table, a Shoreline Conditional Use Permit should be an available tool. This code amendment ensures this and retains all of the existing environmental and private property protections of the existing SMP. Finally, this amendment assures that those older marinas can redevelop so as to provide enhancements and improvements to the aquatic environment.

Third, this amendment is in the best interests of the community as a whole, because it (a) retains the prohibition of any unlisted shoreland uses the community originally adopted into the shoreland uses table to assure whatever protection was then desired remains in place, but (b) clarifies that all community club and similar marinas serving 10 or more families may pursue a Shoreline Conditional Use Permit to modify existing facilities to meet the community interests of continued access to marina facilities and protection of the shoreline aquatic environment.

4. *For Comprehensive plan amendments: Is the proposal consistent the Growth Management Act and King County Countywide Planning Policies?*

RESPONSE: This criterion is not applicable, because MIBC does not propose a Comprehensive Plan amendment.

5. *For development code amendments: how does the proposal align with the goals of the City's Comprehensive Plan*

RESPONSE: The MIBC's proposed code amendment aligns with the goals of the City's Comprehensive Plan.

First, the Comprehensive Plan Shoreline Management Program management policies include that within the Urban Residential Shoreline Environment, "non-commercial recreational areas" should be allowed. The MIBC land is within the Urban Residential Shoreline Environment and provides a non-commercial recreational area.

Next, goals and policies for new recreational development and new boating facilities are included in the Comprehensive Plan.³ Because these policies apply to new development, they are not applicable to the current code amendment affecting redevelopment. Within the discussion of Recreational Development, the Comprehensive Plan explains that "Covenant Shores, a continuing care retirement community, owns approximately 650 feet of shoreline which serves as open space, swimming, picnicking, and moorage for its residential units," and expressly acknowledges the MIBC and the Mercerwood Shore Club stating, that "there are two private waterfront clubs owning a combined 1,194 feet of frontage. They provide swimming, moorage, and boat launching facilities to a significant portion of the Island's families." Redevelopment of these existing uses is addressed in different goals and policies of the Comprehensive Plan.

³ The Comprehensive Plan provides one Goal and three Policies regarding new Recreational Development:

GOAL: Water-dependent recreational activities available to the public are to be encouraged and increased on the shoreline of Mercer Island where appropriate and consistent with the public interest.

POLICIES:

- (1) Provide additional public water-oriented recreation opportunities.
- (2) Locate public recreational uses in shoreline areas that can support those uses without risks to human health, safety, and/or security, while minimizing effects on shoreline functions, private property rights, and/or neighboring uses.
- (3) Priority should be given to recreational development for access to and use of the water.

The Comprehensive Plan also includes a single policy, without a goal and with no discussion, regarding new Boating Facilities:

POLICY:

New boating facilities should be designed to meet health, safety, and welfare requirements; mitigate aesthetic impacts; minimize impacts to neighboring uses; provide public access; assure no net loss of ecological functions and prevent other significant adverse impacts; and protect the rights of navigation and access to recreational areas.

The General Goals and Policies of the City's Comprehensive Plan Shoreline section include a goal to "Increase and enhance public access to and along the Mercer Island Shoreline where appropriate and consistent with public interest, provided public safety, private property rights, and unique or fragile areas are not adversely affected." Among the implementing policies for this goal are that "when substantial modifications or additions are proposed to substantial developments, the developer should be encouraged to provide for public access to and along the water's edge if physically feasible provided that no private property be taken involuntarily without due compensation." In addition, the Conservation and Water Quality provisions set a goal that the "resources and amenities of Lake Washington are to be protected and preserved for use and enjoyment by present and future generations," with an implementing policy to conserve existing natural resources, so long as consistent with private property rights, including that "aquatic habitats, particularly spawning grounds, should be protected, improved and, if feasible, increased." These goals and policies are fostered by the proposed code amendment because the code amendment clarifies that the three larger private marinas on the island: the Beach Club, the Shore Club and Covenant Shores, as well as any other private marina serving more than 10 families can redevelop, while respecting private property rights, and while ensuring that when redevelopment occurs, aquatic habitat areas should be improved, when feasible.

The Comprehensive Plan also sets policies for shoreline modifications, that is, the physical work needed to achieve redevelopment. Those policies include that the "repair, renovation, and replacement of existing piers and docks should be allowed." Similarly, the Plan sets a goal for shoreline uses to "ensure that the land use patterns within shoreline areas are compatible with shoreline environment designations and will be sensitive to and not degrade habitat, ecological systems, and other shoreline resources," supported by a policy to ensure that all "development and redevelopment" be designed to ensure no net loss of shoreline ecological functions. The MIBC code amendment aligns with these goals and policies because it clarifies that redevelopment, renovation and replacement of existing piers and docks at larger private marinas is allowed.

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APPLICANT INFORMATION

Name: Daniel Thompson

Address: 7265 N. Mercer Way, Mercer Island, WA 98040

Phone: (206) 622-0670

Email: danielphompson@hotmail.com

AGENT/CONSULTANT/ATTORNEY: (COMPLETE IF PRIMARY CONTACT IS DIFFERENT FROM APPLICANT)

Name: _____

Address: _____

Phone: _____

Email: _____

REQUEST INFORMATION

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Is this request related to a specific property or zone?

Yes

No

If yes, please complete the following information:

Property Owner: _____

Address: _____

County Assessors Parcel No.: _____

Parcel Size (sq. ft.): _____

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Comprehensive Plan amendment

Development code amendment

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Suggestion

Application

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Signature:  Date: 9-30-2022

I

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(D)(2)(a) Gross Floor Area

Suggested Code Amendment:

I suggest MICC 19.02.020(D)(2)(a) be amended to reduce ceiling height from 12 feet to 10 feet before it is counted as clerestory space at 150% of GFA.

Analysis:

The Citizens and Council spent approximately three years rewriting the Residential Development Code. A primary motivation in the rewrite was to deal with citizen concern over “massing”, or what citizens considered out-of-scale residential development, which the Planning Commission addressed as Gross Floor Area to Lot Area Ratio (GFAR).

One of the factors that increased GFAR and led to the code rewrite was Administrative Interpretation 13-01 that allowed all clerestory space to be counted as 100% GFA.

Massing is a three-dimensional concept based on the exterior volume of the house. Whether interior space is counted as GFA or not, it is a reality in the exterior volume, or massing, of the house. GFA, meanwhile, is a two-dimensional term subject to exemption.

Ten-foot ceiling height is the industry standard for a maximum non-cathedral ceiling. The Planning Commission never recommended a 12-foot ceiling height in its recommendation to the Council, but recommended 10 feet. 12 feet was the sudden recommendation of former council member Dan Grausz at the Council’s final adoption hearing for the new Residential Development Code.

A ceiling height of 12 feet, before counting as clerestory space, allows each floor of a two-story house to increase its interior and exterior volume by 20%, directly contrary to the goals of the RDS. Furthermore, it creates a much greater need for heating and cooling, and is contrary to the purposes of green building standards.

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Development code amendment

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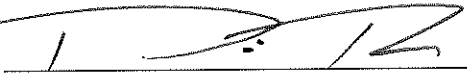
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Signature:  Date: 9-30-2022

II

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(D)(2) Gross Floor Area

MICC 19.16.010(G)(2)(b) Gross Floor Area Exemption for Covered Decks on the First Level

Suggested Code Amendment:

I suggest MICC 19.02.020(D)(2) be amended to include exterior covered decks in the definition of Gross Floor Area, which presently only references exterior walls even though covered decks on levels above the first level are counted towards the GFA limit.

I further suggest that MICC 19.02.020(D)(2) and 19.16.010(G)(2)(b) be amended to include covered porches on the first level in the calculation of Gross Floor Area.

Analysis:

The Citizens and Council spent approximately three years rewriting the Residential Development Code. A primary motivation in the rewrite was to deal with citizen concern over “massing”, or what citizens considered out of scale residential development, which the Planning Commission addressed as Gross Floor Area to Lot Area Ratio (GFAR).

One of the main actions in the new Residential Development Code was to remove discretion from the City Planning Department (Development Services Group at that time, now Community Planning Department), especially when it came to deviations and variances. Unfortunately, that led the prior director to simply amend the entire code when attempting to address a request from a citizen for relief from the Code.

One of these Amendments was to exempt covered decks on the first level from the GFA limits because the applicant wished to have a covered barbecue area. Instead, the code amendment exempts all covered decks on the first level from the GFA limit.

There is very little difference in massing between a deck with a railing and roof from a room. The only difference is a window. Exempting first level decks from GFA limits greatly expands the massing of the house.

To be fair to Evan Maxim, amending this definition to limit its scope was on his agenda before his departure.

A homeowner already has the benefit of an 18-inch eave that is exempt from the GFA limit. At most, any barbecue area that needed to be sheltered from the elements would be 5'x 5', or 25 square feet. I suggest that covered decks on the first level be counted in their entirety towards the GFA limit, or in the alternative a 25-foot exemption be allowed for a barbecue area.

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III

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(c)(2)(a)(iii) Yards for Waterfront Lots

MICC 19.02.040(D)(1) Garages and Carports/Yard Intrusion

Suggested Code Amendment:

I suggest MICC 19.02.040(D)(1) be eliminated. In the alternative, I suggest that MICC 19.02.040(D)(1) not be applicable to a waterfront lot if the waterfront lot has switched its front and rear yards subject to MICC 19.02.020(c)(2)(a)(iii).

Analysis:

MICC 19.02.020(c)(2)(a)(iii) allows a waterfront lot to switch its front and rear yard because the Department of Ecology requires a 25-foot buffer between the structure and the ordinary high water mark.

However, MICC 19.02.040(D)(1) allows garages and carports to be built within 10 feet of the property line of the *front* yard if there is more than 4 vertical feet difference as measured between the bottom wall of the building and ground elevation of the front yard property line where such property is closest to the building.

Ideally, 19.02.040(D)(1) should be eliminated. It is a building or structure above the ground level that extends into the yard setback. However, in the alternative, 19.02.040(D)(1) should not be available to waterfront lots that have flipped their front and rear yards pursuant to 19.02.020(c)(2)(a)(iii) because essentially it reduces the yard between the upper house to 10 feet. The effect of this provision can easily be seen as one takes a boat around Lake Washington. The waterfront house and the house directly behind look as though they are one contiguous property.

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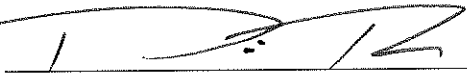
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Application

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a narrative responding to the following questions. Attach any additional sheets, supporting maps or graphics. Answer each question separately and reference the question number in your answer. **The application will be considered incomplete without a narrative answering all of the following questions.**

1. Please provide a detailed description of the proposed amendment and a clear statement of what the proposed amendment is intended to accomplish.
 - a. Indicate the specific Comprehensive Plan Elements, maps, goals or policies or the specific sections of the development code you propose to amend.
 - b. If the proposal would amend existing Comprehensive Plan or development code text, please provide the proposal in underline/strikeout format with text to be added indicated by underlining and text to be deleted indicated with ~~strikeouts~~.
 - c. If a map amendment is proposed, please provide a map that clearly outlines the areas proposed to be changed.
2. How does the proposal benefit the community or the environment?
3. Explain how the request relates to the applicable decision criteria (MICC 19.15.250(D) for code amendments, and MICC 19.15.230(F) for Comprehensive Plan amendments, see below).
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Signature:  Date: 9-30-2022

IV

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(D)(3)(b) Gross Floor Area Incentives for ADU's

Suggested Code Amendment:

I suggest limiting the Gross Floor Area Incentives for ADU's in MICC 19.02.020(D)(3)(b) to lots 8,400 square feet or smaller.

Analysis:

One of the primary purposes of the rewrite of the Residential Development Code was to address the massing and out of scale development in the smaller lot neighborhoods, with lots 8,400 square feet and less. MICC 19.02.020(D)(3)(b) allows a lot 10,000 square feet or less to have up to 5% additional Gross Floor Area for an ADU. (19.02.020(D)(3)(a) already allows a lot 7,500 sf lot or below an additional 5% GFA or 3,000 sf for either an ADU or the main house.)

A 10,000-square foot lot that can have a 4,000-square foot house does not need an additional 5% Gross Floor Area for an ADU. The primary tool used by the Planning Commission to reduce massing and out-of-scale residential development was to reduce GFAR from 45% to 40%, except this provision is directly contrary to that goal.

MICC 19.02.020(D)(3)(b) should be amended to limit the 5% additional GFA to lots 8,400 square feet and less.

DOCKET REQUEST FORM

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APPLICANT INFORMATION

Name: Daniel Thompson

Address: 7265 N. Mercer Way, Mercer Island, WA 98040

Phone: (206) 622-0670

Email: danielphompson@hotmail.com

AGENT/CONSULTANT/ATTORNEY: (COMPLETE IF PRIMARY CONTACT IS DIFFERENT FROM APPLICANT)

Name: _____

Address: _____

Phone: _____

Email: _____

REQUEST INFORMATION

Please complete a separate Docket Request Form for each item you are requesting to be added to the Docket.

Is this request related to a specific property or zone?

Yes

No

If yes, please complete the following information:

Property Owner: _____

Address: _____

County Assessors Parcel No.: _____

Parcel Size (sq. ft.): _____

If the application is submitted by an agent/consultant/attorney, please demonstrate that that the application has been submitted with the consent of all owners of the affected property. For example, attach a signed letter providing consent.

Is this request for a Comprehensive Plan amendment or a development code amendment?

Comprehensive Plan amendment

Development code amendment

Would you like to submit a suggestion for a comprehensive plan or development code amendment, or is this an application for a specific amendment (check boxes)? Please note: applications are subject to applicable permit fees.

Suggestion

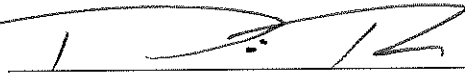
Application

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Signature: _____



Date: _____

9-30-2022

V

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(G)(2)(a) and (b) Parking Requirements

Suggested Code Amendment:

I suggest that MICC 19.02.020(G)(2)(a) and (b) be amended to reduce house GFA from 3,000 sf to 2,000 sf in order to reduce covered parking spaces to one covered and one uncovered space.

Analysis:

During the Residential Development Code rewrite, parking requirements for residential houses were reduced based upon the square footage of the house pursuant to MICC 19.02.020(G)(2)(a) and (b). This was a very contentious amendment. Ironically, many builders are hesitant to not build a 3-car garage on Mercer Island since many of their first-time home buyers come from off-island to the east, where a 3-car garage is common.

A 3,000 sf home is quite large. For example, I have raised two children in a 2,700 sf house with a 3-car garage on Mercer Island. A 3,000 sf house can accommodate a two-covered garage space.

Ancillary issues from reducing parking requirements for houses 3,000 feet and below that were not well-discussed during the Residential Code rewrite include:

1. Mercer Island effectively has no intra-island transit. The 201 that circled the Mercers was eliminated because of low ridership, in part because it is very difficult for citizens to even get up their steep drives to one of the Mercers, and the 201 was very slow.
2. One covered garage space is usually required for the three different bins – garbage, recycle, and yard waste – plus storage of bikes, skis, tools, and other personal equipment. For the first 16 years I lived in a small house on First Hill with a one-car garage, which effectively was a zero-car garage since there was too much stuff in the garage to park a car in it. This effectively moves either cars, or items such as garbage bins, out into the yard and street.

3. Since Mercer Island residential neighborhoods have few sidewalks, cars parked along the street push kids walking to the school bus out into the middle of the road. This is especially problematic when it is dark.

4. Overflow street parking in the residential neighborhoods makes dedicated bike paths almost impossible, including on the Mercers. Not unlike the Town Center that only requires one parking stall per unit, reducing parking requirements simply subsidizes builders by shifting parking from onsite to the street.

The original intent was to ameliorate the reduction in GFAR limits in the new code. A resident would convert one parking space to living area. However, a 3,000 sf house simply does not need this incentive, and the GFA necessary to qualify for reduced parking should be reduced from 3,000 sf to 2,000 sf.

DOCKET REQUEST FORM

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APPLICANT INFORMATION

Name: Michael J. Murphy

Address: 2711 64th Ave. SE, Mercer Island, WA 98040

Phone: 206.618.7200

Email: murpm@comcast.net

AGENT/CONSULTANT/ATTORNEY: (COMPLETE IF PRIMARY CONTACT IS DIFFERENT FROM APPLICANT)

Name: N/A

Address: _____

Phone: _____

Email: _____

REQUEST INFORMATION

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Comprehensive Plan amendment Development code amendment

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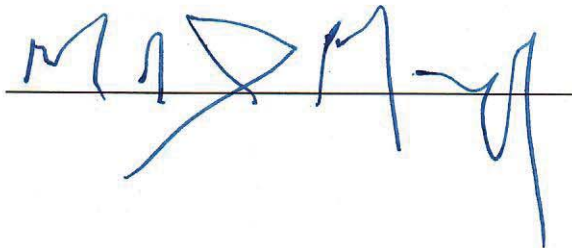
Suggestion Application

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Signature:



Date:

9/30/22

Docket Request Narrative

1. Proposal: Delete the definition of “Piped Watercourses” in MICC 19.16.010 under the definition of “Watercourses,” and delete MICC 19.07.180.C(6) (“Piped Watercourse Setbacks”).

MICC 19.16.010

Definitions

Watercourses: A course or route, formed by nature and generally consisting of a channel with a bed, banks, or sides throughout substantially all its length, along which surface waters, with some regularity (annually in the rainy season), naturally and normally flow in draining from higher to lower lands. This definition does not include irrigation and drainage [ditches](#), grass-lined swales, canals, storm water runoff devices, or other courses unless they are used by fish or to convey waters that were naturally occurring prior to construction.

Watercourses shall be classified according to the following types:

1. Type S, which include all waters, within their bankfull width, as inventoried as “shorelines of the state,” which are regulated by the [city](#)’s [Shoreline Master Program](#) pursuant to Chapter [90.58](#) RCW.
2. Type F, which include segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated [wetlands](#), or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain [fish habitat](#).
3. Type Np, which include all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
4. Type Ns, which include all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an aboveground channel system to Type S, F, or Np waters.

~~5. Piped watercourses, which are pipes or other conveyances through which surface waters, with some regularity (annually in the rainy season), naturally and normally flow in draining from higher to lower lands. This definition does not include irrigation and drainage [ditches](#), grass-lined swales, canals, storm water runoff devices, or other courses unless they are used by fish or to convey waters that were naturally occurring prior to construction.~~

19.07.180 Watercourses.

....

C. Development Standards – Buffers.

....

~~6.—Piped Watercourse Setbacks.~~

~~a.—The intent of applying setbacks to piped watercourses is to preserve the opportunity to daylight watercourses that were previously piped, to provide incentives to property owners to daylight and enhance previously piped watercourses, and to allow flexibility for development where daylighting piped watercourses is demonstrated to be infeasible.~~

~~b.—Setbacks shall be established 45 feet from the centerline of piped watercourses.~~

~~c.—Piped watercourses setback widths shall be reduced to a 15-foot buffer when the portion of the piped watercourse on the applicant’s property is daylighted and where the watercourse has been restored to an open channel, provided a restoration plan demonstrates:~~

~~i.—The watercourse channel will be stable and is not expected to cause safety risks or environmental damage; and~~

~~ii.—No additional impact nor encumbrance by watercourse buffer or critical area setback is added to properties neighboring the applicant(s) property.~~

~~d.—Piped watercourse setback widths shall be reduced to: (i) 10 feet on lots with a lot width of 50 feet or more, and (ii) five feet on lots with a width of less than 50 feet, when daylighting is determined by qualified professional(s) to result in one or more of the following outcomes:~~

~~i.—Increased risk of landslide or other potential hazard that cannot be mitigated;~~

~~ii.—Increased risk of environmental damage (e.g., erosion, diminished water quality) that cannot be mitigated;~~

~~iii.—The inability of a legally established existing lot to meet the vehicular access requirements of this title; or~~

~~iv.—The inability of a legally established existing lot to meet the building pad standards in MICC 19.09.090.~~

The proposed amendments are intended to correct MI code and make it consistent with state law and the CAOs of all other jurisdictions in the area. More importantly, it will remove an onerous and probably unintended burden on hundreds of MI homeowners who are unaware of the fact that they are prevented from making even modest improvements or additions to their homes because they are within 45 feet of a storm main.

These provisions were added to our code in 2019 under Ord. 19C-05. They appear to have been driven by the notion that they would create an incentive for homeowners to “daylight” storm mains on their property and create more natural like streams. *See* 19.07.180(6)(a). This was an experiment that was not thought through.

The two provisions create a 45-foot “setback” on both sides of many storm mains as the City staff and consultants have interpreted it. A review of the City’s GIS mapping reveals that many of these 90-foot setbacks cover large swaths of existing lots and even include numerous existing homes. Because it is a “setback,” it prevents the homeowner from doing any improvements within the setback area, thus placing large portions of many Mercer Island lots off limits for improvement. Most people do not even know that they have this burden, until they apply for a permit. Unlike side yard setbacks, which total 15’ from the boundary, these “Piped Watercourse” setbacks, can extend as much as 45 feet into a lot (and more if the storm line is on the property), depending on the storm pipe location, rendering that area unusable by the homeowner for improvement that would otherwise be Code compliant. This amounts to a massive taking of property rights from hundreds of our neighbors.

Further, the way the provisions were drafted, there is almost no actual incentive to “daylight” the storm main. Daylighting the storm main can reduce the setback to 15 feet, but only if the homeowner demonstrates that “[t]he watercourse channel will be stable and is not expected to cause safety risks or environmental damage; *and* . . . No additional impact nor encumbrance by watercourse buffer or critical area setback is added to properties neighboring the applicant(s) property.” But when you “daylight” a storm main, you create a “stream” which has a 60 foot buffer under the Code. Given most lot sizes, that size buffer will most likely encroach on a neighbor’s lot. Thus, the provision is self-defeating. Otherwise, you can only reduce the “setback” if you can prove daylighting the pipe will create landslides, other unmitigable environmental damage, prevent driveway access to a legal lot, or prevent you from having a minimum building pad (for an undeveloped lot).

There are other flaws in these provisions. As discussed above, these provisions use “setbacks” instead of the usual buffers for critical areas. This is not consistent with normal practice. Normally setbacks relate to lot lines, not natural or other features. Here, the code creates setbacks around a feature that extends across property boundaries. This further demonstrates that the Code sections regarding “Piped Watercourses” were a poorly integrated addition to the CAO.

The definitions in 19.16.010 for “Ditches” and “Watercourses” are not consistent. Many mapped/designated “Piped Watercourses” include storm lines and ditches. These are not “formed by nature” and are specifically excluded from the Code definition, but they are subject to the 45-foot buffer according to the City GIS maps.

The subject provisions are not consistent with the Comprehensive Plan. That document says nothing about identifying and restoring pre-existing natural drainage ways as a public benefit. It certainly does not suggest to MI residents that the burden of such a policy will fall on only some of the residents who happen to live on or near a storm main. The City can certainly incentivize daylighting actual natural drainage ways, but one would expect a process and plan to identify candidates for such restoration and some form of public expenditure if this is a public good. It is bad public policy to take large swaths of property from residents to try and manufacture incentives. The Code establishes no plan or even studies to identify possible candidates for “restoration.”

Removing these provisions will not impair the structure, function, or ecological benefits of our existing storm water system. Removing these provisions will not affect the volume of storm run-off or water quality. Nor will it allow anyone to damage existing streams or storm mains, or to do anything that will increase turbidity in run-off. There will be no effect on existing streams or storm mains. The removal of these provisions, however, will allow our neighbors to utilize their property, and to permit normal improvements and additions on their lots that otherwise comply with the Development Code.

Finally, it is important to note that these provisions are not consistent with State stream typing, and I could find no other local jurisdictions that have similar Code language or try to equate storm mains with streams.

2. The public benefit is described above.
3. The foregoing narrative addresses the three decision criteria in MICC 19.15.250(D).
4. Not applicable.
5. The foregoing narrative addresses compliance with the Comprehensive Plan.

DOCKET REQUEST FORM

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APPLICANT INFORMATION

Name: Carolyn Boatsman

Address: 3210 74th AVE SE

Phone: 206-595-8579

Email: c.boatsman@comcast.net

AGENT/CONSULTANT/ATTORNEY: (COMPLETE IF PRIMARY CONTACT IS DIFFERENT FROM APPLICANT)

Name: _____

Address: _____

Phone: _____

Email: _____

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Yes

No

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Signature: Carolyn Boatsman Date: 10/1/2022

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Carolyn Boatsman

October 1, 2022

1. Please provide a detailed description of the proposed amendment and a clear statement of what the proposed amendment is intended to accomplish.

The following amendment is proposed to Mercer Island City Code 19.15.230:

E. *Docketing criteria.* The following criteria shall be used to determine whether a proposed amendment is added to the final docket in subsection D of this section:

1. The request has been filed in a timely manner, and either:
 - a. State law requires, or a decision of a court or administrative agency has directed, such a change; or
 - b. All of the following criteria are met:
 - i. The proposed amendment presents a matter appropriately addressed through the comprehensive plan or the code;
 - ii. The city can provide the resources, including staff and budget, necessary to review the proposal, or resources can be provided by an applicant for an amendment;
 - ~~iii. The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program item approved by the city council;~~
 - ~~iv.~~iii. The proposal will serve the public interest by implementing specifically identified goals of the comprehensive plan or a new approach supporting the city's vision; and
 - ~~v.~~iv. The essential elements of the proposal and proposed outcome have not been considered by the city council in the last three years. This time limit may be waived by the city council if the proponent establishes that there exists a change in circumstances that justifies the need for the amendment.

What the proposed amendment would accomplish: The amendment would ensure that a proposal with community and the environmental benefit would receive timely consideration. Proposals that pertain to ongoing work, if approved by the City Council, could be folded into the work item.

a. Indicate the specific Comprehensive Plan Elements, maps, goals or policies or the specific sections of the development code you propose to amend.

See ~~strikeout~~/underline of code text above.

b. If the proposal would amend existing Comprehensive Plan or development code text, please provide the proposal in underline/strikeout format with text to be added indicated by underlining and text to be deleted indicated with strikeouts.

See ~~strikeout~~/underline of code text above.

c. If a map amendment is proposed, please provide a map that clearly outlines the areas proposed to be changed.

Not applicable.

2. How does the proposal benefit the community or the environment?

Timely consideration will be given to docket requests that may provide benefit to the community or the environment.

3. Explain how the request relates to the applicable decision criteria (MICC 19.15.250(D) for code amendments, and MICC 19.15.230(F) for Comprehensive Plan amendments, see below).

1. The amendment is consistent with the comprehensive plan; and

The Comprehensive Plan is silent on whether proposed code amendments should be considered. However MICC 19.15.250.C.2.c. states:

“Suggested code amendments and applications for code amendments shall be docketed pursuant to MICC [19.15.230\(D\)](#) and considered on at least an annual basis.”

2. The amendment bears a substantial relation to the public health, safety, or welfare; and

Timely consideration of proposals that provide community and environmental benefit meets this standard.

3. The amendment is in the best interest of the community as a whole.

Timely consideration of proposals that provide community and environmental benefit meets this standard.

4. For Comprehensive plan amendments: Is the proposal consistent the Growth Management Act and King County Countywide Planning Policies?

Not applicable.

5. For development code amendments: how does the proposal align with the goals of the City's Comprehensive Plan?

The Comprehensive Plan is silent on whether proposed code amendments should be considered. However MICC 19.15.250.C.2.c. states:

“Suggested code amendments and applications for code amendments shall be docketed pursuant to MICC [19.15.230\(D\)](#) and considered on at least an annual basis.”